

**Tuesday, July 21, 2015, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

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

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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS – Certificate of Recognition –San Joaquin County Commission on Aging  
– Certificates of Recognition – Tracy Soccer League

1. CONSENT CALENDAR

- A. Adopt Council Minutes – Closed session minutes of July 7, 2015, regular meeting minutes from July 7, 2015 and special meeting minutes from June 9, 2015.
- B. Approve an Offsite Improvement Agreement (OIA) for Cordes Ranch Phase 1A Non-Program Roadway Improvements on Old Schulte Road, Hansen Road, Old Road “E”, New Road “E”, and North and South Road “I” and Other Associated Improvements for the Federal Express Ground Facility and Authorization for the Mayor to Execute the Agreement –
- C. Acceptance of the Library Entrance Doors Replacement Project - CIP 78147. Completed by T. Amaral’s Done Right Construction of Livermore California, Authorization for the City Clerk to File the Notice of Completion, and Authorization for the City Engineer to Release the Bonds and Retention Payment
- D. Authorize the Establishment of Preferential Parking on Twelfth Street and Beverdor Avenue Between Mae Avenue and East Street
- E. Approve an Offsite Improvement Agreement With SR95 Ventures, LLC, Lincoln Investors Grant Line, LLC, and EBA Grant Line, LLC, for the Gateway Apartments on Grant Line Road, and Authorization for the Mayor to Execute the Agreement
- F. Approve Amendment 1 to the Professional Services Agreement with West Yost Associates for the Design of the Booster Pump Station at the John Jones Water Treatment Plant to Serve Tracy Hills Development and Authorize the Mayor to Execute the Agreement
- G. Approve Amendment No. 1 to Task Order No. CH 01-13 to Master Professional Services Agreement (MPSA) With CH2M Hill for Design of Wastewater Treatment Plant (WWTP) Effluent Outfall Pipeline to the Old River
- H. Approve Task Order No. 8 to the Master Professional Services Agreement with Associated Right Of Way Services, Inc. to Provide Right of Way Services for Intersection Improvements at Eleventh Street and MacArthur Drive (Western Intersection) - CIP 72069, and Authorize the City Manager to Execute Future Amendments to this Task Order, if Needed
- I. Approval of the Final Subdivision Map and Subdivision Improvement Agreement for Brookview II, Tract 3658, Authorization for the Mayor to Execute the Agreement, and Authorization for the City Clerk to File the Subdivision Improvement Agreement with the San Joaquin County Recorder

- J. Authorize a Professional Services Agreement with Maze & Associates Accounting Corporation for Professional Auditing Services, Authorize the City Manager to Execute any Subsequent Agreement Extensions and Contract Contingencies, and Authorize the Mayor to Execute the Agreement
  - K. Authorization to Enter into a Five Year Agreement with Microsoft for Automatic Software Updates for Desktop Computers and Servers and Authorization for the Mayor to Execute the Agreement
  - L. Authorize a Contract with Superior Auto Parts (Monument Car Parts) for Vehicle and Equipment Parts, Authorize the City Manager to Execute Subsequent Contract Extensions, and Authorize the Mayor to Execute the Contract
  - M. Authorize a Professional Services Agreement with West Coast Arborists for Tree Maintenance Services in the Tracy Consolidated Landscape Maintenance District and General Fund Areas, Authorize the City Manager to Execute Subsequent Agreement Extensions, and Authorize the Mayor to Execute the Agreement
  - N. Authorization to Enter into an Agreement with the San Luis & Delta-Mendota Water Authority for Sharing the Proportionate Cost of 2015-Mendota Canal Emergency Pumping Facility Project, Appropriation from the Water Fund and Authorization for the Mayor to Execute the Agreement
  - O. Adopt Resolution Approving the 2015 Multi-Agency Post-Construction Stormwater Standards Manual as Required by Federal and State Regulations
  - P. Award a Construction Contract for the Joe Wilson Pool Reconstruction Project - CIP 78152, to the Lowest Responsive Bidder, Authorize an Allocation of Funds from the General Fund 301, and Authorize the Mayor to Execute the Contract
  - Q. Approve an Offsite Improvement Agreement for Cordes Ranch Phase 1B - Program Roadway and Recycled Water Improvements on Hansen Road and New Schulte Road, and Associated Improvements for the Medline Industrial Building and Authorization for the Mayor to Execute the Agreement
  - R. Approve an Offsite Improvement Agreement for Cordes Ranch Phase 1B Non-Program Roadway Improvements and Other Associated Improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H" for the Medline Industrial Building, and Authorization for the Mayor to Execute the Agreement
2. ITEMS FROM THE AUDIENCE
  3. DISCUSSION AND DIRECTION REGARDING DEVELOPMENT POLICY AND ZONING ALONG THE I-205 CORRIDOR
  4. PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT; (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2015/2016; and (3) AUTHORIZING THE BUDGET OFFICER TO MAKE NECESSARY ADJUSTMENTS TO THE CITY

5. ACCEPT ANNUAL REPORT OF THE MEASURE E RESIDENTS' OVERSIGHT COMMITTEE
6. ACCEPT A REPORT ON PERSONNEL STAFFING WITHIN THE FIRE DEPARTMENT AND IMPACTS FOLLOWING THE CANCELLATION OF FIRE SERVICES CONTRACT BETWEEN TRACY RURAL FIRE DISTRICT AND MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT AND ADOPT A RESOLUTION ELIMINATING SIX FULL-TIME EQUIVALENT POSITIONS FROM THE CITY EMPLOYEE CONTROL ROSTER ALLOCATED UNDER THE FIRE DEPARTMENT
7. APPROVE AMENDMENTS TERMINATING THE PROPERTY DEVELOPMENT AND LEASE AGREEMENTS BETWEEN THE CITY OF TRACY AND TRACY BABE RUTH AND TRACY YOUTH SOCCER LEAGUE, AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENTS, AND PROVIDE DIRECTION REGARDING THE BID DOCUMENTS FOR CONSTRUCTION OF FIELDS AT LEGACY FIELDS
8. ITEMS FROM THE AUDIENCE
9. COUNCIL ITEMS
  - A. COUNCIL DESIGNATION OF VOTING DELEGATE AND UP TO TWO VOTING ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES 2015 ANNUAL CONFERENCE BUSINESS MEETING
10. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

July 7, 2015, 6:45 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 6:45 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Mitracos, Vargas, Young, Mayor Pro Tem Rickman and Mayor Maciel present.
3. ITEMS FROM THE AUDIENCE – None
4. CLOSED SESSION

Real Property Negotiations (Gov. Code, § 54956.8)

Property Location: City-owned property on Kavanagh Avenue at Corral Hollow Road (APN: 214-020-03)  
Negotiators for the City: Kul Sharma, Utilities Director  
Cris Mina, Senior Civil Engineer  
Negotiating Parties: Ray Axton

Under Negotiation: Price and terms of payment for the sale of the property.

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Rickman motioned to recess the meeting to closed session at 6:46 p.m. Council Member Mitracos seconded the motion. Voice vote found all in favor; passed and so ordered.
6. RECONVENE TO OPEN SESSION – Mayor Maciel reconvened the meeting into open session at 7:03 p.m.
7. REPORT OF FINAL ACTION – There was no report of final action.
8. ADJOURNMENT - Mayor Pro Tem Rickman motioned to adjourn. Council Member Vargas seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 7:03 p.m.

The agenda was posted at City Hall on July 2, 2015. The above are action minutes.

\_\_\_\_\_  
Mayor

ATTEST:

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

July 7, 2015, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

Mayor Maciel called the City Council meeting to order at 7:04 p.m. and led the Pledge of Allegiance.

Roll call found Council Members Mitracos, Vargas, Young, Mayor Pro Tem Rickman and Mayor Maciel present.

Troy Brown, City Manager presented April Uribe, Police Department, with the July 2015 Employee of the Month award.

Mayor Maciel presented Cindy Gustafson with a certificate of appointment to the San Joaquin County Commission on Aging for a term ending June 30, 2018.

Mayor Maciel presented Certificate of Recognition to Bill Field, founder and President of Surtec, Inc. for being selected as California Small Business of the Year.

#### 1. CONSENT CALENDAR

**ACTION** Motion made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt the Consent Calendar with the exception of item 1D, 1G, 1I, and 1P. Roll call vote found all in favor; passed and so ordered. Motion carried: 5:0

- A. Adopt Council Minutes – Closed session minutes of June 16, 2015, and regular meeting minutes from June 16, 2015 were approved.
- B. Approval of Resolutions: (1) Initiating Proceedings for the Annual Levy for Tracy Consolidated Landscape Maintenance District, (2) Preliminarily Approving the Engineer's Report for the Tracy Consolidated Landscape Maintenance District, (3) Declaring the Intention to Levy Annual Assessments, and (4) Setting the Date for the Public Hearing – Resolution 2015-096 initiated the proceedings for annual levy and collection of assessments for TCLMD, Resolution 2015-097 preliminarily approved the Engineer's Report. Resolution 2015-098 approved declaring the City's intention to levy annual assessments for the TCLMD.

Council Member Young abstained from the vote on this item.

- C. Authorize Amendment of the City's Classification Plan by Approving Revisions to the Classification Specification for Crime Prevention Specialist – Resolution 2015-099 approved revisions to classification specification for Crime Prevention Specialist.

- E. Authorize Amendment of the Position Control Roster by Approving the Reallocation of Two Part-Time Arts Education Coordinator Positions to One Recreation Program Coordinator I Position in the Cultural Arts Division – Resolution 2015-100 approved position reallocation in the Cultural Arts Division.
- F. Authorization to Award Chemical Bids for Water and Wastewater Treatment for Fiscal Year 2015 – 2016 – Resolution 2015-101 awarded chemical bids for FY 2015-16.
- H. Approve Amendment Number Six to the Professional Services Agreement with Kimley-Horn and Associates for the Tracy Hills Specific Plan Amendment Subsequent Environmental Impact Report and Technical Analysis Related to Tentative Maps – Resolution 2015-102 approved professional services agreement with Kimley-Horn and Associates.
- J. Approve an Offsite Improvement Agreement (OIA) for Cordes Ranch Phase 1A - Program Roadway Improvements on Old Schulte Road and Hansen Road, Intersection Improvements and Traffic Signal on Old Schulte Road and Hansen Road (Intersection #51), and Intelligent Transportation System on Old Schulte Road, Hansen Road, and Intersection #51, and Associated Improvements for the Federal Express Ground Facility and Authorization for the Mayor to Execute the Agreement – Resolution 2015-103 approved an Offsite Improvement Agreement.
- K. Approve an Offsite Improvement Agreement for the Cordes Ranch Phase 1C Non-Program Roadway Improvements on Old Schulte Road and Mountain House Parkway and Associated Improvements for the Crossroads Building 1 and Authorization for the Mayor to Execute the Agreement – Resolution 2015-104 approved an Offsite Improvement Agreement.
- L. Approve an Offsite Improvement Agreement for the Cordes Ranch 6.48 Million Gallon Per Day Potable Water Booster Pump Station, Pressure Reducing Valve (PRV), and the Water Tank Site Improvements at the Southeast Corner of Hansen Road and Old Road E, and Authorization for the Mayor to Execute the Agreement – Resolution 2015-105 approved an Offsite Improvement Agreement.
- M. Approve the Final Subdivision Map for the Bungalows Unit 2, Tract 3860 – Resolution 2015-106 approved final map.
- N. Award a Construction Contract to the Lowest Responsive and Responsible Bidder for the Police Communication Tower Access Driveway - CIP 71081A, and Authorize the Mayor to Execute the Contract – Resolution 2015-107 awarded a construction contract.
- O. Authorize an Amendment Reducing the 2015 Lease Payment for City Property at the Corner of Eleventh Street and Chrisman Road – Resolution 2015-108 amended reducing the 2015 lease payment.
- D. Authorize Amendment of the City's Classification and Compensation Plans by Approving Revisions to the Classification Specification and Salary Range for Economic Development Manager.

Council Member Vargas pulled this item for consideration. No staff report was requested. Council comments and questions followed.

**ACTION** Motion was made by Mayor Pro Tem Rickman and seconded Member Young to adopt Resolution 2015-109 amended City's classification and compensation plans. Voice vote found all Council Members in favor, passed and so ordered.

- G. Approve Amendment Number One to the Master Professional Services Agreement with Land Logistics, Inc. for Project Management and Planning Assistance

Council Member Vargas pulled this item for consideration.

Bill Dean, Interim Development Services Director, presented the staff report. Council comments and questions followed.

**ACTION** Motion was made by Rickman and seconded Young to adopt Resolution 2015-110 amended Master Professional Services Agreement. Voice vote found all in favor, passed and so ordered.

- I. Approve an Offsite Improvement Agreement (OIA) for Cordes Ranch Phase 1A Non-Program Roadway Improvements on Old Schulte Road, Hansen Road, Old Road "E", Old and New Road "E", and North and South Road "I" and Other Associated Improvements for the Federal Express Ground Facility and Authorization for the Mayor to Execute the Agreement – Item continued to July 21, 2015.
- P. Approve a Supplemental Appropriation in the Amount of \$1,500,000 from the South MacArthur Finance and Implementation Plan (Fund 352) to CIP 73126 for the Widening and Reconstruction of MacArthur Drive Between Schulte Road and Valpico Road

Council Member Vargas pulled this item for consideration.

Kul Sharma, Utilities Director, presented the staff report. Council comments and questions followed.

**ACTION** Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-111 approved supplemental appropriation. Voice vote found all Council Members in favor, passed and so ordered.

2. ITEMS FROM THE AUDIENCE - Marty Steiner expressed concern that the improvement agreements for the Fed Ex ground facility should have been in place by now and urged the Council to resolve the issues holding up the project. Mr. Steiner added it is critical that the agreement is approved by the next meeting in order for Fed Ex to open their facility.

Dr. Rai, President of Sant Nirankari Mission, Tracy, invited the Council and the community to attend a seminar with the theme "A World without Walls" on July 8, 2015, from 7:00 p.m. – 9:00 p.m. at 22713 South 7<sup>th</sup> Street, Banta.



3. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE I-205 CORRIDOR SPECIFIC PLAN REGARDING BUILDING HEIGHT LIMITATIONS AND AN APPLICATION FOR A PRELIMINARY AND FINAL DEVELOPMENT PLAN TO CONSTRUCT A 795,732 SQUARE FOOT INDUSTRIAL DISTRIBUTION BUILDING WITH CORRESPONDING PARKING AND LANDSCAPE IMPROVEMENTS, LOCATED AT 8450 ARBOR AVENUE - APPLICANT IS DCT INDUSTRIAL OPERATING LLC; OWNERS ARE GREGG AND ROBERT CHRISTENSEN - APPLICATION NUMBERS D14-0028 AND SPA14-0002

Victoria Lombardo, Management Analyst, Development Services, presented the staff report.

Mayor Maciel opened the public hearing.

Dave Haugen, Senior Vice President, DCT Industrial, Calvin Coatsworth, Mike Goldstein, Executive Managing Director, Colliers International presented the City Council with a powerpoint presentation.

Council Comments and questions followed.

Sophia Valenzuela, CEO, Tracy Chamber of Commerce, spoke on behalf of the Chamber of Commerce expressing concern about recent criticism on the development along the I-205 corridor. This has led to mixed emotion in the business community and concern with the process being used to approve permits. If all requirements are being met by perspective businesses the perception is that an approval should be granted. The specific issue with building warehouses is more complex than a simple permit approval. In the eye of the business community the developer complied with all the necessary requirements set forth. Because of this recent issue there is fear that future investors will be concerned with the instability of the City's permitting process. Ms. Valenzuela on behalf of the Chamber urged the Council to become unified in their decision making and keep in mind the best interest of the Tracy business community.

Steve Nicolaou, expressed concern about the DCT application potentially being denied after the applicant followed the rules and spent a considerable amount of money, it would be a travesty and the message would suggest that the City is flaky and capricious. Mr. Nicolaou stated the proposed location is ideal and suggested that going forward the Council should have a discussion on what their vision is on the I-205 corridor.

Mayor Maciel closed the public hearing. Council comments and questions followed.

**ACTION** Motion was made by Mayor Maciel and seconded by council Member Young to adopt Resolution 2015-112 approving amendment to Specific Plan. Roll call vote found Council Member Young and Mayor Maciel in favor, Council Members Mitracos, Vargas and Mayor Pro Tem Rickman opposed. Motion failed: 2:3

**ACTION** Motion made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-113 denying Application D14-0028 and SPA14-002 due to inconsistency with the Specific Plan. Roll call vote found Council Members Mitracos, Vargas and Mayor Pro Tem Rickman in favor; Council Member Young and Mayor Maciel opposed, passed and so ordered. Motion carried 3:2.

Mayor Maciel called a recess at 9:38 p.m.

Mayor Pro Tem Rickman excused himself from the dais at 9:38 p.m. for the remainder of the meeting.

Mayor Maciel reconvened the meeting at 9:47 p.m.

4. **CONSIDER DIRECTING STAFF TO TERMINATE THE WASTEWATER REVOCABLE LICENSE AGREEMENT WITH THE WEST SIDE IRRIGATION DISTRICT**

Steve Bayle, Utilities Department, presented the staff report.

Council Comments and questions followed.

**ACTION** Motion was made by Council Member Mitracos and seconded by Council Member Young to terminate agreement. Voice vote found Council Member's Mitracos, Vargas, Young and Mayor Maciel in favor, passed and so ordered. Mayor Pro Tem Rickman - absent.

5. **PUBLIC HEARING TO CONSIDER AN EXTENSION OF THE DEVELOPMENT REVIEW PERMITS FOR TWO ADJACENT RESIDENTIAL APARTMENT PROJECTS: (1) THE 184-UNIT VALPICO APARTMENTS (ON APPROXIMATELY 8.75-ACRES LOCATED ON THE NORTH SIDE OF VALPICO ROAD, ADJACENT TO THE RITE AID STORE, NORTHEAST OF THE INTERSECTION OF VALPICO ROAD AND GLENBRIAR DRIVE, ASSESSOR'S PARCEL NUMBERS 246-140-13 AND 14, APPLICATION NUMBER D12-0004) AND (2) THE 60-UNIT MACDONALD APARTMENTS (ON APPROXIMATELY 2.87 ACRES LOCATED ON THE NORTH SIDE OF VALPICO ROAD, NORTHWEST OF THE INTERSECTION OF VALPICO ROAD AND GLENBRIAR DRIVE, ASSESSOR'S PARCEL NUMBER 246-140-12, APPLICATION NUMBER D12-0006)**

Bill Dean, Interim Development Services Director, presented the staff report.

Council comments and questions followed.

Eric Taylor, applicant, expressed looking forward to building the project and mentioned that the suggestion offered by council Member Vargas about adding 10% orchard trees to the project would be implemented.

Teresa, a resident who lives in the area of Green Briar where the proposed apartments are to be built, expressed concern with an increase in traffic congestion and spike in crime due to the proposed apartments.

Paul Fern echoed Teresa's sentiments related to the increase in traffic and crime in the area, Mr. Fern would prefer to see lower density homes in the area.

Robert Tanner expressed concern with the suggested 10% orchard type trees to be implemented during this drought and urged the Council to consider drought tolerant trees instead.

Fidel Garcia, Neighborhood Watch captain has seen an increase in crime within a mile radius. Mr. Garcia also expressed concern with traffic and urged the council to reconsider the project or do something about the traffic.

Ray Fontano expressed concern about traffic on Valpico and the potential spike in crime. Mr. Fontano urged the council to condense the project or eliminate the traffic issue.

Council comments and questions followed.

Fidel Garcia expressed that it was a waste of money to send out a public notice when there was no action to be taken only to extend a permit.

Mayor Maciel closed the public hearing.

Council discussion continued.

**ACTION** Motion was made by Council Member Vargas and seconded by Council Member Young to adopt Resolution 2015-114 amended to include additional 10% drought tolerant orchard type trees to the project. Voice vote found Council Member's Mitracos, Vargas, Young and Mayor Maciel in favor, passed and so ordered. Mayor Pro Tem Rickman - absent.

6. PUBLIC HEARING TO CONSIDER A PLANNED UNIT DEVELOPMENT (PUD) ZONE PRELIMINARY AND FINAL DEVELOPMENT PLAN TO CONSTRUCT AN APPROXIMATELY 3,000 SQUARE FOOT RESTAURANT WITH DRIVE THRU, PARKING AREA AND LANDSCAPING IMPROVEMENTS, LOCATED NORTH OF THE TEXAS ROADHOUSE RESTAURANT AT 2242 NAGLEE ROAD, ASSESSOR'S PARCEL NUMBER 212-290-48. APPLICANT IS VMI ARCHITECTS INC. PROPERTY OWNER IS THE CITY OF TRACY; APPLICATION NUMBER D15-0002

Scott Claar, Development Services Department, presented the staff report.

John Becker, Becker Commercial Properties, made a few comments.

Mayor Maciel opened the public hearing, there were no speakers. Mayor Maciel closed the public hearing.

**ACTION** Motion was made by Council Member Young and seconded by Council Member Vargas to adopt resolution 2015-115 approved final development plan for construction. Voice vote found Council Member’s Mitracos, Vargas, Young and Mayor Maciel in favor, passed and so ordered. Mayor Pro Tem Rickman - absent

7. ITEMS FROM THE AUDIENCE – Conrad Levoit a resident of Tracy since 1984 expressed concern about an action taken tonight and requested that the City’s Mission and identity be readdressed and pinpoint who the City of Tracy is within the next 6 months.

8. COUNCIL ITEMS– Council Member Vargas congratulated the Champion Wrestling Team and Albert Landeross. Council Member Vargas asked Troy Brown, City Manager to provide an update related to an email sent to the Council earlier regarding the Corral Hollow and Linne Road project.

Council Member Young reported that the Fourth of July event was a success. Council Member Young acknowledged the late Mr. Rowland Cheney for his art work “Harvest of Progress”.

9. ADJOURNMENT

**ACTION** Motion made by Council Member Young and seconded by Council Member Vargas, to adjourn the meeting. Voice vote found Council Member’s Mitracos, Vargas, Young and Mayor Maciel in favor, passed and so ordered. Mayor Pro Tem Rickman - absent.

The above agenda was posted at the Tracy City Hall on July 2, 2015. The above are action minutes. A recording is available at the Office of the City Clerk.

\_\_\_\_\_  
Mayor

ATTEST:

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

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 9, 2015, 4:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 4:00 p.m.
2. ROLL CALL – Roll call found Council Members Mitracos, Vargas, Young, Mayor Pro Tem Rickman and Mayor Maciel present.
3. ITEMS FROM THE AUDIENCE – None
4. FIND IT IS IN THE BEST INTEREST OF THE CITY TO FOREGO THE FORMAL REQUEST FOR PROPOSAL PROCESS, APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH VERDE DESIGN INC., OF SANTA CLARA, CALIFORNIA, TO PREPARE CONSTRUCTION DOCUMENTS FOR CONSTRUCTION OF SIXTEEN SPORT FIELDS WITHIN PHASE I AREA OF THE LEGACY FIELDS COMPLEX – CIP 78153, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

Troy Brown, City Manager provided a brief overview of the purpose of the special meeting and Kul Sharma, Utilities Director, presented the staff report.

Council comments and questions followed.

Steve Nicolaou referenced the 1994 earthquake when Governor Pete Wilson waived the bidding process to cut through red tape for health and safety reasons. Mr. Nicolaou did not see any justification in waiving RFP process for ball field construction, in doing so creates precedence for future projects.

**Action** Motion made by Mayor Pro Tem Rickman and seconded by Council Member Young to adopt Resolution 2015-088 approving finding it is in the best interest of the City to forego the formal request for proposals process, approving a professional services agreement with Verde Design Inc., of Santa Clara, California, to prepare construction documents for construction of sixteen sport fields within Phase I area of the Legacy Fields Complex – CIP 78153, and authorizing the Mayor to execute the agreement. Voice vote found all in favor, passed and so ordered. Motion carried 5:0

5. ADJOURNMENT - Mayor Pro Tem Rickman motioned to adjourn. Council Member Young seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 4:50 p.m.

The agenda was posted at City Hall on June 5, 2015.

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.B

REQUEST

**APPROVE AN OFFSITE IMPROVEMENT AGREEMENT (OIA) FOR CORDES RANCH PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS ON OLD SCHULTE ROAD, HANSEN ROAD, OLD ROAD "E", NEW ROAD "E", AND NORTH AND SOUTH ROAD "I" AND OTHER ASSOCIATED IMPROVEMENTS FOR THE FEDERAL EXPRESS GROUND FACILITY AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

The developer of the Federal Express Ground Facility has assigned its obligation to Prologis L.P., a Delaware limited partnership (Developer) and the Developer assumed the responsibility of constructing frontage improvements on Hansen Road and Old Road "E" and specific plan streets that are needed for traffic circulation such as New Road "E", North Road "I", and South Road "I" which are to be constructed prior to building occupancy of the Federal Express Ground Facility project.

Approval of the Offsite Improvement Agreement (OIA) will allow the Developer to proceed with construction of streets and utility improvements that are necessary for the business operation of the Federal Express Ground Facility within the Cordes Ranch Business Park now known as International Park of Commerce.

DISCUSSION

On May 22, 2014, the Development Services Director approved the Development Review application for construction of a distribution facility now referred to as the Federal Express Ground Facility which includes an industrial building, truck car wash, maintenance and fuel facility, and a gateway entry building totaling to 651,380 square feet of building space, parking, and associated improvements such as landscaping, and storm water treatment facilities. The Federal Express Ground Facility will be located at the northeast corner of Hansen Road and Old Road "E".

The developer of the Federal Express Ground Facility project was required to complete the construction of frontage improvements on Hansen Road, Old Road "E" and New Schulte Road, prior to building occupancy. The frontage roadway improvements include concrete curb, gutter, asphalt concrete pavement, median curb, portion of the median landscaping, parkway landscaping, driveway, street light, water and sewer mains and laterals, storm drain line and inlets, recycled water line (purple pipe) and irrigation service, fire hydrant, pavement marking and striping, signing and striping, and other improvements.

The Federal Express Ground Facility project was also required to construct certain offsite roadway improvements such as the widening of Old Schulte Road and Hansen Road north of Old Schulte Road, construction Old Road "E", New Road "E", North Road "I", and South Road "I", and installation of traffic signal and intersection improvements

on Hansen Road/Road "E", and South Road "I"/ Old Schulte Road. These offsite roadway improvements, including the frontage improvements described above, are considered non-program roadway improvements and are not subject to development fee credits.

The Developer has completed the design of the frontage improvements and offsite roadway improvements on Old Schulte Road, Hansen Road, Old Road "E", New Road "E", North Road "I", and South Road "I", and the traffic signal and intersection improvements on Hansen Road/Old Road "E" and Old Schulte Road/ South Road "I", and has submitted the Improvement Plans, Specifications and Cost Estimates (PSE). City staff has reviewed the PSE and found them to be complete.

To guarantee completion of the work by the Developer in an orderly manner under the City's inspections and directions, the Developer was required to execute an Offsite Improvement Agreement and post insurance and surety bonds. The Developer has executed the Offsite Improvement Agreement and submitted the required security to guarantee completion of the frontage improvements and the offsite roadway improvements on Old Schulte Road, Hansen Road, Old Road "E", New Road "E", North Road "I", and South Road "I", and the traffic signal and intersection improvements on Hansen Road/Old Road "E" and Old Schulte Road/South Road "I". The Offsite Improvement Agreement and Improvement Plans are on file with the City Engineer and are available for review upon request.

The frontage improvements for the Federal Express Ground Facility project on the remaining portion of Hansen Road and New Schulte Road will be designed and constructed as part of the Cordes Ranch Phase 1B Roadway Improvements under a separate improvement agreement. This agreement is tentatively scheduled to be presented for approval by City Council on its July 21, 2015 meeting.

The Developer has requested that the public parkway and median landscaping improvements be excluded as part of the work described in the OIA, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the improvement plans for the parkway and median irrigation and landscaping improvements. The work related to parkway and median irrigation and landscaping improvements will be added through an amendment to the OIA at a later date. After completion of the irrigation and landscaping plans, the Developer will sign an agreement to amend the OIA and submit the required improvement security. Improvement plans for the parkway irrigation and landscaping improvements is anticipated to be completed in four to five weeks.

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 engineering inspection and processing the agreement.

STRATEGIC PLAN

This agenda item is consistent with the City 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 for the Cordes Ranch Phase 1A Non-Program Roadway Improvements on Old Schulte Road, Hansen Road, Old Road "E", New Road "E", North Road "I", and South Road "I", and the traffic signal and intersection improvements on Hansen Road/Old Road "E" and Old Schulte Road/South Road "I", and associated improvements to serve the Federal Express Ground Facility, and authorize the Mayor to execute the Offsite Improvement Agreement.

Prepared by: Criseldo Mina, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, Utilities Director  
William Dean, Interim Development Services Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

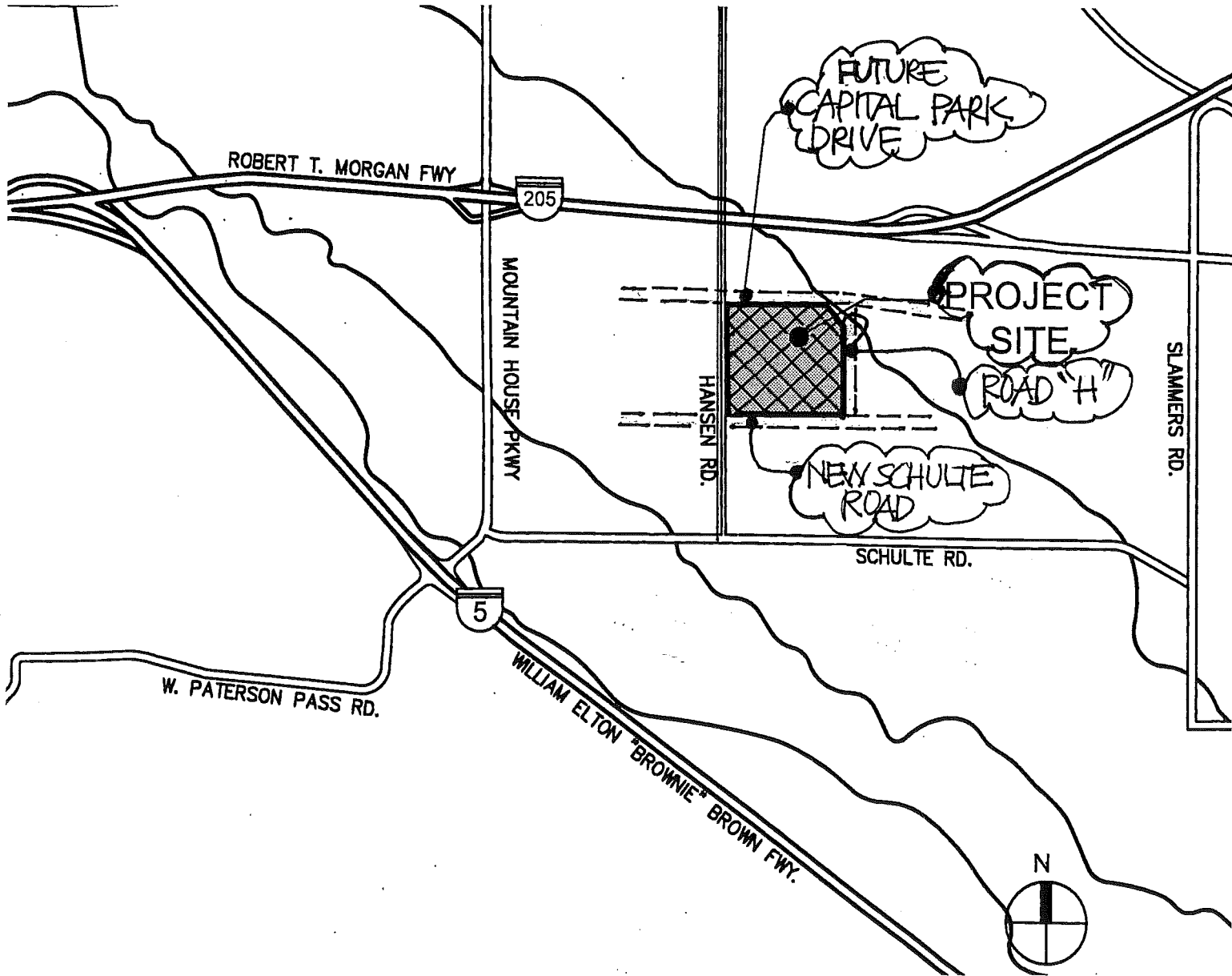
ATTACHMENTS

Attachment A – Location Map

Attachment B – Offsite Improvement Agreement for the Cordes Ranch - Phase 1A Non-Program Roadway Improvements



CORDES RANCH PHASE 1B NON-PROGRAM  
ROADWAY IMPROVEMENTS FOR MEDICINE INDUSTRIAL  
BUILDING AND FEDERAL EXPRESS GROUND FACILITY



LOCATION MAP  
NTS

CITY OF TRACY  
OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY

This OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY (“**Agreement**”) is made and entered into by and between the CITY OF TRACY, a municipal corporation (“**City**”) and PROLOGIS, L. P., a Delaware limited partnership (referred to as “**Developer**”).

RECITALS

A. Developer is the legal owner of approximately one thousand two hundred and forty two (1,242) acres of real property, as shown and more particularly described in attached Exhibit A (“**Property**”).

B. The Property is within the Cordes Ranch Specific Plan Area, which consists of approximately one thousand seven hundred and eighty (1,780) acres (“**Specific Plan Area**”). The Cordes Ranch Specific Plan (“**Specific Plan**”) is intended to create a state-of-the-art commerce and business park within the Specific Plan Area by establishing land use, zoning and development standards and regulations to provide for the phased development of approximately thirty one (31) million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, as described more fully therein (“**Project**”).

C. On September 3, 2013, the Tracy City Council (“**City Council**”) adopted the Specific Plan and approved related land use entitlements to enable the Project to proceed. In connection therewith, the City Council approved that certain *Development Agreement By and Between the City of Tracy and Prologis, L.P.* (the indirect parent of Developer) (“**Development Agreement**”).

D. The Development Review Application (D14-0008) for the construction of a distribution center with support facilities such as wash, maintenance, fuel and gateway entry buildings and associated parking and landscaping improvements, as approved by the Development Services Director on May 22, 2014, is on file with the Office of the City Engineer, and is incorporated herein by reference. The approval of the Development Review Application, D14-0008 was subject to specific conditions of approval (hereinafter “**Conditions of Approval**”), attached hereto as Exhibit “B,” and incorporated herein by reference.

E. In accordance with the Development Agreement, the Specific Plan, Conditions of Approval, and the Citywide Water System Master Plan (“**Master Plan**”), Developer has submitted, and City has approved, those certain improvement plans and specifications relating to the construction of streets and utilities improvements on Old Schulte Road approximately 3,500 feet from the Delta Mendota Canal Bridge to the East, on Hansen Road approximately 2,300 feet from Old Schulte Road to the North, on Old Road “E” approximately 2,300 feet from Hansen Road to Road “I”, on Road “E” approximately 2,300

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY**

**Page 2 of 10**

feet from Hansen Road to Road "I", and on Road "I" approximately 1,100 feet from Old Schulte Road to Road "E" and approximately 650 feet from Road "E" to the Federal Express Ground Facility main entrance (collectively, "**Phase 1A Roadway Improvements**" or "**Work**"). The Work is described more fully in the one hundred nine (109) sheets of improvement plans entitled "International Park of Commerce – Phase 1A Street Improvement Plans for Old Schulte Road Widening, Hansen Road, New Road "E", Old Road "E", South Road "I" and North Road "I" prepared by Kier & Wright Engineers of Livermore, California excluding irrigation land landscaping plans described as Sheets I1 through I10 and L1 through L9 prepared by Russell D. Mitchell & Associates, Inc. of Walnut Creek, California ("**Plans and Specifications**"). The Plans and Specifications are on file with the City Engineer, and are incorporated herein by reference.

E. The Plans and Specifications have been prepared on behalf of Developer and City, and approved by the City Engineer, which describe in more detail the Work required in this Agreement.

F. Since the Work, as described above and in the Plans and Specifications, has not been completed, Developer has requested to execute this Agreement as authorized by Government Code Section 66462.

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

1. SCOPE OF WORK. Developer shall perform, or cause to be performed, the Work, to the satisfaction of the City Engineer, pursuant to Section 4 of the Development Agreement. The Work shall be performed, and all materials and labor shall be provided, at Developer's expense, in the manner described in the Plans and Specifications, subject to fee reconciliation provisions set forth in Section 6 of the Development Agreement. No material change shall be made to the scope of Work unless authorized in writing by the City Engineer, such approval not to be unreasonably withheld. Developer may submit a written request to the City Engineer for a change in the scope of Work, as required by Tracy Municipal Code Section 12.36.060(f). Any portion(s) of the Work that are within City's right(s)-of-way and/or easement(s) are to be performed by the Developer in accordance with the requirements of the State prevailing wage laws, in the event and to the extent applicable.
  - 1.1. Developer shall complete the improvement plans, specifications, and cost estimates for the irrigation and landscaping improvements within the median on and the area between the curb and property line (Additional Work) within thirty (30) calendar days from the date of City Council's approval of this Agreement. Prior to construction of the Additional Work, the Developer shall enter into an agreement (Amendment 1 to the Agreement) with the City and post improvement security for the Additional Work.
2. DEVELOPER'S AUTHORIZED REPRESENTATIVE. At all times during the progress of the Work, Developer shall have a competent foreman or superintendent

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY**

Page 3 of 10

("Authorized Representative") on site with authority to act on Developer's behalf. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the name and telephone number of the Authorized Representative. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work. Exhibit C attached hereto includes the initial contact information referenced herein.

3. LOCATION OF PERFORMANCE. Developer shall perform the Work at the locations and grades shown on the Plans and Specifications or as otherwise approved by the City Engineer. Subject to Section 3.8 of the Development Agreement, in the event and to the extent required for the Work, Developer shall acquire all easements and/or rights-of-way necessary for the performance of the Work, at Developer's expense, subject to fee reconciliation provisions set forth in Section 6 of the Development Agreement.

The Developer shall offer for dedication to the City, all rights-of-way and/or permanent easement(s), prior to starting the Work.

4. IMPROVEMENT SECURITY. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:

Non-Program Improvements – Old Schulte Road, Hansen Road, Old Road "E", New Road "E", North Road "I", and South Road "I"

- 4.1 Faithful Performance security in the amount of **\$9,800,728** to secure faithful performance of this Agreement (until the date when the City Council accepts the Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
  - 4.2 Labor and Material security in the amount of **\$9,800,728** to secure payment by Developer to laborers and materialmen (until the date when any and all claims in connection with the Work are required to be made by laborers and materialmen in accordance with applicable laws) pursuant to Government Code Sections 66499.2, 66499.3, 66499.4, and 66499.7(b).
  - 4.3 Warranty security in the amount of **\$980,072.80** to secure faithful performance of this Agreement (from the date when the City Council accepts the Work as complete until one (1) year thereafter) pursuant to Government Code Section 66499.1, 66499.4, and 66499.9.
5. INSURANCE. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish evidence to City that all of the

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY  
Page 4 of 10**

following insurance requirements have been satisfied by the Developer or its general contractor responsible for the Work.

- 5.1. General. Developer shall, throughout the duration of this Agreement, maintain or cause to be maintained insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services for the Work covered by this Agreement at the minimum levels set forth herein.
- 5.2. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than Three Million Dollars (\$3,000,000) general aggregate and One Million Dollars (\$1,000,000) per occurrence for general liability, bodily injury, personal injury, and property damage.
- 5.3. Automobile Liability (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") coverage shall be maintained in an amount not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- 5.4. Workers' Compensation coverage shall be maintained as required by the State of California.
- 5.5. Endorsements. Developer shall ensure the automobile and commercial general liability provide the following provisions:
  - 5.5.1. City (including its elected and appointed officials, officers, employees, and agents) shall be named as an additional "insured."
  - 5.5.2. For any claims related to this Agreement, Developer's coverage shall be primary insurance with respect to City. Any insurance maintained by City shall be excess of Developer's insurance and shall not contribute with it.
- 5.6. Notice of Cancellation. Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days' prior written notice to City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 5.7. Authorized Insurers. All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY  
Page 5 of 10**

- 5.8. Insurance Certificate. Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form reasonably satisfactory to the City Attorney.
- 5.9. Substitute Certificates. No later than five (5) calendar days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 5.10. Developer's Obligation. Maintenance of insurance by Developer as specified in this Agreement shall in no way be interpreted as relieving Developer of any of its obligations hereunder (including indemnity obligations under this Agreement), and Developer may carry, at its own expense, such additional insurance as it deems necessary or desirable.
6. PERMITS, LICENSES AND COMPLIANCE WITH LAW. Developer shall, at its expense, obtain and maintain all necessary permits, approvals and licenses for performance of the Work, subject to City's cooperation pursuant to Sections 3.4 and 3.5 of the Development Agreement. In its performance of the Work, Developer shall comply with all applicable local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
7. TIME OF PERFORMANCE. Time is of the essence in the performance of the Work, and Developer shall with diligence and in good faith adhere to the timing requirements set forth herein unless otherwise modified in writing in accordance with this Agreement. Developer shall submit all requests for extensions of time to City, in writing, no later than ten (10) days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.
- 7.1. Commencement of Work. No later than fifteen (15) days prior to the commencement of the Work, Developer shall provide written notice to the City Engineer of the date on which Developer intends to commence the Work. Developer shall not commence the Work until after the notice required by this Section 7.1 is provided, and Developer shall not commence Work prior to the date specified in said written notice.
- 7.2. Schedule of Work. Concurrently with the written notice of commencement of Work, Developer shall provide City with a written estimated schedule of Work, which shall be updated in writing as necessary to accurately reflect Developer's prosecution of the Work.
- 7.3. Completion of Work. Developer shall complete all Work prior to the issuance of building certificate of occupancy of the Federal Express Ground Facility Project or no later than three hundred sixty-five (365) calendar days after Developer's submittal of its notice of commencement of work pursuant to Section 7.1 above, whichever occurs first, and subject to extension for force majeure.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY  
Page 6 of 10**

8. INSPECTION BY CITY. In order to permit City to inspect the Work, Developer shall, at all times, provide to City reasonable and safe access to the Work site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation. City inspections of the Work shall be conducted in accordance with Section 4 of the Development Agreement.
9. INSPECTION, OTHER FEES AND PROGRAM FEE CREDITS. All fees due to City in connection with the Work shall be paid in accordance with the Development Agreement. Accordingly, concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall pay City the applicable Program Soft Costs (as that term is defined in the Development Agreement) in accordance with Section 5.1(b) of the Development Agreement.
10. DEFAULT.
  - 10.1. Notice of Default. Subject to compliance with Sections 4.4(a) and (b) of the Development Agreement, in the event that Developer is in default of this Agreement, as defined in this Section 10, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.
  - 10.2. Material Breach. Developer shall be in default of this Agreement if Developer fails to perform one or more material requirements of this Agreement, and fails to cure any such non-performance pursuant to Section 10.3, below.
  - 10.3. Cure of Default. In the event that Developer fails, within thirty (30) calendar days after receipt of written notice, to either cure the default or provide adequate written assurance to the reasonable satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:
    - 10.3.1. Cure the default in accordance with Section 4.4(b) of the Development Agreement.
    - 10.3.2. Demand that Developer complete performance of the Work.
    - 10.3.3. Demand that Developer's surety (if any) complete performance of the Work.
11. REPAIR OF ANY DAMAGE. In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other property owners, then Developer shall promptly take all reasonable steps to repair or replace (as necessary) such property to remedy the damage caused thereto.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY  
Page 7 of 10**

12. ACCEPTANCE OF WORK. Prior to acceptance of the Work by the City Council, Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Work site.
13. WARRANTY PERIOD. Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one (1) year after acceptance of the Work by the City Council. In the event that (during said one-year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default and shall cure such default as required hereunder.
14. INDEPENDENT CONTRACTOR STATUS. Developer is an independent contractor, and the parties agree that City shall have no responsibility for any acts of Developer's employees, agents, representatives, contractors or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of City as an agent, or to bind City to any obligation whatsoever, unless City provides prior written authorization to Developer.
15. OWNERSHIP OF WORK. All original documents prepared by Developer for this Agreement shall be given to City upon City's acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws.
16. ATTORNEY'S FEES. In the event any legal action or proceeding is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
17. INDEMNIFICATION. Consistent with the security provisions contained herein, Developer shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting in the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors, or employees until such time as the City Council accepts the Work, and the City becomes responsible for the maintenance, operation and repair of the Work, at which time the indemnification obligations under this Section 17 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, this termination shall not affect Developer's warranty obligations set forth in Section 13, above.
18. ASSIGNMENT AND DELEGATION. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of Developer's duties be delegated, without the written consent of City, which shall not be unreasonably withheld, delayed or denied. Any attempt to assign or delegate this Agreement without City's



**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY  
Page 8 of 10**

written consent shall be void and of no force and effect. Consent by City to one assignment shall not be deemed to be consent to any subsequent assignment.

19. NOTICES.

20.1. Notice in Writing. All notices, demands, or other communications that this Agreement contemplates, authorizes or requires shall be in writing and shall be personally delivered or mailed to the respective party as follows:

City: City of Tracy  
Attn: City Engineer  
333 Civic Center Plaza  
Tracy, CA 95376

Copy to: City Attorney's Office  
Attn: City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

Prologis: Prologis L.P.  
Attn: Dan Letter  
Pier 1, Bay 1  
San Francisco, CA 94111  
Tel: (415) 733-9973  
Fax: (415) 733-2171

Copy to: Miller Starr Regalia  
Attn: Nadia Costa  
1331 North California Blvd., 5<sup>th</sup> Floor  
Walnut Creek, CA 94596  
Tel: 925.935.9400  
Fax: 925.933.4126

Copy to: Prologis L.P.  
Attn: General Counsel  
4545 Airport Way  
Denver, CO 80239  
Tel: 303.567.5000  
Fax: 303.567.5903

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

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

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY  
Page 9 of 10**

22. WAIVERS. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
23. SEVERABILITY. In the event a court of competent jurisdiction holds any term of this Agreement invalid, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
24. JURISDICTION AND VENUE. The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
25. ENTIRE AGREEMENT. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the Work. This Agreement supersedes all prior negotiations, representations or agreements as such may relate to performance of the Work.

Portion of this Page Intentionally Left Blank

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
FEDERAL EXPRESS GROUND FACILITY  
Page 10 of 10**

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

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

CITY OF TRACY, a municipal corporation

\_\_\_\_\_  
Brent Ives  
MAYOR

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

Attest:

\_\_\_\_\_  
Carole Fleischmann  
CITY CLERK

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

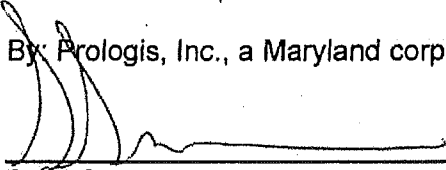
APPROVED AS TO FORM:

\_\_\_\_\_  
Dan Sodergren  
CITY ATTORNEY

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

PROLOGIS:  
PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., a Maryland corporation, its General Partner

  
\_\_\_\_\_  
Scott Swenson  
Its: Vice President

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

01-120914cm

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

APPROVING AN OFFSITE IMPROVEMENT AGREEMENT FOR THE  
CORDES RANCH PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS  
ON OLD SCHULTE ROAD, HANSEN ROAD, OLD ROAD "E", NEW ROAD "E", AND  
NORTH AND SOUTH ROAD "I" AND OTHER ASSOCIATED IMPROVEMENTS FOR THE  
FEDERAL EXPRESS GROUND FACILITY AND AUTHORIZING THE MAYOR TO  
EXECUTE THE AGREEMENT

WHEREAS, On May 22, 2014, the Development Services Director approved the Development Review application for construction of a distribution facility now referred to as the Federal Express Ground Facility, and

WHEREAS, The developer of the Federal Express Ground Facility project was required to complete the construction of frontage improvements on Hansen Road, Old Road "E" and New Schulte Road, prior to building occupancy, and

WHEREAS, The Federal Express Ground Facility project was also required to construct certain offsite roadway improvements such as the widening of Old Schulte Road and Hansen Road north of Old Schulte Road, construction Old Road "E", New Road "E", North Road "I", and South Road "I", and installation of traffic signal and intersection improvements on Hansen Road/Road "E", and South Road "I"/Old Schulte Road, and

WHEREAS, To guarantee completion of the work by the Developer in an orderly manner under the City's inspections and directions, the Developer was required to execute an Offsite Improvement Agreement (OIA) and post insurance and surety bonds, and

WHEREAS, The frontage improvements for the Federal Express Ground Facility project on the remaining portion of Hansen Road and New Schulte Road will be designed and constructed as part of the Cordes Ranch Phase 1B Roadway Improvements under a separate improvement agreement, and

WHEREAS, The Developer has requested that the public parkway and median landscaping improvements be excluded as part of the work described in the OIA, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and

WHEREAS, The work related to parkway and median irrigation and landscaping improvements will be added through an amendment to the OIA at a later date, and

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

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the Offsite Improvement Agreement for the Cordes Ranch Phase 1A Non-Program Roadway Improvements on Old Schulte Road, Hansen Road, Old Road "E", New Road "E", North Road "I", and South Road "I", and the traffic signal and intersection improvements on Hansen Road/Old Road "E" and Old Schulte Road/South Road "I", and associated improvements to serve the Federal Express Ground Facility, and authorizes the Mayor to execute the Offsite Improvement Agreement.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

AYES:            COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

ATTEST

\_\_\_\_\_  
MAYOR

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

AGENDA ITEM 1.C

REQUEST

**ACCEPTANCE OF THE LIBRARY ENTRANCE DOORS REPLACEMENT PROJECT - CIP 78147, COMPLETED BY T. AMARAL'S DONE RIGHT CONSTRUCTION OF LIVERMORE CALIFORNIA, AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AND AUTHORIZATION FOR THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT**

EXECUTIVE SUMMARY

This project involved replacing two existing 7 foot by 14 foot automatic sliding entrance doors at the Tracy Public Library.

The contractor has completed the Library Entrance Doors Replacement Project - CIP 78147, in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

The City owns the building and has a maintenance agreement with the County. The City provides maintenance of the building on an as needed basis and the County is contracting the library's operation services with the City of Stockton. Therefore, the city paid for the expenses of the doors replacement.

DISCUSSION

The project involved replacing the outer automatic sliding door and inner automatic sliding door of the Tracy Library to comply with accessibility requirements.

The work consisted of design-built ADA compliant bi-parting sliding automatic entrance doors to fit the existing opening including, but not limited to, sidelight, transom, framing, glazing, threshold, electrical and other components as needed.

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

Public Contract Code Sections 22032 & 22036 allows the public agency to procure informal bids for projects with an anticipated cost less than \$50,000. Since this project falls under this category, it was advertised for informal bids on the City of Tracy website and builder's exchanges on November 20, 2014, and only one bid was received on December 22, 2014.

On February 4, 2015, the City Manager, in accordance with TMC 2.20.260, executed the agreement with the lowest monetary bidder T. Amaral's Done Right Construction of Livermore, California, in the amount of \$49,900 for the Library Entrance Doors Replacement Project - CIP 78147.

No change orders were issued for this project.

Status of budget and project costs is as follows:

A. Construction Contract Amount	\$49,900
B. Change Orders	\$ 0.00
C. Design, Construction Inspections	\$ 3,079
D. Citywide Project Management	<u>\$ 4,176</u>
Total Project Costs	\$57,155
Budgeted Amount	\$85,600

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

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

CIP 78147 is an approved Capital Improvement Project and the project expenses are within budget.

#### RECOMMENDATION

That City Council, by resolution, accept the Library Entrance Doors Replacement Project, CIP 78147, completed by T. Amaral's Done Right Construction of Livermore, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Moheb Argand, Associate Civil Engineer

Reviewed by: Robert Armijo, City Engineer  
Bill Dean, Interim Development Services Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

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

ACCEPTING THE LIBRARY ENTRANCE DOORS REPLACEMENT PROJECT - CIP 78147, COMPLETED BY T. AMARAL'S DONE RIGHT CONSTRUCTION OF LIVERMORE CALIFORNIA, AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION, AND AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT

WHEREAS, On February 4, 2015, the City Manager, in accordance with TMC 2.20.260, executed the agreement with the lowest monetary bidder, T. Amaral's Done Right Construction, of Livermore, California, in the amount of \$49,900 for the Library Entrance Doors Replacement Project - CIP 78147, and

WHEREAS, The contractor has completed the Library Entrance Doors Replacement Project - CIP 78147, in accordance with project plans, specifications, and contract documents, and

WHEREAS, Status of budget and project costs are estimated to be as follows:

Construction Contract Amount	\$49,900
Change Orders	\$ 0.00
Design, Construction Inspections	\$ 3,079
Citywide Project Management	<u>\$ 4,176</u>
Total Project Costs	<u>\$57,155</u>
Budgeted Amount	\$85,600

WHEREAS, There will be no fiscal impact to the General Fund; project expenses are within budget;

NOW, THEREFORE BE IT RESOLVED, That City Council accepts the Library Entrance Doors Replacement Project - CIP 78147, completed by T. Amaral's Done Right Construction of Livermore, California, and authorizes the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment

\* \* \* \* \*

The foregoing Resolution 2015-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>ST</sup> day of July 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

**AUTHORIZE THE ESTABLISHMENT OF PREFERENTIAL PARKING ON TWELFTH STREET AND BERVERDOR AVENUE BETWEEN MAE AVENUE AND EAST STREET**

EXECUTIVE SUMMARY

On March 4, 2014, City Council authorized the establishment of preferential parking on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street as a pilot program and directed staff to evaluate the effectiveness of the program after the completion of the pilot program. Staff reviewed the parking conditions in the neighborhood and also conducted the survey of residents. Based on the review, staff believes that the preferential parking program has been effective in improving the neighborhood parking conditions. Therefore, staff recommends Council authorize the permanent establishment of preferential parking on these streets.

DISCUSSION

On March 4, 2014, City Council authorized the establishment of preferential parking on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street as a pilot program for the school year beginning August 2014, ending in June 2015. Council also directed Engineering and Police Department staff to review the effectiveness of the preferential parking program and to present the results after completion of the program.

During this one year period staff monitored the neighborhood parking conditions and continued to seek feedback from the neighborhood residents. Staff also conducted the neighborhood survey to evaluate the effectiveness of the preferential parking program. Survey results indicate that most residents are very satisfied with the program and that the program was effective in improving the livability of the residents in the neighborhood. A majority of the residents responded in favor of continuing the preferential parking program. Seventeen residents were in favor of the program and only two of the nineteen residents opposed to the continuation of the preferential parking program. The residents supporting the continuation of parking program listed several positive comments such as improvement in parking congestion, reduction of noise and littering/loitering in the neighborhood. No comments were listed by residents opposing the program. Furthermore, staff contacted the Tracy Unified School District Superintendent about the program and he indicated that the program was working well from his perspective.

After reviewing the neighborhood parking conditions and the residents' survey, Police and Engineering staff recommend continuation of the preferential parking program. The procedures and guidelines for issuance of the parking permits, revocations, exemptions, violations and fines will be in accordance with procedures and guidelines established for the pilot preferential parking program approved by City Council on March 4, 2014 (Attachment A).

STRATEGIC PLAN

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

FISCAL IMPACT

Implementation of the Preferential Parking Pilot Program will have a minimal impact on the Police Department budget; no additional funding is requested at this time. Required signage was installed by the Public Works Department during the pilot program and annual parking permits will be issued by Police Department staff.

RECOMMENDATION

That City Council, by resolution, authorize the establishment of preferential parking on Twelfth Street and Beverdor Avenue between Mae Avenue and East Street.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Jeremy Watney, Police Captain  
Robert Armijo, City Engineer  
William Dean, Interim Development Services Director  
Gary Hampton, Chief of Police  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – City Council Agenda Item – March 4, 2014 Preferential Parking

March 4, 2014

## AGENDA ITEM 4

REQUEST**AUTHORIZE THE ESTABLISHMENT OF PREFERENTIAL PARKING ON TWELFTH STREET AND BERVERDOR AVENUE BETWEEN MAE AVENUE AND EAST STREET AS PILOT PROGRAM**EXECUTIVE SUMMARY

On January 21, 2014, City Council, after reviewing the options for introducing the ordinance for preferential parking, directed staff to implement preferential parking as a pilot program on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street for the period of 18 months, ending in June 2015. In addition, Council directed that the implementation costs associated with this pilot program be borne by the City and that Council may extend or eliminate the program after its expiration based on a review performed by Engineering and Police Department staff in coordination with neighborhood residents.

DISCUSSION

On January 21, 2014, staff introduced an ordinance adding a chapter to the City of Tracy Municipal Code governing preferential parking. Staff intended to use the ordinance, if approved, to address the parking issues on Twelfth Street and Berverdor Avenue west of East Street. Council, after reviewing the parking issues on these streets, did not pursue the introduction of the proposed ordinance and directed staff to implement preferential parking as a pilot program on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street through the school year ending in June 2015. Furthermore, Council directed that associated costs for establishing this pilot program, including installation of signs, issuance of permits and enforcement of preferential parking zones shall be borne by the City.

Engineering and Police Department staff have been working together to finalize the logistics to implement the Council directive and recommend establishing preferential parking between the hours of 7:00 a.m. to 4:00 p.m., Monday through Friday. The procedures for issuance of the parking permits, revocations, exemptions and violations of the permit parking are recommended to apply as follows:

**Issuance of Parking Permits, Fees, Revocation**

*Parking permits.* Within 30 days after the designation of a preferential parking area, the Chief of Police shall begin issuing parking permits to any residents of the area.

Each resident is entitled to:

1. One permit for each vehicle registered to the resident's address, up to a maximum of two permits. The resident shall affix the permit to the vehicle.
2. One guest permit although the City may issue an additional guest permit to a property owner who is not a resident

3. Up to 10 one-day guest permits for each special event held at a residence.
4. The permit does not entitle the permittee to violate other parking regulations, guarantee a parking space at any particular location, or permit parking for more than 72 hours.
  - a. *Fees.* There is no fee for the annual parking permit.
  - b. *Revocation.* The Chief may revoke the parking permit of any person or for any vehicle no longer eligible for a permit, and shall notify the resident in writing of the reason for the revocation.

### **Parking Permit Exemptions**

The following vehicles are not subject to the parking permit requirement in a designated preferential parking area:

- a. An emergency vehicle (See Vehicle Code section 165).
- b. A delivery, utility or service vehicle providing service to a resident or facility in the preferred parking area.
- c. A vehicle used by a disabled individual meeting the requirements of Vehicle Code section 22511.5 and displaying a handicap plate or placard.

### **Violations**

Within a preferred parking area, no person may:

- a. Park a motor vehicle during the limited times without a valid permit properly displayed. The Police Department is authorized to issue a parking citation for a violation,
- b. Falsely represent himself or herself as eligible for a parking permit, or furnish false information in a permit application,
- c. Allow the use of a parking permit on a vehicle other than that for which the permit was issued,
- d. Copy or produce a counterfeit parking permit, or display a counterfeit permit, or
- e. Sell, give or exchange a permit to another person.

Police Department staff has determined the parking violation fine for permit parking to be \$50.00 per violation.

During the items from the audience segment of the February 4, 2014, City Council meeting, students from Tracy High School spoke for the need of additional student parking in and around the school to mitigate concerns of the neighboring residents. They further stated that the interim solution being implemented by the City would not resolve the issue and parking issues will spill over to the adjoining neighborhoods. The students also stated that they would also convey their concerns to the Tracy Unified School Board.

The City also received two letters, one from a resident on Highland Street and the other from Franklin Street, requesting that the radius for the preferential parking be extended to their streets as well. They were concerned that their streets had been intentionally excluded from the proposed preferential parking areas.

Staff has been working with the neighborhood groups, including Highland Street, for the last several years. However, the feedback from Highland residents was not in favor of preferential parking on their street. There was only an isolated traffic improvement request from Franklin Street, which was followed up with no parking restrictions on a stretch of street which had been already approved and installed.

After reviewing concerns from the residents and students, staff believes that the Council direction to implement the pilot program for preferential parking on Twelfth Street and Berverdor Avenue will mitigate the immediate concerns and will allow staff to evaluate its effectiveness of preferential parking and its impacts on the neighboring areas.

Engineering and Police Department staff, with coordination from residents, will review the effectiveness of the preferential parking program and present the results to the Council after completion of the program. At such time, Council may extend or eliminate the preferential parking program based on the staff review and input from the neighborhood residents.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

It is anticipated that the implementation of the Preferential Parking Pilot Program will have a minimal impact on the Police Department budget; no additional funding is requested at this time. Required signage will be installed by Public Works Department and parking permits will be issued by Police Department staff.

#### RECOMMENDATION

That City Council, by resolution, authorize establishment of preferential parking on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street through June, 2015.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Jeremy Watney, Police Captain  
Kuldeep Sharma, City Engineer  
Andrew Malik, Development Services Director  
Gary Hampton, Chief of Police  
Maria A. Hurtado, Assistant City Manager

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

RESOLUTION \_\_\_\_\_

AUTHORIZING THE ESTABLISHMENT OF PREFERENTIAL PARKING ON TWELFTH STREET AND BERVERDOR AVENUE BETWEEN MAE AVENUE AND EAST STREET

WHEREAS, The City is authorized by California Vehicle Code section 22507 to provide for preferential parking areas, and

WHEREAS, On March 4, 2014, City Council, authorized preferential parking as a pilot program on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street for the period of 18 months, ending in June 2015, by resolution 2014-071,

WHEREAS, Staff conducted the neighborhood survey to evaluate the effectiveness of the preferential parking program, and

WHEREAS, Survey results indicate that most residents are very satisfied with the program and that the program was effective in improving the livability of the residents in the neighborhood, and

WHEREAS, A majority of the residents responded in favor of continuing the preferential parking program, and

WHEREAS, Staff contacted the Tracy Unified School District Superintendent about the program and he indicated that the program was working well from his perspective, and

WHEREAS, After reviewing the neighborhood parking conditions and the residents' survey, Police and Engineering staff recommend continuation of the preferential parking program, and

WHEREAS, The procedures and guidelines for issuance of the parking permits, revocations, exemptions, violations and fines will be in accordance with procedures and guidelines established for the pilot preferential parking program approved by City Council on March 4, 2014;

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the establishment of preferential parking on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street between the hours of 7:00 a.m. to 4:00 p.m., Monday through Friday, in accordance with the following implementation procedures:

**Parking permits.** Within 30 days, the Chief of Police shall begin issuing parking permits to any residents of the area.

Each resident is entitled to:

1. One permit for each vehicle registered to the resident's address, up to a maximum of two permits. The resident shall affix the permit to the vehicle.
2. One guest permit. The City may issue an additional guest permit to a property owner who is not a resident
3. Up to 10 one-day guest permits for each special event held at a residence.
4. The permit does not entitle the permittee to violate other parking regulations, guarantee a parking space at any particular location, or permit parking for

more than 72 hours.

**Fees.** There is no fee for the annual parking permit.

**Revocation.** The Chief may revoke the parking permit of any person or for any vehicle no longer eligible for a permit, and shall notify the resident in writing of the reason for the revocation.

**Exemptions.** The following vehicles are not subject to the parking permit requirement in the designated preferential parking area:

- a. An emergency vehicle (See Vehicle Code section 165).
- b. A delivery, utility or service vehicle providing service to a resident or facility in the preferred parking area.
- c. A vehicle used by a disabled individual meeting the requirements of Vehicle Code section 22511.5 and displaying a handicap plate or placard.

**Violations.** Within the preferred parking area, no person may:

- a. Park a motor vehicle during the limited times without a valid permit properly displayed. The Police Department is authorized to issue a parking citation for a violation,
  - b. Falsely represent himself or herself as eligible for a parking permit, or furnish false information in a permit application,
  - c. Allow the use of a parking permit on a vehicle other than that for which the permit was issued,
  - d. Copy or produce a counterfeit parking permit, or display a counterfeit permit, or
  - e. Sell, give or exchange a permit to another person.
2. Penalty. The Penalty for violation of the parking permit area is \$50.00 for each violation.
  3. Resolution No. 2014-071 authorizing the establishment of preferential parking on Twelfth Street and Berverdor Avenue between Mae Avenue and East Street as a pilot program is repealed.

\* \* \* \* \*

The foregoing Resolution 2015-\_\_\_\_ was adopted by the Tracy City Council on the 21<sup>st</sup> day of July 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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



AGENDA ITEM 1.E

REQUEST

**APPROVE AN OFFSITE IMPROVEMENT AGREEMENT WITH SR95 VENTURES, LLC, LINCOLN INVESTORS GRANT LINE, LLC, AND EBA GRANT LINE, LLC, FOR THE GATEWAY APARTMENTS ON GRANT LINE ROAD, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

Approval of the Offsite Improvement Agreement (OIA) will allow SR95 Ventures, LLC, Lincoln Investors Grant Line, LLC, and EBA Grant Line, LLC, (collectively, Developer), to proceed with construction of the roadway and utility improvements on Grant Line Road and extension of the water main along Byron Road. These offsite improvements are required to be completed prior to building occupancy.

DISCUSSION

On October 7, 2014, City Council approved a Planned Unit Development Preliminary and Final Development Plan for the Gateway Apartments (PUD14-0011), a 441 unit multi-family residential development located on a 22.04 acre parcel located on the south side of Grant Line Road, north of the Union Pacific Railroad Tracks, east of Byron Road, and approximately 600 feet west of Lammers Road, (Assessor's Parcel Numbers 209-270-30 and 209-270-31).

Approval of the project was subject to the completion of certain infrastructure improvements. The Developer was required to construct certain roadway and utility improvements on Grant Line Road and Byron Road and other improvements to serve the proposed project. The required offsite improvements on Grant Line Road include the extension of a water distribution main from Lammers Road to the west project entrance, installation of a storm drain line, roadway widening on the south side of Grant Line Road, and construction of frontage improvements such as curb, gutter, sidewalk, parkway landscaping, asphalt concrete paving, street light, signing and striping and other associated improvements. It also includes the installation of a traffic signal and bus shelters at the project entry on Grant Line and the extension of the water line distribution main on Byron Road and a water line crossing under the UPRR tracks to the project limits.

In accordance with the project's conditions of approval, the project can connect to the Hansen Sewer Collection System temporarily. The permanent sewer connection will be installed at a later date or when the West Conveyance Sewer System is constructed and becomes available. The Developer has paid the City the cost of the permanent sewer connection.

Pursuant to Title 13 of the Tracy Municipal Code, the Developer will be entitled to roadway and water development impact fee credits for the program portion of the

roadway and water infrastructure improvements that will be constructed by the Developer under the OIA.

The Developer has completed the design of required offsite improvements as described above 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 OIA and submitted the required security to guarantee completion of the offsite improvements. The OIA and Improvement Plans are on file with the City Engineer and are available for review upon request.

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

#### FISCAL IMPACT

There will be no impact to the General Fund. The Developer has paid the applicable engineering review fees which include the cost of plan review, engineering inspection and testing, agreement processing and associated permits.

#### STRATEGIC PLAN

This agenda item is consistent with the Council approved Economic Development Strategic Plan to ensure physical infrastructure necessary for development are constructed.

#### RECOMMENDATION

That City Council, by resolution, approve the Offsite Improvement Agreement for the Gateway Apartments on Grant Line Road, and authorize the Mayor to execute the Offsite Improvement Agreement.

Prepared by: Criseldo Mina, Senior Civil Engineer

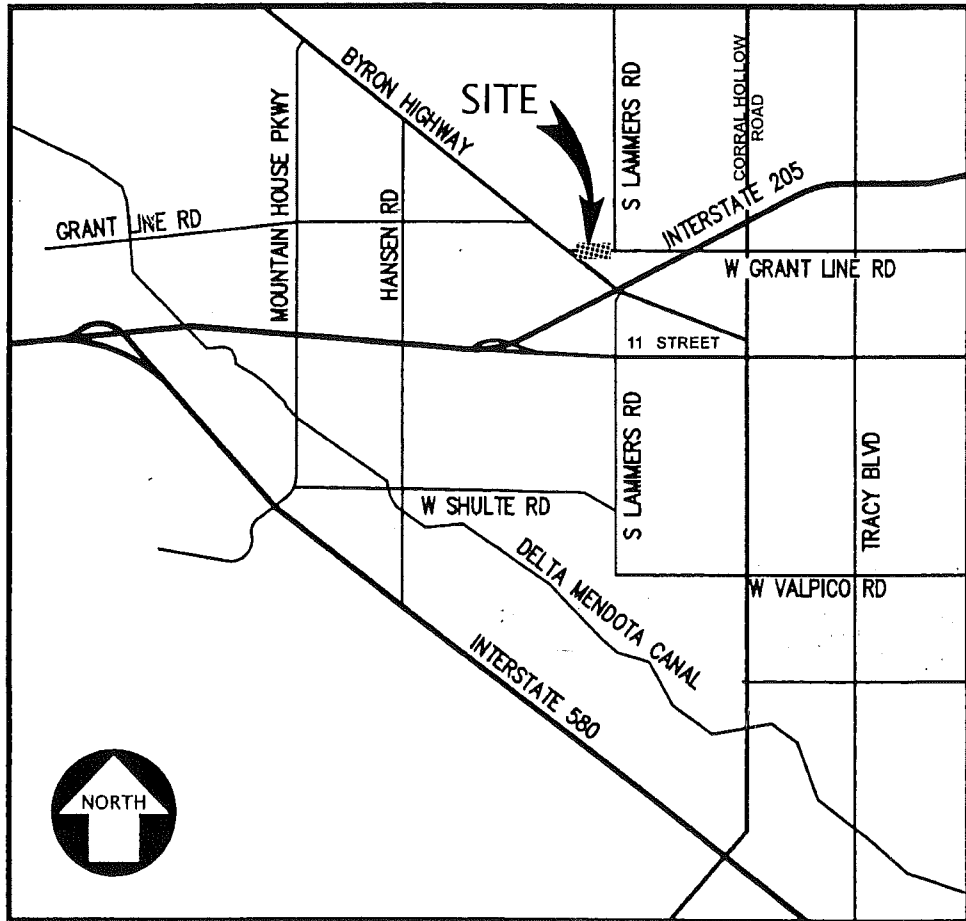
Reviewed by: Robert Armijo, City Engineer  
Bill Dean, Interim Development Services Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Attachment A – Location Map  
Attachment B – Offsite Improvement Agreement for Gateway Apartments at  
Grant Line Road

# TRACY GATEWAY APARTMENTS GRANT LINE ROAD



## LOCATION MAP

**OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

This **OFF-SITE IMPROVEMENT AGREEMENT FOR THE TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **SR95-GRANT LINE, LLC**, a California limited liability company, **LINCOLN INVESTORS GRANT LINE, LLC**, a California limited liability company, and **EBA GRANT LINE, LLC**, a California limited liability company (collectively referred to as "Developer").

**RECITALS**

- A.** The Developer is currently the owner of the real property located on Grant Line Road, north of the Union Pacific Railroad tracks, east of Byron Road, and approximately 600 feet west of Lammers Road (hereinafter "Property"), and more particularly described in Exhibit "A", attached and incorporated herein by its reference.
- B.** The Project is geographically located within the boundaries of the Filios/Dobler Annexation to the I-205 Specific Plan Area (hereinafter "Specific Plan"). The I-205 Specific Plan was approved by the City Council in July 1999 with Resolution No. 99-240, with several amendments, including Resolution No. 2011-211, which incorporated annexation of the Filios/Dobler properties into the Specific Plan Area, and Resolution No. 2014- , which amended the zoning for the subject parcels from General Commercial to High Density Residential. The I-205 Specific Plan with the subsequent amendments is on file with the City Clerk, and is incorporated herein by reference.
- C.** The Planned Unit Development (PUD) Preliminary/ Final Development Plan (PDP/FDP) for the Tracy Gateway Apartment was approved by the City Council on October 7, 2014, pursuant to Resolution 2014-172. Approval of the PUD PDP/FDP was subject to specified conditions of approval (hereinafter "Conditions"). The Conditions are attached hereto as Exhibit "B," and incorporated herein by reference.
- D.** The Conditions require the Developer to design and construct certain public improvements to serve the Property and to construct frontage improvements along Grant Line Road, including required transitions to existing Grant Line Road along adjacent properties.
- E.** The Developer has submitted improvement plans to construct Offsite Improvements including but not be limited to, Grant Line Road widening, including construction of new bus turnouts on the north and south sides of Grant Line Road; installation of a new Traffic Signal at the main entrance to the Tracy Apartments development; construction of a temporary Class 2 Bike/Pedestrian path from the end of the sidewalk along the frontage of the project parcel to the existing public sidewalk in

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

**Page 2 of 11**

front of the Costco/WalMart Shopping Center parcel; construction of the Offsite Public Storm Drainage in Grant Line Road; construction of a new diversion Sewer Manhole on the Hansen Sewer Collection system with a stub to the future Westside Catchment Sewer System within the future Right-of-way for Lammers Road; Offsite Water Line extension in Grant Line Road and Offsite Water Line connection to Byron Highway; and other related improvements along the entire frontage of the Property on Grant Line Road (hereinafter "Offsite Improvements" or "Work") as shown on the Improvement Plans and Specifications. The Off-site Improvements or Work required by the City and agreed upon by Developer are also described in Exhibit "B."

- F. Improvement Plans and Specifications (which incorporate portions of the City's Standard Specifications) have been prepared on behalf of the Developer, and approved by the City Engineer, which describe in more detail the improvements which are required in this Agreement. The Plans and Specifications, as approved by the City Engineer, are on file with the City Engineer, and are incorporated herein by reference. The term "Plans and Specifications" shall include: twenty seven (27) sheets of offsite roadway, traffic and joint trench utility improvement plans entitled "Tracy Apartments, Street Improvement Plans – Interim For Grant Line Road Widening" prepared by Kier & Wright, Civil Engineers & Surveyors, Inc. of Livermore, California, eight (8) sheets of improvement plans titled "Byron Road – Water Line Improvement Plans For Tracy Apartments" prepared by Kier & Wright Civil Engineers & Surveyors, Inc. of Livermore, California, six (6) sheets of irrigation and landscaping plans titled "Improvement Plans for Grant Line Road" prepared by LPAS Architecture + Design of Sacramento, California, and three (3) sheets of improvement plans titled "Photometric Title – Grant Line Road" prepared by RGA Design LLC of Dublin, California, as approved by the City Engineer.
- G. Since the required improvements, as described above and the Plans and Specifications, have not been completed, the Developer has requested to execute this Agreement as authorized by Government Code Section 66462.

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

1. **SCOPE OF WORK.** The Developer shall perform, or cause to be performed, the work described in the Plans and Specifications to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Developer's expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer. The Developer may submit a written request to the City Engineer for a change in the Scope of Work, as required by Tracy Municipal Code Section 12.36.060(f).

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

**Page 3 of 11**

- 1.1. Upon execution of this OIA and posting of all required bonds for the completion of the construction of roadway improvements on Grant Line Road as described in the Conditions, the City shall provide to the Developer a fee credit for the program portion of the roadway improvements on Grant Line Road in accordance with the OIA and Title 13 of the Tracy Municipal Code. The amount of roadway fee credit shall be \$1,587,478.81 (One Million Five Hundred Eighty Seven Thousand Four Hundred Seventy Eight and 81/100 Dollars).
- 1.2 Upon execution of this OIA and posting of all required bonds for the completion of the installation of the Offsite Water Line Improvements, the City shall provide to the Developer a fee credit in accordance with the OIA and Title 13 of the TMC. Fee credits shall apply to the program portion of the Offsite Water Line Improvements. The amount of water line fee credit shall be \$798,631.13 (Seven Hundred Ninety Eight Thousand Six Hundred Thirty One and 13/100 Dollars).
2. **DEVELOPER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Developer shall have a competent foreman or superintendent (hereinafter "Authorized Representative") on site with authority to act on behalf of the Developer. The Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. The Developer shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.
3. **LOCATION OF PERFORMANCE.** The Developer shall have all Work performed at the locations and grades shown on the Plans and Specifications. Any easement or right-of-way necessary for the performance of the Work shall be acquired by the Developer at the Developer's sole cost and expense. Any easement or right-of-way acquired by Developer for constructing program improvements shall be eligible for fee credit as per paragraph 1 above.
4. **IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 et seq.) and Tracy Municipal Code Section 12.36.080, in the following amounts:

  - 4.1. **Faithful Performance** security in the amount of **\$3,474,573.58** to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

Page 4 of 11

**4.2. Labor and Material** security in the amount of **\$3,474,573.58** to secure payment by the Developer to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen) pursuant to Government Code Sections 66499.2, 66499.3, 66499.4 and 66499.7(b).

**4.3. Warranty** security in the amount of **\$347,457.36** to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter) pursuant to Government Code Section 66499.1, 66499.4, and 66499.9.

**5. INSURANCE.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall furnish evidence to the City that all of the following insurance requirements have been satisfied.

**5.1. General.** The Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

**5.2. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$3,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

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

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

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

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

**5.5.2.** For any claims related to this Agreement, Developer's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Developer's insurance and shall not contribute with it.

**5.6. Notice of Cancellation.** Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

**Page 5 of 11**

notice to the City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

- 5.7. Authorized Insurers.** All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 5.8. Insurance Certificate.** Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.
- 5.9. Substitute Certificates.** No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 5.10. Developer's Obligation.** Maintenance of insurance by the Developer as specified in this Agreement shall in no way be interpreted as relieving the Developer of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Developer may carry, at its own expense, such additional insurance as it deems necessary.
- 6. PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Developer shall, at the Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, the Developer shall obtain a City of Tracy Business License. The Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
- 7. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.
- 7.1. Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Developer shall provide written notice to the City Engineer of the date on which the Developer shall commence Work. The Developer shall not commence Work until after the notice required by this section is properly provided, and the Developer shall not commence Work prior to the date specified in the written notice.



**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

**Page 6 of 11**

**7.2. Schedule of Work.** Concurrently with the written notice of commencement of Work, the Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Developer's prosecution of the Work.

**7.3. Completion of Work.** The Developer shall complete all Work prior to final building inspection on any of the buildings within the Project. . If the Work is not completed and accepted by City Council by this date, City Engineer may grant an extension of time if a) the Subdivider submits a written request for extension at least ten (10) days prior to expiring date of completion, b) the City Engineer determines that Work is substantially complete and an extension is warranted, c) the Subdivider amends this agreement and provides bonds to cover the term of the Amendment, and d) the Subdivider pays all processing fees for such time extension.

**8. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.

**9. INSPECTION FEES.** Concurrently with the execution of this Agreement by the Developer, and prior to the commencement of any Work, the Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2 %) of the estimated Project costs (as approved by the City Engineer). In the event that the City determines that the City's actual costs of inspecting the Work (including all costs and expenses of inspection, reviewing maps and plans, field checking, testing, and administrative and overhead costs of fifteen percent (15%) exceeds the amount of Inspection Fees paid by the Developer, the Developer shall pay the City the actual costs of inspecting the Work less Inspection Fees previously paid. In the event that the City requires an independent inspection, the Developer shall pay all such costs and provide a report to the City.

In the event that the City requires an independent inspection, the Developer shall pay all such costs and provide a report to the City. In the event that the City determines that the City's actual costs of inspecting the Work (including all costs and expenses of inspection, reviewing maps and plans, field checking, testing and administrative and overhead costs of fifteen (15%) is less than the amount of Inspection Fees paid by the Developer, the City shall reimburse the Developer the cost difference between the Inspection Fees previously paid and the actual costs of inspecting the Work.

Fifteen percent (15%) of the estimated construction cost of the Work shall be allocated by the Developer, for cost of materials and labor for public improvements not explicitly described on the Plans and Specifications, but intended to be part of the Work or portion of the Work that are determined by the City Engineer to be

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD  
Page 7 of 11**

designed and constructed by the Developer, in order to complete the Work to the satisfaction of the City.

**10. DEFAULT.**

**10.1. Notice of Default.** In the event that the Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Developer and the Developer's surety (if any) in which the default is described.

**10.2.** The Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

**10.2.1.** The Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

**10.2.2.** The Developer abandons the Project site.

**10.2.3.** The Developer fails to perform one or more requirements of this Agreement.

**10.2.4.** The Developer fails to replace or repair any damage caused by Developer or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

**10.2.5.** The Developer violates any legal requirement related to the Work.

**10.3.** In the event that the Developer fails to cure the default within five (5) days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:

**10.3.1.** Cure the default and charge the Developer for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7 %) per annum from the date of default.

**10.3.2.** Demand the Developer to complete performance of the Work.

**10.3.3.** Demand the Developer's surety (if any) to complete performance of the Work.

**11. ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, the Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. The Developer's obligation to perform the

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

**Page 8 of 11**

Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.

- 12. WARRANTY PERIOD.** The Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Developer under this Agreement, the Developer shall be in default.
- 13. INDEPENDENT CONTRACTOR STATUS.** The Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Developer.
- 14. OWNERSHIP OF WORK.** All original documents prepared by Developer for this Agreement are the property of the City, and shall be given to the City at the completion of Developer's Work, or upon demand from the City. Prior to acceptance of the Work, the Developer shall submit the as-built drawings in Auto-CAD format Release-14 or higher.
- 15. ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
- 16. INDEMNIFICATION.** Developer shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors, or employees except to the extent arising from the City's sole or active negligence or willful misconduct or defects in design provided by the City.
- 17. ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Developer's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

Page 9 of 11

**18. NOTICES.**

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

To CITY:

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

To Developer:

A. Michael Souza  
Souza Realty & Development  
105 E. 10<sup>th</sup> Street  
Tracy, CA 95376

Larry D. Kelley, Sr.  
3140 Peacekeeper Way  
McClellan, CA 95652

Mark A. Garibaldi  
3140 Peacekeeper Way  
McClellan, CA 95652

Matthew J. Errecart and Jamie E.  
Errecart  
3140 Peacekeeper Way  
McClellan, CA 95652

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

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

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

21. **SEVERABILITY.** In the event any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.

22. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD**

Page 10 of 11

shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.

**23. ENTIRE AGREEMENT.** This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements.

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

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

CITY OF TRACY,  
a municipal corporation

\_\_\_\_\_  
By: Michael Maciel  
Title: CITY MAYOR  
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
By: Nora Pimentel  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved As To Form:

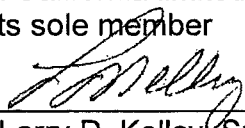
\_\_\_\_\_  
By: Daniel G. Sodergren  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD  
Page 11 of 11**

Developer:

SR 95-GRANT LINE, LLC,  
a California limited liability company

By: SR 95 VENTURES, LLC,  
a California limited liability company,  
Its sole member

  
\_\_\_\_\_  
By: Larry D. Kelley, Sr.  
Title: MANAGER  
Date: \_\_\_\_\_

LINCOLN INVESTORS GRANT LINE, LLC  
a California limited liability company,

By: LINCOLN INVESTORS, LLC,  
a California limited liability company  
It's Member Manager

\_\_\_\_\_  
By: Mark A. Garibaldi  
Title: MANAGER  
Date: \_\_\_\_\_

EBA GRANT LINE, LLC,  
a California limited liability company  
It's Member Manager

\_\_\_\_\_  
By: Matthew J. Errecart  
Title: MANAGER  
Date: \_\_\_\_\_

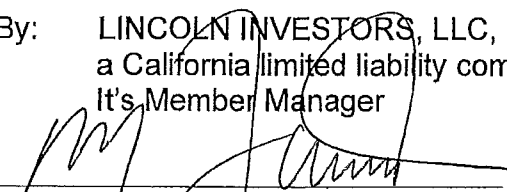
**CITY OF TRACY – OFF-SITE IMPROVEMENT AGREEMENT  
TRACY GATEWAY APARTMENTS ON GRANT LINE ROAD  
Page 11 of 11**

By: SR 95 VENTURES, LLC,  
a California limited liability company,  
Its sole member


\_\_\_\_\_  
By: Larry D. Kelley, Sr.  
Title: MANAGER  
Date: \_\_\_\_\_

LINCOLN INVESTORS GRANT LINE, LLC  
a California limited liability company,

By: LINCOLN INVESTORS, LLC,  
a California limited liability company  
It's Member Manager

  
\_\_\_\_\_  
By: Mark A. Garibaldi  
Title: MANAGER  
Date: 7/14/15

EBA GRANT LINE, LLC,  
a California limited liability company  
It's Member Manager

  
\_\_\_\_\_  
By: Matthew J. Errecart  
Title: MANAGER  
Date: 7/14/15

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

APPROVING AN OFFSITE IMPROVEMENT AGREEMENT WITH SR95 VENTURES, LLC, LINCOLN INVESTORS GRANT LINE, LLC, AND EBA GRANT LINE, LLC, FOR THE GATEWAY APARTMENTS ON GRANT LINE ROAD, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, On October 7, 2014, City Council approved a Planned Unit Development Preliminary and Final Development Plan for the Gateway Apartments (PUD14-0011), a 441 unit multi-family residential development located on a 22.04 acre parcel located on the south side of Grant Line Road, north of the Union Pacific Railroad Tracks, east of Byron Road, and approximately 600 feet west of Lammers Road, and

WHEREAS, Approval of the project was subject to the completion of certain infrastructure improvements, and

WHEREAS, The Developer was required to construct certain roadway and utility improvements on Grant Line Road and Byron Road and other improvements to serve the proposed project, and

WHEREAS, In accordance with the project's conditions of approval, the project can connect to the Hansen Sewer Collection System temporarily, and

WHEREAS, The permanent sewer connection will be installed at a later date or when the West Conveyance Sewer System is constructed and becomes available, and

WHEREAS, Pursuant to Title 13 of the Tracy Municipal Code, the Developer will be entitled to roadway and water development impact fee credits for the program portion of the roadway and water infrastructure improvements that will be constructed by the Developer under the OIA, 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 impact to the General Fund. The Developer has paid the applicable engineering review fees;

NOW, THEREFORE BE IT RESOLVED, That City Council approves the Offsite Improvement Agreement for the Gateway Apartments on Grant Line 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 21<sup>ST</sup> day of July 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.F

REQUEST

**APPROVE AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST ASSOCIATES FOR THE DESIGN OF THE BOOSTER PUMP STATION AT THE JOHN JONES WATER TREATMENT PLANT TO SERVE TRACY HILLS DEVELOPMENT AND AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENT**

EXECUTIVE SUMMARY

Amendment to the Professional Services Agreement (PSA) with West Yost Associates is necessary to complete the design of the Booster Pump Station at the John Jones Water Treatment Plant (JJWTP) to serve Tracy Hills Development. Due to the proposed construction of an on-site water reservoir (tank) in the Tracy Hills development earlier than originally planned, the scope of the original PSA needs to be revised to accommodate impacts to this change. Since this is a developer initiated change, the cost of this amendment will be paid by Tracy Hills Development.

DISCUSSION

On February 4, 2014, City Council authorized a PSA with West Yost Associates for the design of the Booster Pump Station at the John Jones Water Treatment Plant (JJWTP) for Tracy Hills Development water pressure Zone 3 and 4 and citywide water pressure Zone 3. The scope of work included design of the Booster Pump Station facility for both interim and permanent needs for Tracy Hills Development and the City's water pressure Zone 3 area.

Tracy Hills Development will be served through its own Zone 3 and Zone 4 water distribution network and water tanks on site. A new Clearwell #3 (water storage reservoir) at the JJWTP is scheduled for construction in the future to serve the City's water pressure Zone 3. However, the Tracy Hills developer offered to pay for construction of this Clearwell and temporarily use it for its development until on-site storage is constructed in the Tracy Hills Development area. A temporary pump facility was planned to serve the initial development of the Tracy Hills project until construction of the storage reservoir (Clearwell #3) was constructed.

The PSA for the design of the Booster Pump Station structure and Clearwell was awarded to Corrollo Engineers. West Yost Associates was awarded a PSA for the design of the Pump Station and water distribution analysis. Both West Yost Associates and Corrollo Engineers have been working on the design of this project since then.

In May 2014, Tracy Hills Development proposed to construct an on-site water reservoir in the Tracy Hills area for its Zone 3 network with its initial Phase 1A development. With construction of this water reservoir earlier than originally planned, the construction of Clearwell #3 and its Booster Pump Station in JJWTP was deferred. This resulted in a change of scope of work for West Yost Associates.

The change resulted in separate Booster Pump Stations for Tracy Hills and the City's water Zone 3 in the JJWTP. Two separate scopes of work were negotiated with West Yost Associates; one for the Tracy Hills Pump Station and the other for the City Zone 3 Pump Station in coordination with Tracy Hills Development. This agenda item addresses the Tracy Hills development needs only. Since the existing PG&E service to the JJWTP is maxed out, any additional facility will require new services. To avoid duplication of work, new PG&E services must be designed to serve the interim and ultimate expansion of the JJWTP. The cost of this additional effort (\$4,000) will be equally shared by both Tracy Hills and the City. The cost of design services under the original scope of work of the PSA was the responsibility of Tracy Hills Development. With the change in the proposed scope of work, the distribution of cost and status of funding is as listed below. Due to the complexity of the project and to continue uninterrupted operation of the JJWTP during construction, the design support services from the Consultant are also needed. This scope of work also includes approvals of shop drawings and Request for Information (RFI) from the contractor.

Project Budget Status

• Original authorized PSA for Booster Pump Station For Clearwell #3 (A)	\$317,900
• Additional cost of design of the Booster Pump Station (including \$2,000 for PG&E coordination (B)	\$ 74,500
• City's cost for PG&E coordination (C)	<u>\$ 2,000</u>
• Additional cost of Design support during construction (D)	<u>\$214,500</u>
Total Cost of the Project	<u>\$608,900</u>

Summary

• Cost of original PSA (A)	\$317,900
• Additional Cost (B+C+D)	<u>\$291,000</u>
	<u>\$608,900</u>

The Tracy Hills developer has been involved in the scoping and budget of this amendment with the City and West Yost Associates. Out of the total adjusted cost of \$291,000 associated with Amendment No. 1, Tracy Hills will pay \$289,000 and the remaining \$2,000 will be the City's responsibility.

### STRATEGIC PLAN

This agenda item supports the Economic Development Strategy by providing infrastructure for new developments.

### FISCAL IMPACT

There is no impact to the General Fund. Out of \$291,000 cost of this amendment to the PSA, \$289,000 will be paid by Tracy Hills Development and the remaining \$2,000 will be paid by the City from the Water Master Plan Program Management fee collected from water impact fees.

### RECOMMENDATION

That City Council, by resolution, authorize Amendment No. 1 to the Professional Services Agreement with West Yost Associates for design of the Booster Pump Station at the John Jones Water Treatment Plant to serve Tracy Hills Development and authorize the Mayor to execute the Amendment.

Prepared by: Kul Sharma, Utilities Director

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

### ATTACHMENTS

Attachment A – Amendment 1 w/West Yost Associates

**CITY OF TRACY  
AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
DESIGN OF BOOSTER PUMP STATION AT JOHN JONES  
WATER TREATMENT PLANT**

This Amendment No. 1 ("Amendment") to the Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost & Associates, Inc., a California Corporation ("Consultant").

**RECITALS**

- A. The City and Consultant entered into a Professional Services Agreement ("Agreement") for the Design of Booster Pump Station at John Jones Water Treatment Plant which was approved by the City Council on February 18, 2014, 2014, under Resolution No. 2014-025.
- B. Consultant services are needed related to incorporating additional design elements into the design of the Tracy Hills Booster Pump Station at the City's John Jones Water Treatment Plant and to provide engineering services during construction of the Tracy Hills Booster Pump Station at the City's John Jones Water Treatment Plant.
- C. At the request of the City, in July 2015, Consultant submitted a proposal to perform the services described in this Amendment No. 1. After negotiations between City and Consultant, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Amendment No. 1.

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

- 1. **SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Elizabeth Drayer. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use any subcontractors or subconsultants, without City's prior written consent.
- 2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days

**CITY OF TRACY – AMENDMENT NO. 1 TO PROFESSIONAL SERVICES  
AGREEMENT FOR DESIGN PROFESSIONALS FOR DESIGN OF BOOSTER PUMP  
STATION AT JOHN JONES WATER TREATMENT**

**Page 2 of 7**

after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

- 3. INDEPENDENT CONTRACTOR STATUS.** Consultant is an independent contractor and is solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Consultant. Consultant is free to work for other entities while under contract with the City. Consultant is not entitled to City benefits.
  
- 4. CONFLICTS OF INTEREST.** Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest.
  
- 5. COMPENSATION.**
  - 5.1 General.** For services performed by Consultant under this Amendment No. 1, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Amendment No. 1 is Not to Exceed \$290,500, for a total amended Agreement amount of \$608,400. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.
  
- 6. TERMINATION.** The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
  
- 7. OWNERSHIP OF WORK.** All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand

**CITY OF TRACY – AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS FOR DESIGN OF BOOSTER PUMP STATION AT JOHN JONES WATER TREATMENT**

**Page 3 of 7**

from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

- 8. INDEMNIFICATION.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

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

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

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

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

**10. INSURANCE.**

- 10.1 General.** Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.
- 10.2 Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- 10.3 Automobile Liability** (with coverage at least as broad as ISO form CA 00 01, for "any auto") coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 10.4 Workers' Compensation** coverage shall be maintained as required by the State of California.

**CITY OF TRACY – AMENDMENT NO. 1 TO PROFESSIONAL SERVICES  
AGREEMENT FOR DESIGN PROFESSIONALS FOR DESIGN OF BOOSTER PUMP  
STATION AT JOHN JONES WATER TREATMENT**

**Page 4 of 7**

- 10.5 Professional Liability** “claims made” coverage shall be maintained to cover damages from negligent errors, omissions, or acts of Consultant in an amount not less than \$2,000,000 per claim and in the aggregate.
- 10.6 Endorsements.** Consultant shall obtain endorsements to the commercial general liability with the following provisions:
- 10.6.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 10.6.2** For any claims related to this Agreement, Consultant’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant’s insurance and shall not contribute with it.
- 10.7 Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- 10.8 Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 10.9 Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five days after the execution of this Agreement.
- 10.10 Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.
- 10.11 Consultant’s Obligation.** Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary.
- 11. ASSIGNMENT AND DELEGATION.** This Agreement and any portion of it shall not be assigned or transferred, nor shall any of the Consultant’s duties be delegated, without the City’s written consent. Any attempt to assign or delegate this Agreement without the City’s written consent shall be void and of no effect. City’s consent to one assignment shall not be deemed to be a consent to any subsequent assignment.



**CITY OF TRACY – AMENDMENT NO. 1 TO PROFESSIONAL SERVICES  
AGREEMENT FOR DESIGN PROFESSIONALS FOR DESIGN OF BOOSTER PUMP  
STATION AT JOHN JONES WATER TREATMENT**

**Page 5 of 7**

**12. MISCELLANEOUS.**

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

To City:

Mr. Kul Sharma  
Utilities Director  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

To Consultant:

Ms. Elizabeth Drayer  
Project Manager  
West Yost Associates  
6800 Koll Center Parkway, Suite 150  
Pleasanton, CA 94566

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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

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

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

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

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

**CITY OF TRACY – AMENDMENT NO. 1 TO PROFESSIONAL SERVICES  
AGREEMENT FOR DESIGN PROFESSIONALS FOR DESIGN OF BOOSTER PUMP  
STATION AT JOHN JONES WATER TREATMENT**

**Page 6 of 7**

- 12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.
- 12.7 Compliance with the Law.** Consultant shall comply with all applicable and non-conflicting local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.
- 12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

**INTENTIONALLY LEFT BLANK**

**CITY OF TRACY – AMENDMENT NO. 1 TO PROFESSIONAL SERVICES  
AGREEMENT FOR DESIGN PROFESSIONALS FOR DESIGN OF BOOSTER PUMP  
STATION AT JOHN JONES WATER TREATMENT  
Page 7 of 7**


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

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

City of Tracy

Consultant  
**West Yost Associates**


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

  
\_\_\_\_\_  
By: Charles Duncan  
Title: President  
Date: 7-16-15

Fed. Employer ID No. 68-0370826

Attest:

\_\_\_\_\_  
By: Nora Pimentel  
Title: City Clerk  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
By: Dianne Lee  
Title: Asst. secretary  
Date: 7-16-15

Approved As To Form:

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

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)
- B Compensation (See Agreement section 5.)

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

APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH WEST YOST ASSOCIATES FOR THE DESIGN OF THE BOOSTER PUMP STATION AT THE JOHN JONES WATER TREATMENT PLANT TO SERVE TRACY HILLS DEVELOPMENT AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, On February 4, 2014, City Council authorized a PSA with West Yost Associates for the design of the Booster Pump Station at the JJWTP for Tracy Hills Development water pressure Zone 3 and 4 and citywide water pressure Zone 3, and

WHEREAS, Tracy Hills Development will be served through its own Zone 3 and Zone 4 water distribution network and water tanks on site, and

WHEREAS, The Tracy Hills developer offered to pay for construction of this Clearwell and temporarily use it for its development until on-site storage is constructed in the Tracy Hills Development area, and

WHEREAS, West Yost Associates was awarded a PSA for the design of the Pump Station and water distribution analysis, and

WHEREAS, In May 2014, Tracy Hills Development proposed to construct an on-site water reservoir in the Tracy Hills area for its Zone 3 network with its initial Phase 1A development, and

WHEREAS, This resulted in a change of scope of work for West Yost Associates, and

WHEREAS, There is no impact to the General Fund. Out of \$291,000 cost of this amendment to the PSA, \$289,000 will be paid by Tracy Hills Developer and the remaining \$2,000 will be paid by the City from the Water Master Plan Program Management fee collected from water impact fees;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves Amendment No. 1 to the Professional Services Agreement with West Yost Associates for design of the Booster Pump Station at the John Jones Water Treatment Plan to serve Tracy Hills Development and authorizes the Mayor to execute the Amendment.

\* \* \* \* \*

The foregoing Resolution 2015-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST

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

AGENDA ITEM 1.G

REQUEST

**APPROVE AMENDMENT NO. 1 TO TASK ORDER NO. CH 01-13 TO MASTER PROFESSIONAL SERVICES AGREEMENT (MPSA) WITH CH2M HILL FOR DESIGN OF WASTEWATER TREATMENT PLANT (WWTP) EFFLUENT OUTFALL PIPELINE TO THE OLD RIVER**

EXECUTIVE SUMMARY

Amendment No. 1 to the MPSA with CH2M Hill for the design of the WWTP effluent outfall pipe line is necessary to relocate the flood control device structure to the north of the Paradise Cut. The property owners have objected to the location of this structure next to their access road which was originally proposed to be south of the Paradise Cut. This location was approved by the regulatory agencies. The scope of work also includes testing the site at the proposed location of the pipe to ensure it is free of any contamination. The pre testing of pipe alignment site will help timely completion of the project without delays and reduce potential change orders during construction. In the event that any contamination is found prior to the bidding of the project; the alignment of the pipe will be relocated to avoid such contamination.

DISCUSSION

In September 2010, the City entered into a Task Order No. CH01-13 to MPSA with CH2M Hill for the design for the 3.5 mile long 42 inch in diameter wastewater effluent pipeline from the Tracy wastewater Treatment Plant to the Old River. The scope of work also involved preparation of legal plats, property descriptions and assisting the City for the acquisition of necessary temporary and permanent easements for construction of this project.

The City also obtained the services of Right of Way Associates, Inc to acquire the necessary easements from various property owners for construction of this project. Since then, both consultants have been working on this project. Out of a total of 13 properties involving the acquisition of rights of way or easements, the City has successfully negotiated and obtained easements from 11 properties. Two of the remaining three properties are close to an agreement. The last property, owned by Mary Perry, involves two parcels located at 8121 Delta Avenue.

A flow control structure was proposed to be located above grade on the property of Mary Perry, even though the effluent pipe will be buried 8 – 10 feet below grade. The flow control structure was required by the US Army Corps of Engineers and the Central Valley Flood Protection Agency immediately south of Paradise Cut to prevent accidental discharge of flood water during a major event. During the negotiations for acquisition of easements, Mary Perry did not want any above grade structure on her property based on safety and vandalism potential. After reviewing and discussing her request with the regulatory agencies, it was agreed that the flow control device may be

moved north of Paradise Cut in the Wild Life Refuge area with unstable soils. In order to relocate the flow control structure, additional services from CH2M Hill are needed.

In addition, there is a potential of contamination in the existing parcel of Mary Perry. In order to avoid any unforeseen conditions and potential change orders during construction, staff believes that pre-testing for contamination should be done on this property during the design phase of this project. The cost of testing would be approximately \$50,000 and should be spent to avoid delays, change orders, additional design and possible realignment of the effluent pipe line during construction.

The City received a proposal from CH2M Hill to complete the additional work. After further negotiations, CH2M Hill agreed to complete this work for a not to exceed amount of \$350,000. The relocation of the flood control structure requires specialized design in the unstable soils and will need extensive coordination and approvals from the regulatory agencies. Additional permits will be required during this process. The contamination testing will be completed after coordinating with the property owner in a timely manner with minimum damages to the existing crops.

### STRATEGIC PLAN

This agenda item supports the Economic Development Strategy and specifically implements the follow goal and objective:

Goal 3: Preserve and maintain existing Community assets.

Goal 3a: To fund maintenance and replacement of community amenities.

### FISCAL IMPACT

There is no fiscal impact to the General Fund. The project is a approved CIP 74083 Wastewater Treatment Plant Expansion – Phase 2A . The cost of the services included in this task order amendment is \$350,000 and the project funding is from development impact fees and the Wastewater Enterprise Fund.

### RECOMMENDATION

That the City Council, by resolution, authorize Amendment No. 1 to Task Order No. CH01-13 with CH2M Hill for design of the Wastewater Treatment Plant (WWTP) Effluent Outfall Pipeline to The Old River and authorize the Mayor to execute Amendment.

### ATTACHMENTS

Attachment A: Amendment No. 1 to Task Order No. CH01-13

Prepared by: Kuldeep Sharma, Utilities Director

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

**CITY OF TRACY  
AMENDMENT NO. 1  
TASK ORDER NO. CH01-13**

**TECHNICAL ASSISTANCE TO ADDRESS PROPERTY OWNERS' REQUEST AND ADDITIONAL  
DESIGN SERVICES FOR TRACY WWTP EFFLUENT OUTFALL PIPELINE AND DIFFUSER  
PROJECT**

This Amendment No. 1 to Task Order No. CH01-13 is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and CH2M HILL, INC, a Florida Corporation, (hereinafter "CONSULTANT").

**RECITALS**

- A.** CITY entered into a Professional Services Agreement with CONSULTANT in September 2010 to design and obtain permits from various regulatory agencies for a new effluent outfall pipeline and diffuser for the Tracy Wastewater Treatment Plant ("PROJECT"), as described in Exhibit A.
- B.** During the easement acquisition phase of the project, CITY received additional requests from the property owners to realign certain elements of the proposed project. Also, property owners raised additional issues related to groundwater quality and responsibilities during groundwater dewatering (to enable installation of the proposed pipeline).
- C.** In order to minimize the impacts to the property owners from this project and avoid unexpected expenses related to the ground water quality control issues, additional services are needed from the CONSULTANT.
- D.** CONSULTANT services will be essential to address property owner's concerns and to update previously prepared design drawings, specifications, and permit applications. In addition, several Federal and State permits need reapproval because of changes in the project alignment and relocation of certain components of the proposed project.
- E.** At the request of CITY, in May 2015, CONSULTANT submitted a proposal to perform the services described in Exhibit A. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Task Order.

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

- 1. INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT.** This Amendment to Task Order No. CH01-13 hereby incorporates by reference all terms and conditions set forth in the original Professional Services Agreement/Task Order, unless specifically modified by this Task Order.
- 2. SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference.

CITY OF TRACY - AMENDMENT NO. 1 to TASK ORDER No. CH01-13  
CH2M HILL INC.

Project - Technical Assistance to Address Property Owners' Request and Additional Design Services for Tracy  
WWTP Effluent Outfall Pipeline and Diffuser Improvements

- 3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "A."
- 4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CITY shall pay CONSULTANT on a time and expense basis, at the billing rates set forth in Exhibit "B," attached hereto and incorporated herein by reference. CONSULTANT's fee for this Task Order Amendment is Not To Exceed Three Hundred Fifty Thousand (\$350,000.00) as shown in Exhibit "C".
- 5. **SIGNATURES.** The individuals executing this Amendment to the Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment to the Task Order on behalf of the respective legal entities of CONSULTANT and CITY. This Task Order Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

CITY OF TRACY

CONSULTANT  
CH2M HILL Inc.

By: Michael Maciel  
Title: MAYOR

By: Vijay Kumar, P.E.  
Title: Vice President

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

Date: 7/14/2015

Fed. Employer ID No. 59-0918189

Attest:

By: Nora Pimentel  
Title: CITY CLERK

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

Approved As To Form:

By: Daniel G. Sodergren  
Title: CITY ATTORNEY

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



## EXHIBIT “A”

### Introduction

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

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

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

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

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

Construction of the new pipeline requires the acquisition of permanent and temporary construction easements from 13 property owners. The City completed appraisals, made offers to each of above owners of the parcels. The City has secured required easements from 10 property owners.

Previously, the City has reached an impasse with the remaining four parcels owned by three property owners. The remaining 4 parcels to obtain required easements are as follows:

The Owners of Record are:

Mary R. Perry, two parcels located at 8121 Delta Avenue, Tracy, California, (APN 213-020-03 and 20). A 20,038 square foot permanent easement from APN 213-020-03 and 62,726 square foot temporary construction easements are required from both parcels.

Project -- Technical Assistance to Address Property Owners' Request and Additional Design Services for Tracy  
WWTP Effluent Outfall Pipeline and Diffuser Improvements

Diana L. Alves and Edward G. Alves parcel located at 7901 Delta Avenue, Tracy California, and (APN 213-020-04). A 4,356 square foot temporary construction easement on a 912,582 square feet parcel is required.

Holly Commerce Center, LLC parcel located at 9409 West Arbor Avenue, Tracy, California, (APN 212-160-10). A 10,890 square foot permanent easement and 14,810 square foot temporary construction easement are required.

On January 20, 2015 City Council directed staff to continue negotiations with the above property owners.

The above items require additional technical analysis, additional surveying and preparation of easement documents, redesign of the pipeline alignment, development of design details, construction plans and specifications. In addition, several Federal and State permits need reapproval because of changes in the project alignment and relocation of certain components of the proposed project.

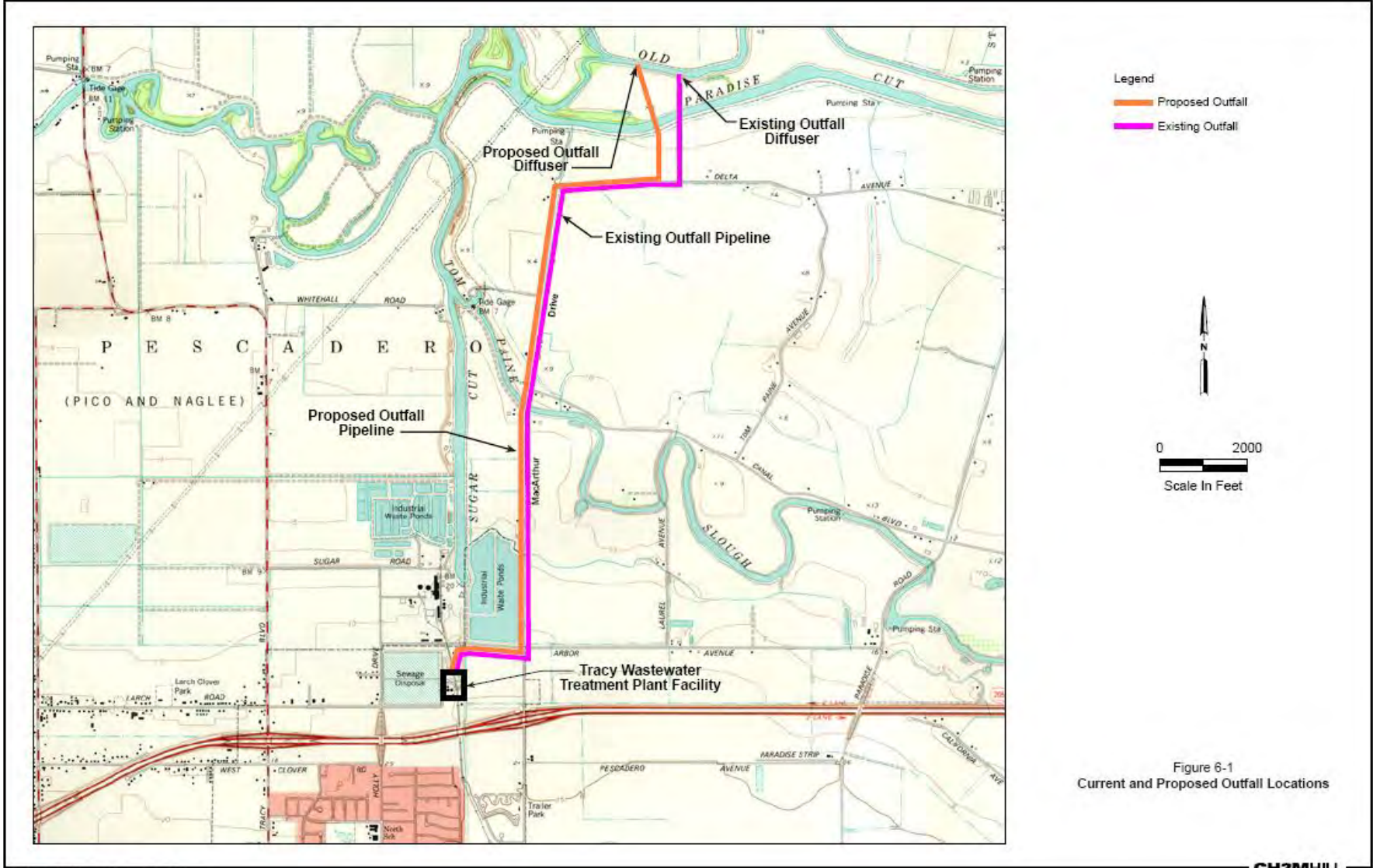
**I. SCOPE OF SERVICES:** CONSULTANT shall assist the City with additional technical assistance, perform redesign as a result of request from property owners, revise and update existing contract documents including drawings, specifications, details, and permit applications for a new 42-inch outfall pipeline and diffuser. It is assumed that the City would use pdf files to print bid documents. The pipeline alignment is shown on Figure 1. Services are described in the following tasks:

**Task 1 – Technical Assistance for Easement**

During the Preliminary and Final Design Phases of the project, road easements and private property boundaries were identified along the pipeline corridor. A preliminary pipeline alignment was established and temporary and permanent construction easements were identified on several parcels. Because of change requested by several property owners, additional technical services are needed as shown below.

**1.1 Develop Technical Details for Property owners**

Several property owners asking for additional details related to the project. Property owners want details on the type of pipe, location within their property and a brief discussion of impact on their agricultural operations. Also, they want detailed drawings of the various parts of the project. They have requested additional meetings to provide their input and feedback to minimize impact on their agricultural operations. This subtask will provide technical details to the property owners and also meet with them to hear their concerns and incorporate into the contract documents.



153395.CH.11 Fig 6-1 Tracy Outfall.FHG 05/21/61 SPD.mg

CH2MHILL

## **1.2 Assist City staff with Easement Acquisition**

This task supplements and expands existing easement acquisition activities including meeting with property owners to explain the rationale for locating the proposed pipeline on their property. Property owners are also asking the City about the impact to their crop production. The purpose of this subtask is to meet with farmers and understand their crop schedule and update the contract documents to minimize impact to their crop production including protecting their fields from the construction activities. However, the contractor is ultimately responsible for eliminating the impact on agricultural operations.

## **Task 2 – Groundwater Quality Analysis**

Two property owners have informed the City that they are unwilling to take any responsibility for the quality of groundwater on their property. Since City has to install the proposed pipeline in deep trenches (to minimize impact to agricultural operations) extensive groundwater dewatering is required during construction. Therefore, City decided to perform groundwater quality analysis so that any potential contamination is identified prior to the start of the construction. It will be very expensive if contaminated groundwater is encountered during construction.

### **2.1 – Develop Groundwater Quality Plan**

This subtask will develop a groundwater quality plan based on a review of existing Groundwater regulations and State Water Resources Control Board's guidance on the discharge of groundwater during dewatering operations. It is assumed that two groundwater monitoring wells are needed.

### **2.2 – Obtain Permit for Well Drilling**

Since the properties are located within San Joaquin County, a permit is required to drill each well. This subtask will prepare the necessary technical documentation and completion of well permits for each well. City will be responsible for permit fee.

### **2.3 - GW Monitoring Well installation**

After approval from the San Joaquin County, Consultant will retain a well driller and initiate the well installation. It is assumed that City will obtain permission from the property owners for installation of groundwater testing wells. City will use its own laboratory located at Tracy WWTP to perform groundwater well water analysis or use an outside laboratory to perform analysis that is no available at the City's laboratory.

### **2.4 - GW Quality Sampling**

CONSULTANT will provide groundwater samples to the City staff for further analysis. City will use its own laboratory located at Tracy WWTP to perform groundwater well water analysis or use an outside laboratory to perform analysis that is no available at the City's laboratory.

### **2.5 - Prepare Draft and Final Report**

Based on groundwater quality data provided by the City, consultant will prepare a Draft report identifying the nature of the groundwater and its suitability to meet the State requirements for discharge to surface waters. After receipt of comments on the Draft report, a final report will be prepared.

## **2.6 Assist City to abandon wells**

San Joaquin County requires all temporary wells to meet their regulations for abandonment of water wells. Consultant will prepare the necessary documentation for closure of groundwater sampling wells and file the necessary completion report with the San Joaquin County. Any inspection fee requested by the San Joaquin County will be paid directly by the City to the County.

## **Task 3 – Flow Control Structure Relocation**

City is considering agreeing with two property owners on their request to relocate the proposed flow control structure out of their property. Since City is obtaining a permanent easement, it was presumed that the City could install a flow control structure within the permanent easement. However, the property owners have asked the City to not to install flow control structure on their property. City has asked the consultant to relocate the flow control structure to some other location.

### **3.1 – Redesign of Flow Control Structure at Califia Property**

Based on a cursory review of existing available and suitable locations, it is proposed to relocate the flow control structure to the Northside of Paradise Cut. There are few locations that are suitable due to the hydraulic performance of the pipeline flow during low and high flow conditions. It is tentatively proposed within the Califia property on the north side of the Paradise Cut. It is assumed that City will obtain permission from Califia property owners. Redesign of the flow control structure require installation of the pipe above grade and necessary air release valves.

### **3.2 – Relocate control valve to Delta Ave**

Previously, the Central Valley Flood Protection Board has required a positive closure type device on the Southside of the Paradise Cut Levee. Further, the Board has required that the device shall be as close as possible to the toe of the levee. The above device was included in the flow control structure that was located on the Southside of the Paradise Cut. Since City is moving the flow control structure to the north side of Paradise Cut and property owner is not allowing the City to install it on their property, the above device needs to relocate to Delta Avenue. The Delta Avenue is the closest publicly available space to install the above device.

This subtask involves relocating the control valve onto Delta Avenue and coordinate the reapproval from the Central Valley Flood Protection Board. It should be noted that the Board may still require additional details and/or disapprove the relocation.

### **3.3 – Obtain Permit from San Joaquin County**

Assuming Central Valley Flood Protection Board approves the relocation, City needs to obtain permission from the San Joaquin County since the control valve will be located within their roadway. This subtask will prepare the necessary drawings, details and documentation to obtain approval from the County of San Joaquin.

#### **Task 4 – Hydraulic and Hydrologic Analysis**

Due to relocation of flow control structure, additional hydraulic and hydrologic analysis is required to develop the design details. Hydraulic analysis of the entire pipeline is needed to verify the top of the pipe elevation at the new location of the flow control structure proposed north of the Paradise Cut. Since this flow control structure is within a floodway, additional hydrologic analysis is required to address the comments by the Army Corps of Engineers when they reissue the Nationwide Permit for the proposed pipeline project.

##### **4.1 – Hydraulic analysis of effluent pipe flow**

Due to major change in the location of the flow control structure, additional hydraulic analysis of the entire pipeline is required. The main purpose of this subtask is to determine the minimum and maximum elevation of the pipe profile without impacting its performance.

##### **4.2 – Hydrologic Analysis of Old River Flow**

Since the proposed flow control structure is located within a flood way, US Army Corps of Engineers requires a detailed analysis of the impact of the flow control structure on the flood way elevation.

This subtask will use data from the California Department of Water Resources and develop a hydrologic analysis of the Old River flow during a 100-year flood event. Due to the presence of the flow control structure within a flood way, there will be a very minor increase in the flood elevation. The purpose of this task is to quantify the increase in flood elevation and demonstrate to the regulatory agencies that a minute increase of flood elevation is temporary and there will no major impact to the existing flow regime. This analysis is require to obtain permit from the US Army Corps of Engineers as well as the Central Valley Flood Protection Board.

##### **4.3 – Engineering Support for Permit Applications**

Obtaining environmental permits for this project will require extensive coordination between Consultant and Agency design engineers and require detailed calculations, descriptions, and specifications that are not normally required for public works projects. For example, the US Fish and Wildlife requires detailed information regarding type and duration of equipment used to construct the flow control structure, access and egress, size and number of trucks, sheet pile installation techniques, noise monitoring and control, and construction sequences to name a few. Likewise, the California Fish and Wildlife similar information for the terrestrial species near Paradise Cut. This task provides scope and budget for the coordination beyond normal plans and specifications development as required by the agencies.

#### **Task 5 – Federal and State Permits**

This task supplements and extends the permitting support activities provided previously during the Final Design phase of the project. This task includes preparation of environmental permit applications and agency coordination, and preparation of encroachment permit and land use applications and coordination as discussed below.

### **5.1 Prepare and obtain Section 7 permit from US Fish and Wildlife**

Once the 404 application is made to U.S. Army Corps of Engineers, a Section 7 consultation will be initiated with NMFS. This task provides support from CONSULTANT staff (fisheries biologist, environmental scientist, and planners) to coordinate with NMFS to complete the Section 7 consultation.

### **5.2 Prepare and obtain Incidental Take permit from CA Fish and Wildlife**

Incidental take of any California listed species requires an incidental take permit (ITP) from the California Department of Fish and Game. This subtask will provide for the preparation of a CDFG Section 2081 permit application. It is assumed that the Final Mitigation, Monitoring, and Reporting Plan (MMRP) has been completed through the CEQA process.

### **5.3 Prepare Nationwide Permit and obtain Re-approval from US Army Corps of Engineers**

This subtask includes completion of the preparation of an application for a Clean Water Act (CWA) Section 404 Department of the Army Nationwide Permit and Pre-Construction Notification (PCN) based on the revised project alignment and details. The PCN will include reference of the need for the project to comply with Section 10 of the Rivers and Harbor Act, an assessment of impacts to waters of the U.S., including wetlands and, if applicable, an assessment of impacts to federally-listed species. Two meetings in Sacramento (2 consultant team attendees) are assumed as part of this scope.

### **5.4 Prepare and obtain permit from Central Valley Flood Protection Board**

The placement of any structures within the designated floodway of Old River, which is under the jurisdiction of the State Reclamation Board (Board), requires the issuance of a Floodplain Encroachment Permit. This scope of work includes preparation of the Floodplain Encroachment Permit application. One meeting in Sacramento (2 consultant team attendees) is assumed as part of this scope. If CVFPB requires a hydraulic impact or scour analysis for issuance of the encroachment permit, additional scope and fee would be needed to complete this task.

## **Task 6 – Update Contract Documents, Drawings and Specifications**

Extensive changes and updates are required for the existing Contract Documents due to changes required by property owners and regulatory agencies. Changes to the following Contract Documents are required -- Bidding Requirements, Contract Forms, General Provisions, Special Provisions, and Conditions of the Contract (CSI Division 0), and Consultant-furnished Bid Item List, Bid Item Descriptions, General Requirements and Technical Specifications (CSI Divisions 1 through 49), Standard Details, and Drawings. Also, due to the time lapse between previous final design and current schedule, several code (such as Electrical and CalTrans Standards) are required.

CONSULTANT. Technical Specifications, Standard Details, and Drawings will be stamped in accordance with California law and signed by licensed engineers of the appropriate disciplines.

### **6.1 – Update Drawings**

In this subtask, the final design drawings prepared during the previous phase of the project will be updated with new details.

### **6.2 – Update Specifications**

In this subtask, the final specifications prepared during the previous phase of the project will be updated with new details.

This submittal will include the General Requirements and Technical Specifications (CSI Divisions 1 through 49), Standard Details, and Drawings necessary for bidding the construction contract. The submittal will not include City furnished Division 0 specifications. The Contract Documents will include the applicable general, demolition, civil site, architectural, structural, structural/mechanical, mechanical, instrumentation and control, and electrical technical specifications, standard details, and design drawings necessary for permitting, bidding, and construction.

### **6.3 – Cost Estimating**

Consultant will furnish a revised construction cost estimating services as indicated above. Estimates shall be prepared to a level of accuracy based on the information available, within normal industry standards. Estimates shall be formatted in accordance with the Project design Construction Specifications Institute (CSI) specification format and segregated by facility. Where sufficiently detailed information is lacking to obtain reasonably accurate quantities of materials, allowances will be used to provide an opinion of the estimated construction costs at the midpoint of construction. Cost estimates and levels of accuracy (Class level) will conform to American Association of Cost Engineering International, AACE Recommended Practice No. 18R-97.

## **Task 7 - Project Management**

### **7.1 – Team Coordination**

CONSULTANT will provide the following throughout the duration of the project:

- Records Management—Maintain Project records, manage and process Project communications, coordinate Project administrative matters, and subcontractor information.
- Coordination—Conduct weekly internal coordination meetings to complete authorized work on schedule and within budget.
- Staff Management—Supervise and control activities of staff assigned to the Project. Coordinate and schedule appropriate staffing to meet Project requirements.
- Meeting Preparation—Make arrangements for and coordinate the scheduled Project site conferences, periodic site visits, testing, startup, and punch list development trips.

### **7.2 - Monthly Reports**

CONSULTANT will prepare monthly project reports, typically attached with the monthly invoice, for submission to the CITY. The reports will summarize project progress, describe current activities, and identify any issues or problems encountered that may impact the project schedule or budget. Monthly reports will include a progress evaluation and comparison of planned budget to actual expenditures.



Project -- Technical Assistance to Address Property Owners' Request and Additional Design Services for Tracy  
WWTP Effluent Outfall Pipeline and Diffuser Improvements

**7.3—Quality Control and Health and Safety**

CONSULTANT shall implement a quality assurance/quality control (QA/QC) program and coordinate the participation of senior reviewers at appropriate points in the Project.

CONSULTANT will perform multidisciplinary review of CITY deliverables. Reviewer comments will be addressed and incorporated into the deliverables prior to submittal to the CITY. Since this project involves project locations with heavy traffic, water ways, agricultural properties, a comprehensive health and safety plan is needed.

**II. COMPLETION OF THE SCOPE OF SERVICES.** CONSULTANT shall complete the project elements identified in this Exhibit "A" as outlined below. This schedule assumes Notice to Proceed is provided to Consultant by June 1st, 2015.

Task 1 through 7 – 12 months from notice to proceed

**III. PERSONNEL.** CONSULTANT shall assign the following person/persons to perform the tasks set forth in this Agreement.

Vijay Kumar, Principal in Charge  
Brett Isbell, Project Manager  
Titi Ala, Permitting Specialist

## EXHIBIT "B"

### 2015 BILLING RATE SCHEDULE

Classification	Hourly Rate
Principal Technologist/Principal Project Manager	\$271
Sr. Technologist/Sr. Project Manager	\$241
Engineer Specialist*/Project Manager	\$220
Project Engineer*/Associate Project Manager	\$195
Safety/Contract staff	\$195
Associate Engineer*	\$159
Staff Engineer 2*	\$141
Staff Engineer 1*	\$122
Engineering/Environmental Tech 5	\$165
Engineering/Environmental Tech 4	\$141
Engineering/Environmental Tech 3	\$122
Engineering/Environmental Tech 2	\$92
Engineering/Environmental Tech 1	\$81
Office/Clerical/Accounting	\$94

1. These rates for all types of labor including permanent, part-time, flex and contract employees and effective through the last day of December and new billing rates will be in effect starting January 1 of the following year.
2. A markup of 10% shall be applied to all Other Direct Costs and Expenses
3. An additional premium of 25% shall be added to the above rates for Expert Witness and Testimony services

**Exhibit "C"**

TRACY WWTP Effluent Outfall Pipeline Project – Contract CH01-14															
		Principal Technologist/ Principal Project Manager	Sr. Technologist/Sr. Project Manager	Engineer Specialist*/Project Manager	Project Engineer*/Associate Project Manager	Contracting/Safety	Associate Engineer	Staff Engineer 2*	Engineering/Env. Tech 5	Engineering/Env. Tech 4	Office/Clerical/ Accounting				
	2015 Hourly Billing Rates	\$271	\$241	\$220	\$195	\$195	\$159	\$141	\$165	\$141	\$94				
<b>Task</b>	<b>Description</b>											Labor (\$)	Expenses (\$)	Subcontr actor (\$)	Total Fee (\$)
<b>1</b>	<b>Technical Assistance for Easement</b>														
1.1	Develop Technical Details for Property owners	8			8	4	12		4		4	\$ 7,460	\$ 750		\$ 8,210
1.2	Assist City staff with Easement Acquisition	8			4	2	8		4		4	\$ 5,650	\$ 570		\$ 6,220
1.3	Update Technical portions of Easement Documents	8			8	4	8		8		4	\$ 7,480	\$ 750		\$ 8,230
<b>2</b>	<b>Groundwater Quality Analysis</b>														
2.1	Develop Groundwater Quality Plan	8	16		16						4	\$ 9,520	\$ 930		\$ 10,450
2.2	Obtain Permits for Well Drilling	8	16				16				8	\$ 9,320	\$ 940		\$ 10,260
2.3	GW Monitoring Well installation	8	32			12	40		40		4	\$ 25,560	\$ 2,560	\$ 49,950	\$ 78,070
2.4	GW Quality Sampling	4	8		16		16				8	\$ 9,430	\$ 950		\$ 10,380
2.5	Prepare Draft and Final Report	8	16		16						12	\$ 10,280	\$ 1,030		\$ 11,310
2.6	Assist City to abandon wells	4	8			4	16				4	\$ 6,720	\$ 680	\$ -	\$ 7,400
<b>3</b>	<b>Flow Control Structure Relocation</b>														
3.1	Redesign of Flow Control Structure to Califa Property	8	16					24	24		8	\$ 14,120	\$ 1,420		\$ 15,540

3.2	Relocate control valve to Delta Ave														
3.3	Obtain Permit from SJ County	8	12			4		8	8		4	\$ 8,670	\$ 870	\$ -	\$ 9,540
<b>4</b>	<b>Hydraulic and Hydrologic Analysis</b>														
4.1	Hydraulic analysis of effluent pipe flow	8	16	8			0			20	4	\$ 10,980	\$ 1,100		\$ 12,080
4.2	Hydrologic Analysis of Old River Flow	8	16	24			4	4		16	4	\$ 15,140	\$ 1,420		\$ 16,560
4.3	Engineering Support for Permit Applications	16	16	16			24	16	0		4	\$ 18,160	\$ 1,820		\$ 19,980
<b>5</b>	<b>Federal and State Permits</b>														
5.1	Prepare and obtain Section 7 permit from US Fish and Wildlife	8	16	24			0			19	4	\$ 14,360	\$ 1,440		\$ 15,800
5.2	Prepare and obtain Incidental Take permit from CA Fish and Wildlife	8	16	8			4	4		16	4	\$ 11,620	\$ 1,070		\$ 12,690
5.3	Prepare Nationwide Permit and obtain Re-approval from US Army Corps of Engineers	8	12	8			0			18	4	\$ 9,740	\$ 980		\$ 10,720
5.4	Prepare and obtain permit from Central Valley Flood Protection Board	8	12	12			12	12	0		4	\$ 11,680	\$ 1,170		\$ 12,850
<b>6</b>	<b>Update Contract Documents, Drawings and Specifications</b>														
6.1	Update Drawings	8	16	16			32			40	24	\$ 22,530	\$ 2,260		\$ 24,790
6.2	Update Specifications	8	16	16			24			24	40	\$ 20,510	\$ 2,060		\$ 22,570
6.3	Construction Cost Estimate	4	4				32				8	\$ 7,890	\$ 790		\$ 8,680
<b>7</b>	<b>Project Management</b>														
7.1	Team Coordination	8	12				0	0		0	5	\$ 5,530	\$ 560		\$ 6,090
7.2	Monthly Reports	6	8				0				6	\$ 4,120	\$ 420		\$ 4,540
7.3	Quality Control	8	16								4	\$ 6,400	\$ 640		\$ 7,040
	<b>Subtotal</b>	<b>186</b>	<b>300</b>	<b>132</b>	<b>68</b>	<b>30</b>	<b>248</b>	<b>68</b>	<b>88</b>	<b>153</b>	<b>179</b>	<b>\$ 272,870</b>	<b>\$ 27,180</b>	<b>49,950</b>	<b>\$ 350,000</b>

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

APPROVE AMENDMENT NO. 1 TO TASK ORDER NO. CH 01-13 TO MASTER PROFESSIONAL SERVICES AGREEMENT (MPSA) WITH CH2M HILL FOR DESIGN OF WASTEWATER TREATMENT PLANT (WWTP) EFFLUENT OUTFALL PIPELINE TO THE OLD RIVER

WHEREAS, In September 2010, the City of Tracy entered into a Task Order No. CH01-13 to MPSA with CH2M Hill for the design for the 3.5 mile long 42 inch in diameter wastewater effluent pipeline from the Tracy Wastewater Treatment Plant to the Old River, and

WHEREAS, Amendment No. 1 to the MPSA with CH2M Hill for the design of the WWTP effluent outfall pipe line is necessary to relocate the flood control device structure to the north of Paradise Cut as requested by the property owner, and

WHEREAS, Of a total of 13 properties involving the acquisition of rights of way or easements, the City has successfully negotiated and obtained easements from 11 properties, and

WHEREAS, Two of the remaining three properties are close to an agreement and the last property, involves two parcels located at 8121 Delta Avenue, and

WHEREAS, A flow control structure was proposed to be located above on the property at 8121 Delta Avenue even though the effluent pipe will be buried 8 – 10 feet below grade, and

WHEREAS, During negotiations for acquisition of the easement, the property owner did not want any above grade structure on the property due to safety and potential vandalism issues, and

WHEREAS, There is a potential of contamination in the existing parcel and in order to avoid unforeseen conditions and potential change orders during construction staff is recommending pre-testing the soil, and

WHEREAS, CH2M Hill has permitted and the City has negotiated the PSA amendment for not to exceed amount of \$350,000 to complete this additional work;

NOW, THEREFORE, BE IT RESOLVED, That City Council authorizes Amendment No. 1 to Task Order No. CH01-13 with CH2M Hill for design of the Wastewater Treatment Plant (WWTP) Effluent Pipeline to The Old River and authorizes the Mayor to execute the lease agreement.

\*\*\*\*\*

RESOLUTION \_\_\_\_\_

Page 2

The foregoing Resolution 2015- \_\_\_\_\_ was adopted by Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.H

REQUEST

**APPROVE TASK ORDER NO. 8 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. TO PROVIDE RIGHT OF WAY SERVICES FOR INTERSECTION IMPROVEMENTS AT ELEVENTH STREET AND MACARTHUR DRIVE (WESTERN INTERSECTION) - CIP 72069, AND AUTHORIZE THE CITY MANAGER TO EXECUTE FUTURE AMENDMENTS TO THIS TASK ORDER, IF NEEDED**

EXECUTIVE SUMMARY

Associated Right of Way Services, Inc., of Pleasant Hill, California, is currently providing services for acquisition of rights of ways under a Council approved Master Professional Services Agreement (MPSA) for a period of three years through November 20, 2015. This Task Order will provide acquisition of the right of way for intersection improvements at Eleventh Street and MacArthur Drive and also allows the City Manager to execute future amendments to this task order.

DISCUSSION

On November 20, 2012, City Council approved a MPSA with Associated Right of Way Services, Inc., (AR/WS) of Pleasant Hill, California, was selected through the competitive selection process to assist in acquiring the right of ways for various Capital Improvement Projects for a three year period. Currently, the consultant is assisting the City with acquisition of right of ways for several projects.

Since the completion of the environmental study for the intersection improvements at Eleventh Street and MacArthur Drive - CIP 72069, staff has been working on acquiring right of ways from the fronting property owners approved under the MPSA. This Task Order includes the necessary services for preparation of appraisals, negotiation assistance and relocation assistance for right of way acquisition from two properties on the southwest corner of the project intersection.

In accordance with Tracy Municipal Code section 2.20, the Consultant was selected through the competitive selection process (Request for Proposal Process) to perform right of way acquisition services established in the MPSA. In June 2015, at the request of the City, the Consultant submitted a proposal for right of way acquisition services required for intersection improvements at Eleventh Street and Mac Arthur Drive described in Exhibit A of Task Order No. 8, for an amount not to exceed \$40,000. Staff evaluated the proposal and finds it reasonable. Task Orders No. 1 through No. 7 totaled \$ 679,850. The Consultant will perform all services in accordance with the requirements of the City, State and Federal agencies funding the projects.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no impact to the General Fund. The cost of services will be paid from the Capital Improvement Project which requires acquisition of right of way.

RECOMMENDATION

Staff recommends that City Council, by resolution, approve Task Order No. 8 to the Master Professional Services Agreement with Associated Right of Way Services, Inc. to provide right of way services for Intersection Improvements at Eleventh Street and MacArthur Drive (western intersection), - CIP 72069, and authorize the City Manager to execute future Amendments to this Task Order 8, if needed.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer  
William Dean, Interim Development Services Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A - Task Order No. 8 to MPSA and Exhibits



**CITY OF TRACY**  
**TASK ORDER NO. 8 OF**  
**MASTER PROFESSIONAL SERVICES AGREEMENT**  
**FOR INTERSECTION IMPROVEMENTS AT ELEVENTH STREET AND**  
**MACARTHUR DRIVE (WESTERN INTERSECTION)**  
**CIP 72069**

THIS Task Order is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and ASSOCIATED RIGHT OF WAY SERVICES, INC., a California Corporation (hereinafter "CONSULTANT").

**RECITALS**

- A. CONSULTANT services are needed to provide acquisition of right of way services for Intersection Improvements at Eleventh Street and Mac Arthur Drive (western intersection).
- B. As approved by the City Council on November 20, 2012, pursuant to Council Resolution No. 2012-236. CITY entered into a Master Professional Services Agreement with CONSULTANT for providing acquisition of right way services.
- C. In June 2015, CONSULTANT submitted a proposal to perform additional services described in the task order. After negotiations between the CITY and the CONSULTANT, the parties have reached an agreement for the performance of services with the terms set forth in Exhibit A of this Task Order.

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

- 1. **INCORPORATION OF MASTER AGREEMENT.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Agreement for this project, unless specifically modified by this Task Order.
- 2. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference.
- 3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "A."
- 4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CITY shall pay CONSULTANT on a time and expense basis, at the billing rates set forth in Exhibit "B," attached hereto and incorporated herein by reference. CONSULTANT's fee for this Task Order is Not To Exceed \$40,000.00

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**

**Page 2 of 10**


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

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

CITY OF TRACY

CONSULTANT  
Associated Right of Way Services, Inc.


\_\_\_\_\_  
By: Michael Maciel  
Title: MAYOR  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
By: Larry Castellanos  
Title: Secretary  
Date: 7/8/15

Fed. Employer ID No. 94-3096127

Attest:

\_\_\_\_\_  
By: Nora Pimentel  
Title: CITY CLERK  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
By: Denise Jackson  
Title: Vice President  
Date: 7/8/15

Approved As To Form:

\_\_\_\_\_  
By: Daniel G. Sodergren  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**  
**Page 3 of 10**

**Exhibit A**  
**SCOPE OF WORK**

CONSULTANT shall provide re-appraisal and acquisition/negotiation services for the two parcels in negotiations for the intersection improvements at the Eleventh Street and MacArthur Drive (western intersection) Project. The scope also includes assistance with relocation services for one of the impacted parcel. All services will comply with pertinent sections of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Scope of Work is based on the following assumptions:

- The project is receiving federal funds. A Caltrans Right of Way Certification will be required.
- There are 2 appraisals, 2 appraisal reviews, 2 property owner acquisitions, and up to one lessee clearance.
- There is up to one business occupant potentially eligible for relocation assistance.
- Negotiations will be with the property owners.
- It is assumed APN: 235-190-11 is proposed for a full fee simple acquisition.

**PROJECT MANAGEMENT – GENERAL CONSULTATION**

- Establish work process with CITY and schedule, manage and coordinate all real estate and relocation assistance functions.
- On-going consultation, meetings and recurring project management duties.
- Coordinate with CITY staff, property acquisition agent, relocation advisor and legal counsel.
- Assistance with analyzing various courses of action. Work with CITY to resolve problems and recommend solutions.
- Contract management, budget monitoring and control, and project reporting.
- Implementation and compliance with Uniform Act guidelines.
- Maintaining accurate records. Monitor work plan and work flow.

**APPRAISAL SERVICES**

- Appraisals to be provided as one original with two copies addressed and delivered to CITY staff as directed.
- Appraisals to be prepared in accordance with California Eminent Domain Law, California Government Code Section 7260 et seq., Uniform Standards of Professional Appraisal

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**

**Page 4 of 10**

Practice requirements, except as jurisdictionally exempt, the Caltrans Right of Way Manual and 49 CFR, Part 24.

- At the request of the CITY, the property owner or a designated representative will be invited by the appraiser to accompany him/her during the inspection of the property.
- Prepare appraisal reports in an Appraisal Report format in accordance with Uniform Standards of Professional Appraisal Practice, Standard Rule 2-2.
- Appraisal is for the "Fair Market Value" of the property as per California Code of Civil Procedure, Section 1263.320.
- The market value of the property taken will not include any increase or decrease in the value of the property that is attributable to any of the following:
  - The project for which the property is taken;
  - The eminent domain proceeding in which the property is taken;
  - Any preliminary actions of the acquiring authority relating to the taking of the property.
- Appraiser will not give consideration to, nor include in their appraisals, any allowance for relocation benefits of personal property.
- The appraisal of real estate does not include business or goodwill analyses or conclusions. Any loss of goodwill valuations should be performed by others under direct contract to CITY.
- The appraiser will work directly with the review appraiser.

**CITY OBLIGATIONS (APPRAISAL)**

- Adequate appraisal maps.
- Legal descriptions and plat maps.
- Design information and construction plans.
- Current title reports for each ownership.
- Legal opinions as necessary.
- Environmental reports.

**APPRAISAL REVIEW**

CONSULTANT will subcontract with a qualified independent review appraiser for these services.

- Upon receiving appraisal reports, an office review of the reports using the various standards prescribed by the Federal and State Uniform Acts, Federal Highway Administration, Caltrans appraisal procedures, Uniform Standards of Professional

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**

**Page 5 of 10**

Appraisal Practice (USPAP) and the California Eminent Domain codes will be completed.

- A checklist identifying the various requirements of the appraisal reports will be used to ensure that the reports contain all of the prescribed requirements.
- Review appraiser will prepare a summary of the appraisal process and provide comments regarding any omissions or problems with the reports, such as lack of reasonable support for the appraisal conclusions.
- Review appraiser will make initial call to the appraiser to inform the appraiser that the reports are being reviewed. Comments will be provided to the appraiser for discussion.
- Schedule a field review and if needed schedule a meeting with the appraiser.
- Communicate with the CITY to clarify potential issues, resolve problems and notify CITY of progress.
- If required by CITY, review comments will be provided to CITY at the same time they are sent to the appraiser.
- Upon satisfactory completion of the appraisal reports, a review certificate report will be prepared.

**NEGOTIATIONS / ACQUISITIONS**

- CONSULTANT to prepare acquisition documents. Said documents include, but are not limited to, offer letter, summary statement pertaining to the acquisition of real property or an interest therein, purchase agreement, deed, public acquisition brochure and goodwill information sheet (if not addressed in CITY brochure).
- CONSULTANT will negotiate to acquire a total of two parcels. Negotiations will be with two property owners.
- All acquisition documents to receive CITY's written approval as to form prior to use in the field. If agreement with the cannot be reached, CONSULTANT will advise CITY that negotiations have reached an impasse. The CITY will consider scheduling of an action in eminent domain including the required public necessity hearing. CONSULTANT will provide condemnation support, which will include general consultation and coordination with legal counsel; and providing legal counsel with a copy of the acquisition file, all diary notes and correspondence, all offers presented to the property owners and appraiser declarations.
- If settlement with owner is reached pursuant to the CITY approved appraisal or CITY approved administrative settlement, CONSULTANT will prepare a Memorandum of Settlement for transmittal to CITY. If an administrative settlement appears to be prudent, CONSULTANT will prepare a settlement discussion memorandum reviewing the issues. This memorandum will require CITY'S written approval before implementation of any settlement agreement.

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**

**Page 6 of 10**

- CONSULTANT will establish with CITY a process of coordinating escrow closing and reviewing escrow instructions. Preparation of escrow instructions will be completed by the title company. Approval of conditions of title and escrow instructions, including but not limited to, "subject to" title exceptions, will be done by CITY.
- All discussions for the acquisition of property or an interest therein will be directed to result in the payment of just compensation.
- CONSULTANT will make every reasonable effort to acquire property on behalf of the CITY expeditiously through agreement with its owner and to avoid litigation. This may necessitate greater levels of effort in the negotiations phase and, where appropriate, should continue after eminent domain has been initiated. CITY will provide ongoing feedback to CONSULTANT as to authorization for settlements.

**CITY OBLIGATIONS (ACQUISITION)**

- Written approval of all acquisition documents in a timely manner.
- Direction as to administrative settlements, negotiating authority and condition of title acceptance.
- Providing any formats to be used by CONSULTANT on CITY's behalf.
- Selection of title company.
- Review and approval of title company prepared escrow instructions including acceptable condition of title.

**RELOCATION ASSISTANCE SERVICES**

CONSULTANT will implement the CITY's Relocation Program in a timely, professional manner. The CONSULTANT Relocation advisor will act as a liaison between the CITY and the affected occupants. This relationship provides that relocation advisors will work closely with CITY staff to implement a fair and equitable Relocation Program and, simultaneously provide affected occupants with continuing information as to their rights as displaced persons and assistance to replacement sites.

**BUSINESS RELOCATION ASSISTANCE SERVICES** will be available to the affected business occupant. These services include:

- A relocation advisor will be assigned to the affected business. The advisor will meet with the business representative to determine the business structure, market area, personal property, and replacement site needs.
- The relocation advisor will be responsible to provide each business with the following documentation when appropriate:
  - General Information Notice
  - Notice of Eligibility

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**

**Page 7 of 10**

→ 90-Day Notice to Vacate (to be signed by the CITY)

- The relocation advisor will work with area brokers, the CITY and other resources to identify available replacement sites that might accommodate the affected business.
- The relocation advisor will work closely with each business in order to secure estimated relocation costs.
- The relocation advisor will prepare claims for payment and will present them to the business owner for signature. The advisor will submit all signed claims and necessary documentation to the CITY for review and processing.
- The relocation advisor will establish and maintain a detailed relocation file and document specific relocation efforts. The file will include a relocation diary to track contact with the occupant.
- The relocation advisor will provide continuing information to CITY staff to keep staff apprised of relocation efforts and vacate status.
- Relocation services do not include negotiation/acquisition services, which include, but are not limited to real property, fixtures and equipment, or loss of business goodwill.

**CITY'S OBLIGATIONS (RELOCATION)**

- CITY is responsible to provide assistance to the affected project occupant in a timely manner in accordance with applicable laws and regulations.
- CONSULTANT will submit documents and claims to the CITY for review and approval. It is important that documents and claims be approved and processed in a timely manner in order to avoid a hardship for the affected occupants. "Rush" payments will be limited, but may be required at times during the project.
- CITY will notify CONSULTANT in writing if there are any changes in project scope or project schedule.
- CITY has funds available to proceed with this project and to provide Relocation Assistance to affected occupants on a timely basis.

**ADMINISTRATIVE SUPPORT**

CONSULTANT will provide a fully staffed in-house clerical team to provide word processing, reports, project tracking and budget control for all CONSULTANT services.

**ADDITIONAL WORK (OPTIONAL SERVICES)**

CONSULTANT will provide court and/or appeals related services, including but not limited to depositions, court appearances, arbitrations / mediations, hearings, testimony, and preparation for such activities, in connection with any service provided to the CITY. These services, if

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**

**Page 8 of 10**

requested, are not included in the CONSULTANT Budget Estimate and would be billed at the applicable current CONSULTANT hourly rate in accordance with the Fee Schedule.

- If updated values are requested, appraisal services will be billed on an hourly basis in accordance with the CONSULTANT Fee Schedule.
- If revisions are made to the property requirements during the appraisal process or upon completion of the report appraisal time to address these revisions will be billed on an hourly basis in accordance with the CONSULTANT Fee Schedule.
- Expert witness related services including preparation for and appearances at depositions, court, arbitrations / mediations, hearings, and testimony will be billed on an hourly basis in accordance with the CONSULTANT Fee Schedule.
- The relocation advisor will assist in preparing a Relocation Appeal Package for a claimant in the event of appeal. (Optional Service.)

**DELIVERABLES**

- Submittal of appraisal reports.
- Negotiations are concluded upon delivery of Memorandum of Settlement to CITY or advisory from AR/WS to CITY that negotiations have reached an impasse and eminent domain should be considered.
- Close of relocation file through submission of claims or substitute agreement with displacee.



**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**

Page 9 of 10

**Budget Estimate**

<b>Client:</b>	City of Tracy		
<b>Project:</b>	Eleventh Street / MacArthur Drive Intersection Improvements		
<b>Parcels:</b>	<b>APN</b>	<b>Owner</b>	<b>Property Rights</b>
	235-190-11	Bogetti	Full Acquisition
	235-190-10	Marino	Partial Acquisitions
<b>Assignment Summary:</b>	The purpose of this assignment is to acquire the property rights from two parcels at the south west corner of Eleventh and MacArthur Streets located in the City of Tracy. Services include appraisals, appraisal review, acquisition and negotiations. Continued relocation services will be provided to the business occupant of APN: 235-190-11.		

<u>Categories</u>	<u>Scope of Services</u>	<u>Estimated Budget</u>
1. Project Management (Time Charged)	Provide ongoing right of way project management services.	\$3,000
2. Appraisals (Lump Sum)	This scope of service includes the reappraisal of two parcels identified in the table above. It is assumed that severance damages and/or benefits are relatively minor. It is also assumed that both parcels will be assigned simultaneously. Additional appraisal analysis of any other significant damages, benefits or major site improvements may require modification to the budget.	\$9,000
3. Appraisal Review (Time Charged)	AR/WS will subcontract with a qualified review appraiser. Services include two appraisal review reports.	\$4,000
4. Negotiations / Acquisitions (Time Charged)	It is assumed negotiations will be with two property owners.	\$10,500
5. Relocation Assistance (Time Charged)	Provide continued relocation assistance services for one business occupant.	\$6,000
6. Administrative Support and Project Tracking (Time Charged)	Administrative support for all services listed above.	\$1,500
<b>Estimated Budget Total:</b>		<b>\$34,000</b>
<b>Optional Tasks (Contingency)</b>		<b>\$6,000</b>
<b>Total Budget</b>		<b>Total : 40,000</b>

**CITY OF TRACY**  
**TASK ORDER NO. 8 OF MASTER PROFESSIONAL SERVICES AGREEMENT**  
**ACQUISITION OF RIGHT OF WAY SERVICES FOR INTERSECTION**  
**IMPROVEMENTS AT ELEVENTH STREET AND MAC ARTHUR DRIVE (WESTERN**  
**INTERSECTION) - CIP 72069**  
**Page 10 of 10**

**Exhibit B**  
**HOURLY RATES**

<b>CONSULTING CATEGORY</b>	<b>HOURLY RATE</b>
Principal CONSULTANT	\$200.00
Managing CONSULTANT	\$185.00
CONSULTANT I	\$150.00
CONSULTANT II	\$130.00
CONSULTANT III	\$115.00
Right of Way Coordinator	\$80.00
Administrative Support	\$65.00
Appraisal Reports	Lump Sum
Appraisal Services (Hourly)	\$200.00
Subcontractors	Cost + 10%
Depositions, Court Appearances, Arbitrations / Mediations, Hearings, and Testimony (including preparation)	\$275.00

*Fees include direct and indirect expenses and profit*

RESOLUTION \_\_\_\_\_

APPROVING TASK ORDER NO. 8 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC., TO PROVIDE RIGHT OF WAY SERVICES FOR INTERSECTION IMPROVEMENTS AT ELEVENTH STREET AND MACARTHUR DRIVE (WESTERN INTERSECTION) - CIP 72069, AUTHORIZING THE CITY MANAGER TO EXECUTE FUTURE AMENDMENTS TO THIS TASK ORDER IF NEEDED

WHEREAS, On November 20, 2012, City Council approved a Master Professional Services Agreement with Associated Right of Way Services, Inc., of Pleasant Hill, California, to assist in acquiring the right of ways for various Capital Improvement Projects for the duration of three years, and

WHEREAS, Since the completion of the environmental study for the intersection improvements at Eleventh Street and MacArthur Drive - CIP 72069, staff has been working for acquisition of rights of way from the fronting property owners approved under the master professional services agreement, and

WHEREAS, The Task Order includes the necessary services for preparation of appraisals, negotiation assistance and relocation assistance for right of way acquisition from two properties, and

WHEREAS, At the request of the City (and in accordance with Tracy Municipal Code section 2.20), the Consultant submitted a proposal to perform the services described in Exhibit A of Task Order No. 8 for an amount not to exceed \$40,000, and

WHEREAS, The Consultant will perform all services in accordance with the requirements of City, State, and Federal agencies funding the projects, and

WHEREAS, There is no fiscal impact to the General Fund. The cost of services will be paid from the Capital Improvement Project which requires acquisition of right of way;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves Task Order No. 8 to the Associated Right of Way Services, Inc., Master Professional Services Agreement, to provide right of way services for Intersection Improvements at Eleventh Street and MacArthur Drive (western intersection) Project – CIP 72069, and authorizes the City Manager to execute future Amendments to this Task Order if needed.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST

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

AGENDA ITEM 1.I

REQUEST

**APPROVAL OF THE FINAL SUBDIVISION MAP AND SUBDIVISION IMPROVEMENT AGREEMENT FOR BROOKVIEW II, TRACT 3658, AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE SAN JOAQUIN COUNTY RECORDER**

EXECUTIVE SUMMARY

Approval of the Final Subdivision Map will facilitate recordation of the Final Subdivision Map, and the issuance of the building permits to construct the residential houses. JB Land Holdings LLC by JB Sunrise Pacific Corporation, a California corporation (Subdivider) has signed the Subdivision Improvement Agreement (SIA) for the construction of subdivision improvements to serve the entire Brookview Subdivision consisting of 80 single family dwelling lots.

DISCUSSION

On June 19, 2007, City Council approved the Preliminary and Final Development Plan (PDP/FDP) and Vesting Tentative Subdivision Map (VTSM) for the Brookview Subdivision on a 10 acre parcel located at the northwest corner of Brookview Drive and Perrenial Place, to create 95 residential lots for single family dwelling unit development. This subdivision is designated Residential Low Density in the General Plan and Residential in the Tracy South Industrial Specific Plan.

On October 5, 2010, pursuant to Resolution 2010-167, the City Council approved the amendment to the PDP/FDP and VTSM for Brookview subdivision. The approved amendment included reducing the density from 95 to 80 residential lots.

Brookview II, Tract 3568, is the first residential phase of the Brookview Subdivision which consists of 23 residential lots. The Final Subdivision Map for Brookview II, Tract 3568 will create the 23 residential lots and Parcels "A", "B", and "C" as shown on Attachment A. The three parcels will be subdivided later by another final subdivision map.

The Subdivider has executed the Subdivision Improvement Agreement, for the completion of the subdivision improvements. The Engineering Division has reviewed the improvement plans and all improvements required of Brookview II, Tract 3568, are guaranteed as part of the Subdivision Improvement Agreement with security.

The Final Subdivision Map has been reviewed as to its substantial compliance with the design of the approved VTSM. The Subdivision Improvement Agreement, Final Subdivision Map, and improvement plans are on file with the City Engineer and are available for review upon request.

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

#### FISCAL IMPACT

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

#### STRATEGIC PLAN

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

#### RECOMMENDATION

That City Council, by resolution, approve the Final Subdivision Map for Brookview II, Tract 3568, and authorize the Mayor to execute the Subdivision Improvement Agreement, and authorize the City Clerk to file the Agreement with the San Joaquin County Recorder.

Prepared by: Criseldo Mina, Senior Civil Engineer

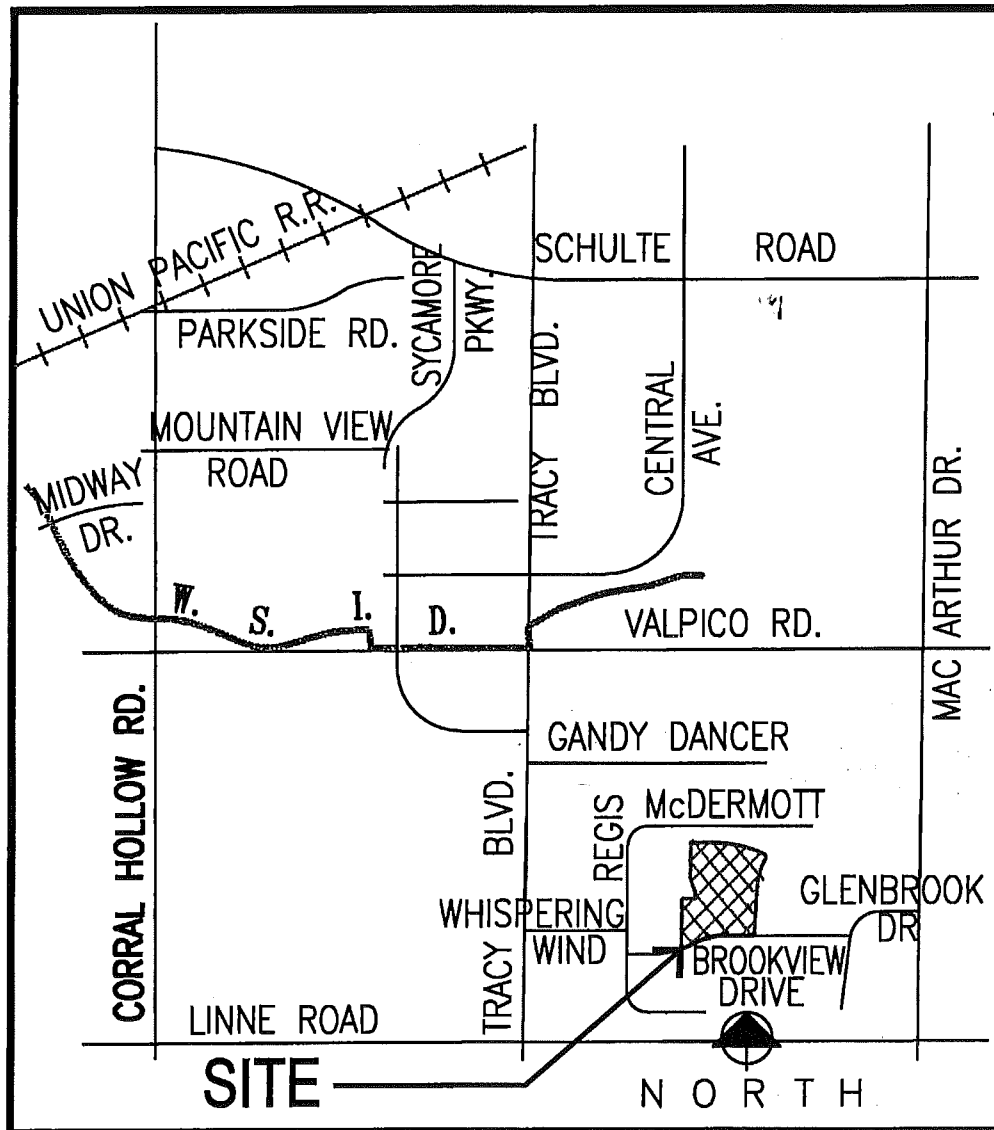
Reviewed by: Robert Armijo, City Engineer  
William Dean, Interim Development Services Director  
Andrew Malik, Assistant City Manager

Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Attachment A - Vicinity Map  
Attachment B – Subdivision Improvement Agreement

# BROOKVIEW II TRACT 3568



## LOCATION MAP

Recording Requested By:

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

And When Recorded Mail To:

City of Tracy  
Office of the City Clerk  
333 Civic Center Plaza  
Tracy, CA 95376  
Attention: Nora Pimentel

**CITY OF TRACY  
SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568**

This **SUBDIVISION IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **BROOKVIEW PROPERTIES, LLC**, a California limited liability company by **JB SUNRISE PACIFIC CORPORATION**, a California corporation (hereinafter "Subdivider").

**RECITALS**

- A. The Subdivider is currently the owner of the real property located at the northwest corner of Brookview Drive and Perennial Place, described as Parcel "A" of the Garden Square Unit 3, Tract 3021, and more particularly described in Exhibit "A" (hereinafter "Property"), attached and incorporated herein by its reference.
- B. In accordance with the Subdivision Map Act (California Government Code sections 66410, *et seq.*) and the Subdivision Ordinance (Tracy Municipal Code, title 12), the Subdivider has submitted to the City a Final Map (hereinafter "Final Map") for the Project known as **BROOKVIEW II, TRACT 3568** (hereinafter "Project"). The Final Map, as approved by the City Council on July 21, 2015, pursuant to Resolution No. 2015- \_\_\_\_\_, is on file with the City Clerk, and is incorporated herein by reference.
- C. The Project is geographically located within the boundaries of the Vesting Tentative Subdivision Map known as **BROOKVIEW SUBDIVISION** (hereinafter "Tentative Subdivision Map"). The Tentative Subdivision Map was approved by the City Council on June 19, 2007, for residential development consisting of 95 single family dwelling units. The Tentative Subdivision Map was amended on October 5, 2010, pursuant to Resolution 2010-167, to reduce the density from 95 to 80 residential lots. The amended Tentative Subdivision Map is on file with the City Clerk, and is incorporated herein by reference.



**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568  
Page 2 of 10**

- D. The approval of the Tentative Subdivision Map and the amendment by the City Council was subject to specified conditions of approval (hereinafter "Conditions"). The Conditions are attached hereto as Exhibit "B," and incorporated herein by reference.
- E. The Conditions describe, among other things, improvements that are required for approval of the Final Map pursuant to the Subdivision Map Act, the Subdivision Ordinance, and applicable City Standards.
- F. Improvement Plans and Specifications (which incorporate portions of the City's Standard Specifications) have been prepared on behalf of the Subdivider, and approved by the City Engineer, which describe in more detail the improvements which are required for approval of the Final Map. The Plans and Specifications, as approved by the City Engineer, are on file with the City Engineer, and are incorporated herein by reference. The term "Plans and Specifications" shall include thirteen (13) sheets of improvement plans titled "Improvement Plans for Brookview II, Tract 3568" prepared by Mackay & Soms Civil Engineers of Pleasanton, California, twelve (12) sheets of improvement plans entitled "Joint Trench Plans for Brookview II, Tract 3568" prepared by Sunshine Design of Fairfield, California, and nine (9) sheets of improvement plans entitled "Landscaping Plans for Brookview, Tract 3568" prepared by Ripley Design of Walnut Creek, California.
- G. Since the required improvements, as described in the Conditions and the Plans and Specifications, have not been completed, the Subdivider has requested to execute this Agreement as authorized by Government Code section 66462.

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

- 1. **SCOPE OF WORK.** The Subdivider shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (hereinafter "Work"), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Subdivider's expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer. The Subdivider may submit a written request to the City Engineer for a change in the Scope of Work, as required by Tracy Municipal Code section 12.36.060(f).
  - 1.1. The City shall allow the Subdivider to use the City's permanent storm drainage detention facility located on the south side of Valpico Road east of Tracy Boulevard known as "Storm Drainage Detention Basin 2A" or "DB#2A" as a permanent solution for mitigating the Project's storm water quality and treatment requirements, provided that the Subdivider perform and complete the following tasks, at the Subdivider's sole cost and expense, to the satisfaction of the City Engineer, and prior to the issuance of the first building permit.
    - 1.1.1 Remove and dispose of properly offsite all weeds, and accumulated debris, and trash at the bottom and slopes of the entire detention basin.



**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568  
Page 3 of 10**

1.1.2 After completing the work described on sub-section 1.1.1, above, rototill or scarify the top 6" inches of the existing grade and spread the excavated material to the entire bottom of the detention basin such that the resultant bottom grade of the detention basin will be flat.

1.1.3 Prior to starting any work on the DB#2A site, the Developer shall obtain an encroachment permit from the City and pay permit and engineering inspection fees.

**2. GRADING AND STREETS MAINTENANCE.**

2.1. Until all the Work is accepted by the City as complete, the Subdivider shall diligently perform the necessary maintenance of the entire Project site, including streets constructed within the Project, to the satisfaction of the City Engineer, at the Subdivider's own cost.

2.2. All infrastructure constructed under this Subdivision Improvement Agreement will be maintained by the Subdivider until accepted by the City.

3. **SUBDIVIDER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Subdivider shall have a competent foreman or superintendent (hereinafter "Authorized Representative") on site with authority to act on behalf of the Subdivider. The Subdivider shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. The Subdivider shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

4. **LOCATION OF PERFORMANCE.** The Subdivider shall perform all Work at the locations and grades shown on the Plans and Specifications. The Subdivider shall acquire all at the Subdivider's sole cost and expense, any easement or right-of-way necessary for the performance of the Work, with no reimbursement from the City.

5. **IMPROVEMENT SECURITY.** Concurrently with the execution of this Agreement by the Subdivider, and prior to the commencement of any Work, the Subdivider shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code section 12.36.080, in the following amounts:

5.1. **Faithful Performance** security in the amount of **\$838,180** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code sections 66499.1, 66499.3, 66499.4, 66499.7(a), and 66499.9.

5.2. **Labor and Material** security in the amount of **\$838,180** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568  
Page 4 of 10**

and materialmen (until the date on which claims are required to be made by laborers and materialmen) pursuant to Government Code sections 66499.2, 66499.3, 66499.4 and 66499.7(b).

- 5.3. Warranty** security in the amount of **\$83,818** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
- 5.4. Monumentation** security in the amount of **\$5,000** to secure faithful performance of setting street centerline monuments as described in the Final Map within one year from the date this of Agreement pursuant to Government Code section 66496.
- 6. INSURANCE.** Concurrently with the execution of this Agreement by the Subdivider, and prior to the commencement of any Work, the Subdivider shall furnish evidence to the City that all of the following insurance requirements have been satisfied.
- 6.1. General.** The Subdivider shall, throughout the duration of this Agreement, maintain insurance to cover Subdivider, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
- 6.2. Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$3,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- 6.3. Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 6.4. Workers' Compensation** coverage shall be maintained as required by the State of California.
- 6.5. Endorsements.** Subdivider shall obtain endorsements to the automobile and commercial general liability with the following provisions:
- 6.5.1.** The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- 6.5.2.** For any claims related to this Agreement, Subdivider's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Subdivider's insurance and shall not contribute with it.



**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT**  
**BROOKVIEW II, TRACT 3568**  
**Page 5 of 10**

- 6.6. Notice of Cancellation.** Subdivider shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 6.7. Authorized Insurers.** All insurance companies providing coverage to Subdivider shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 6.8. Insurance Certificate.** Subdivider shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.
- 6.9. Substitute Certificates.** No later than thirty calendar (30) days prior to the policy expiration date of any insurance policy required by this Agreement, Subdivider shall provide a substitute certificate of insurance.
- 6.10. Subdivider's Obligation.** Maintenance of insurance by the Subdivider as specified in this Agreement shall in no way be interpreted as relieving the Subdivider of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Subdivider may carry, at its own expense, such additional insurance as it deems necessary.
- 7. PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Subdivider shall, at the Subdivider's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, the Subdivider shall obtain a City of Tracy Business License. The Subdivider shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
- 8. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Subdivider shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition, which purportedly caused the delay, and not later than the date on which performance is due.
- 8.1. Commencement of Work.** No later than fifteen (15) days prior to the commencement of Work, the Subdivider shall provide written notice to the City Engineer of the date on which the Subdivider shall commence Work. The Subdivider shall not commence Work until after the notice required by this section is properly provided, and the Subdivider shall not commence Work prior to the date specified in the written notice.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568  
Page 6 of 10**

- 8.2. Schedule of Work.** Concurrently with the written notice of commencement of Work, the Subdivider shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Subdivider's prosecution of the Work.
- 8.3. Completion of Work.** The Subdivider shall complete all Work by no later than three hundred sixty-five (365) days after the recordation of the Final Map. If the Work is not completed and accepted by City Council by this date, City Engineer may grant an extension of time if a) the Subdivider submits a written request for extension at least ten (10) days prior to expiring date of completion, b) the City Engineer determines that Work is substantially complete and an extension is warranted, c) the Subdivider amends this agreement and provides bonds to cover the term of the Amendment, and d) the Subdivider pays all processing fees for such time extension.
- 8.4. Reversion to Acreage.** In the event that the Subdivider fails to commence the Work prior to the date on which completion is due, the Subdivider shall, upon written request by the City, consent to the reversion to acreage of all real property described by the Final Map, and the Subdivider shall bear all costs thereof.
- 9. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Subdivider shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.
- 10. INSPECTION FEES.** Concurrently with the execution of this Agreement by the Subdivider, and prior to the commencement of any Work, the Subdivider shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2 %) of the estimated Project costs (as approved by the City Engineer). In the event that the City determines that the City's actual costs of inspecting the Work (including all costs and expenses of inspection, reviewing maps and plans, field checking, testing, and administrative and overhead costs of fifteen percent (15 %)) exceeds the amount of Inspection Fees paid by the Subdivider, the Subdivider shall pay the City the actual costs of inspecting the Work less Inspection Fees previously paid. In the event that the City requires an independent inspection, the Subdivider shall pay all such costs and provide a report to the City.

In the event that the City determines that the City's actual costs of inspecting the Work (including all costs and expenses of inspection, reviewing maps and plans, field checking, testing and administrative and overhead costs of fifteen (15%)) is less than the amount of Inspection Fees paid by the Subdivider, the City shall refund the Subdivider the cost difference between the Inspection Fees previously paid and the actual costs of inspecting the Work.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568  
Page 7 of 10**

**11. DEFAULT.**

**11.1.** In the event that the Subdivider is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Subdivider and the Subdivider's surety (if any) in which the default is described.

**11.2.** The Subdivider shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

**11.2.1.** The Subdivider is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

**11.2.2.** The Subdivider abandons the Project site.

**11.2.3.** The Subdivider fails to perform one or more requirements of this Agreement.

**11.2.4.** The Subdivider fails to replace or repair any damage caused by Subdivider or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

**11.2.5.** The Subdivider violates any legal requirement related to the Work.

**11.3.** In the event that the Subdivider fails to cure the default within fourteen (14) calendar days after receipt of the City Engineer's written notice, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:

**11.3.1.** Cure the default and charge the Subdivider for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7 %) per annum from the date of default.

**11.3.2.** Demand the Subdivider to complete performance of the Work.

**11.3.3.** Demand the Subdivider's surety (if any) to complete performance of the Work.

**12. ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, the Subdivider shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. The Subdivider's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT**  
**BROOKVIEW II, TRACT 3568**  
Page 8 of 10

- 13. WARRANTY PERIOD.** The Subdivider shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of the Subdivider under this Agreement, the Subdivider shall be in default.
- 14. INDEPENDENT CONTRACTOR STATUS.** Subdivider is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Subdivider is not City's employee and Subdivider shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to the Subdivider.
- 15. OWNERSHIP OF WORK.** All original documents prepared by Subdivider for this Agreement are the property of the City, and shall be given to the City at the completion of Subdivider's Work, or upon demand from the City. Prior to acceptance of the work, the Subdivider shall submit the as-built drawings in a Autodesk AutoCAD format Release-14 or higher in a compact disc (CD).
- 16. ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
- 17. ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Subdivider's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.
- 18. NOTICES.**
- 18.1.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the respective party as follows:

To CITY:  
City of Tracy  
333 Civic Center Plaza  
Tracy, California 95376  
Attn: City Engineer

To Subdivider:  
JB Sunrise Pacific Corporation  
2406 Merced Street  
San Leandro, CA 94577  
Attn: Britt Evans, Chief  
Executive Officer  
Jerry Finch, President

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568  
Page 9 of 10**

- 18.2.** Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
- 19. MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
- 20. WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
- 21. SEVERABILITY.** In the event, any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
- 22. JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
- 23. INDEMNIFICATION.** Subdivider shall indemnify, defend and hold harmless the City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, liabilities, costs and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of the Work by Subdivider or Subdivider's agents, representatives, contractors, subcontractors or employees.
- 24. ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements.

Portion of this Page Intentionally Left Blank





**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT  
BROOKVIEW II, TRACT 3568  
Page 10 of 10**

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

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

CITY OF TRACY,  
a municipal corporation

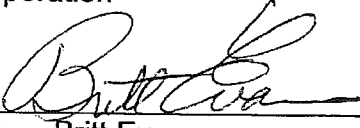
SUBDIVIDER:  
BROOKVIEW PROPERTIES LLC,  
a California limited liability company

\_\_\_\_\_  
By: Michael Maciel  
Title: MAYOR  
Date: \_\_\_\_\_

By: It's Managing member

JB SUNRISE PACIFIC  
CORPORATION, a California  
corporation

Attest:

\_\_\_\_\_  
By:   
Title: CHIEF EXECUTIVE OFFICER  
Date: 07/13/2015

\_\_\_\_\_  
By: Nora Pimentel  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
By: Dan Sodergren  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_



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

APPROVING THE FINAL SUBDIVISION MAP AND SUBDIVISION IMPROVEMENT AGREEMENT FOR BROOKVIEW II, TRACT 3658, AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT, AND AUTHORIZING THE CITY CLERK TO FILE THE SUBDIVISION IMPROVEMENT AGREEMENT WITH THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, On June 19, 2007, City Council approved the Preliminary and Final Development Plan (PDP/FDP) and Vesting Tentative Subdivision Map (VTSM) for the Brookview Subdivision on a 10 acre parcel located at the northwest corner of Brookview Drive and Perrenial Place, to create 95 residential lots for single family dwelling unit development, and

WHEREAS, On October 5, 2010, pursuant to Resolution 2010-167, the City Council approved the amendment to the PDP/FDP and VTSM for Brookview subdivision, and

WHEREAS, The Final Subdivision Map for Brookview II, Tract 3568 will create the 23 residential lots and Parcels "A", "B", and "C", and

WHEREAS, The Engineering Division has reviewed the improvement plans and all improvements required of Brookview II, Tract 3568, are guaranteed as part of the Subdivision Improvement Agreement with security, 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 impact to the General Fund. The Subdivider has paid the applicable engineering review fees which include the cost of processing the Final Subdivision Map and Subdivision Improvement Agreement;

NOW, THEREFORE BE IT RESOLVED, That City Council approves the Final Subdivision Map for Brookview II, Tract 3568, authorizes the Mayor to execute the Subdivision Improvement Agreement, and authorizes the City Clerk to file the Agreement with the San Joaquin County Recorder.

\* \* \* \* \*

The foregoing Resolution 2015-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>ST</sup> day of July 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.J

REQUEST

**AUTHORIZE A PROFESSIONAL SERVICES AGREEMENT WITH MAZE & ASSOCIATES ACCOUNTING CORPORATION FOR PROFESSIONAL AUDITING SERVICES, AUTHORIZE THE CITY MANAGER TO EXECUTE ANY SUBSEQUENT AGREEMENT EXTENSIONS AND CONTRACT CONTINGENCIES, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

The City is required to have an annual audit of the City's financial records by a licensed Accounting firm. The City typically contracts for auditors for a period of 3 to 5 years with an option to extend the contract. In May 2015, the Finance Division issued a Request for Proposal (RFP) for Professional Auditing Services in which five firms responded. The RFP was subsequently rated by City staff and the City Treasurer. Maze & Associates was rated highest based on their excellent qualifications and their understanding of the scope of the audit. Maze and Associates has proposed a fee for the FY 2014-15 audit of \$57,025 and for the subsequent two years of \$121,863. In addition to the fees proposed by Maze & Associates, a 10% contingency is being requested by staff for additional procedures that may be later identified in relation to the recent conversion to new financial and budgeting software in the City. This is a general fund expense and audit fees are included in the current budget.

DISCUSSION

The financial records of the City are required to be audited each year by a public accounting firm. In addition to the audit of city accounts, many grants and federal assistance programs also require a specific audit of these revenues and expenses. A Certified Public Accounting (CPA) firm in the past has been selected for a five year period to complete these auditing tasks. With satisfactory performance, services of the firm are renewed each year for the five year period. This contract may be extended by the City Council. The City's last Auditors' contract was extended in 2010 for five additional years. This contract expired upon the completion of the FY 2013-14 annual audit and subsequent reporting.

In May, Finance staff prepared an RFP for auditing services. The RFP stipulates a three-year engagement through FY 2016-17 with an option to extend for an additional three years through FY 2019-20. The RFP was sent to approximately seventy firms from a list of audit firms that regularly perform municipal audits in California. A total of five firms submitted proposals. Each proposal has been evaluated in terms of the firm's experience, abilities, quality of proposal and price. A total of eight specific criteria were measured in evaluating the responses. These include experience with auditing cities, staff resources of the firm, familiarity with Tracy's financial software, understanding the audit scope, flexibility, hours committed to the audit, fees, and ability to meet the audit calendar. The review and rating was conducted by Finance Division staff and the City Treasurer.

Staff is most impressed with the qualifications and proposals of two firms, Maze & Associates, and Chavan & Associates. Both firms have excellent qualifications and their understanding of the scope of the audit was best. Staff has prior experience with the work of Maze & Associates from many years ago and found them thorough yet easy to work with and have kept schedule commitments. Their price for the three year period is slightly more than the other top firm but about the same as our current fees. Based on this, staff is recommending a contract with Maze & Associates for a three year term with an option to extend it for another three years.

The City transitioned to new financial and budgeting software on July 1, 2015. Due to the fact that the new auditors will be working with two different financial systems in two years and the conversion of data between these systems, additional procedures may become necessary to complete the audit or to assist staff in preparing the audit work-papers. As any additional work is unknown at this time and beyond the scope of the original RFP, staff is requesting authorization for the City Manager to approve necessary additional procedures up to 10% of the contract value.

The complete proposals received from each of the five firms which responded are available for review in the City's Finance Division.

#### STRATEGIC PLAN

This agenda item addresses Goal 2 of the Governance Strategy to ensure continued fiscal sustainability through financial and budgetary stewardship and meets Objective 3, which is to enhance fiscal transparency.

#### FISCAL IMPACT

The total fee proposed by Maze & Associates for the FY 2014-15 audit is \$57,025. This is a general fund expense and audit fees are included in the current budget. The total three year audit cost, including a 10% contingency will be \$196,770.

#### RECOMMENDATION

That the City Council authorize a professional services agreement with Maze & Associates Accounting Corporation for professional auditing services for a three year term at a cost of \$178,888 plus a 10% contingency, authorize the City Manager to execute any subsequent agreement extensions and approve any contingencies, and authorize the Mayor to execute the agreement.

Prepared by: Robert Harmon, Senior Accountant

Reviewed by: Rachelle McQuiston, Administrative Services Director  
Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Attachment A: Professional Services Agreement

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT  
FOR PROFESSIONAL AUDITING SERVICES**

This Professional Services Agreement (“Agreement”) is entered into between the City of Tracy, a municipal corporation (“City”), and Maze & Associates Accounting Corporation, a California corporation (“Consultant”).

**RECITALS**

- A. On May 1, 2015, the City issued a Request for Proposal for Professional Auditing Services (hereinafter “Project”).
- B. On May 19, 2015, Consultant submitted its proposal for the Project to the City. After negotiations between City and Consultant, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.
- C. On July 21, 2015, the City Council authorized the execution of this Agreement, pursuant to Resolution No. \_\_\_\_\_.

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

- 1. **SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit “A” attached and incorporated by reference. The services shall commence upon all parties executing this Agreement and shall continue through February 28, 2019. The City may extend this Agreement for three additional City fiscal years. The services shall be performed by, or under the direct supervision of, Consultant’s Authorized Representatives: Amy L. Meyer, CPA and Mark Wong, CPA. Consultant shall not replace its Authorized Representatives, nor shall Consultant replace any of the personnel listed in Exhibit “A,” nor shall Consultant use any subcontractors or subconsultants, without City’s prior written consent.
- 2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit “A.” Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

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

Page 2 of 7

3. **INDEPENDENT CONTRACTOR STATUS.** Consultant is an independent contractor and is solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Consultant. Consultant is free to work for other entities while under contract with the City. Consultant is not entitled to City benefits.
  
4. **CONFLICTS OF INTEREST.** Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest.
  
5. **COMPENSATION.**
  - 5.1 **General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$57,025 for City's fiscal year one, \$59,591 for fiscal year two, and \$62,272 for fiscal year three. If City extends this Agreement pursuant to Section 1, the not to exceed amount shall be increased by no more than 4.5% each additional City fiscal year. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 **Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 **Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.
  
6. **TERMINATION.** The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
  
7. **OWNERSHIP OF WORK.** Ownership of any reports and other material prepared by or on behalf of Consultant under this Agreement (collectively, the "Documents") shall be dictated by common practice in the auditing professional. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

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

Page 3 of 7

- 8. INDEMNIFICATION.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

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

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

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

**10. INSURANCE.**

- 10.1 General.** Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.
- 10.2 Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- 10.3 Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 10.4 Workers' Compensation** coverage shall be maintained as required by the State of California.
- 10.5 Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than \$1,000,000 per claim.
- 10.6 Endorsements.** Consultant shall obtain endorsements to the automobile and commercial general liability with the following provisions:

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

Page 4 of 7

- 10.6.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 10.6.2** For any claims related to this Agreement, Consultant’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant’s insurance and shall not contribute with it.
- 10.7** **Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- 10.8** **Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 10.9** **Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five days after the execution of this Agreement.
- 10.10** **Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.
- 10.11** **Consultant’s Obligation.** Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary.
- 11. ASSIGNMENT AND DELEGATION.** This Agreement and any portion of it shall not be assigned or transferred, nor shall any of the Consultant’s duties be delegated, without the City’s written consent. Any attempt to assign or delegate this Agreement without the City’s written consent shall be void and of no effect. City’s consent to one assignment shall not be deemed to be a consent to any subsequent assignment.
- 12. MISCELLANEOUS.**
- 12.1** **Notices.** All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party as follows:



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

Page 5 of 7

To City:

Rachelle McQuiston  
Administrative Services Director  
333 Civic Center Pl.  
Tracy, CA 95376

To Consultant:

Amy L. Meyer, CPA  
Vice President  
3478 Buskirk Ave, Ste 215  
Pleasant Hill, CA 94523

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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

- 12.2 Modifications.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
- 12.3 Waivers.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
- 12.4 Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.
- 12.5 Jurisdiction and Venue.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
- 12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.
- 12.7 Compliance with the Law.** Consultant shall comply with all local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.
- 12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of

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

Page 6 of 7

skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

**12.9 Corporate Status.** Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.


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

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

City of Tracy

Maze & Associates Accountancy  
Corporation

By: Michael Maciel  
Title: Mayor

  
By: Mark Wong, CPA  
Title: Vice President

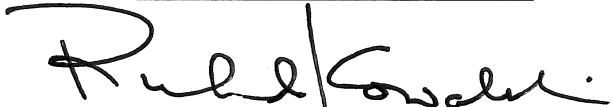
Date: \_\_\_\_\_

Date: 7/16/2015

Attest:

Fed. Employer ID No. 94-2590179

By: Nora Pimentel  
Title: City Clerk

  
By: Richard Kowalski, CPA  
Title: Chief Financial Officer

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

Date: 7/16/2015

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

**Page 7 of 7**

Approved As To Form:

\_\_\_\_\_  
By: Daniel G. Sodergren

Title: City Attorney

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

Exhibits:

- A Technical Proposal, Maze & Associates, May 19, 2015
- B Cost Proposal, Maze & Associates, May 19, 2015

RESOLUTION \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH MAZE & ASSOCIATES ACCOUNTING CORPORATION FOR PROFESSIONAL AUDITING SERVICES**

WHEREAS, The financial records of the City are audited each year by a public accounting firm and in the past this CPA firm has been selected for a five year period. With satisfactory performance, services of the firm are renewed each year for the five year period, and

WHEREAS, The contract expired upon the completion of the FY 2013-14 annual audit and subsequent reporting, and

WHEREAS, In May, Finance staff prepared an RFP for auditing services and sent it to approximately seventy firms, resulting in five firms submitting proposals. Each proposal has been evaluated in terms of the firm's experience, abilities, quality of proposal and price. A total of eight specific criteria were measured in evaluating the responses, and

WHEREAS, Two firms, Maze & Associates, and Chavan & Associates have excellent qualifications and the best understanding of the scope of the audit, and

WHEREAS, A committee composed on finance staff and the City Treasurer rated each firm and recommends Maze & Associates, and

WHEREAS, The total fee proposed by Maze & Associates for the FY 2014-15 audit is \$57,025. This is a general fund expense and audit fees are included in the current and proposed budget, and

WHEREAS, The City implemented new financial and budgeting software on July 1, 2015. The implementation of new software and subsequent data conversion may require additional auditing procedures, therefore a 10% overall contract contingency is included, bringing the three year cost to \$196,777;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby selects Maze & Associates Accounting Corporation to perform the annual audit of the City's financial records for a period of three years at a cost of \$178,888 plus a 10% contingency, authorize the City Manager to execute any subsequent agreement extensions and approve any contingencies, and authorize the Mayor to execute the agreement.

\* \* \* \* \*

Resolution

Page 2

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

---

MAYOR

ATTEST:

---

CITY CLERK

AGENDA ITEM 1.K

REQUEST

**AUTHORIZATION TO ENTER INTO A FIVE YEAR AGREEMENT WITH MICROSOFT FOR AUTOMATIC SOFTWARE UPDATES FOR DESKTOP COMPUTERS AND SERVERS AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

The City uses various software products from Microsoft for both its desktops and servers. This software must be licensed from Microsoft. The City's current five year license agreement with Microsoft is set to expire. This agreement renews the existing license agreement with Microsoft for an additional five years.

DISCUSSION

The City must obtain licenses for all the software that runs on its desktop computers and servers. Several of these software products are from Microsoft. The City used various Microsoft products for many years. The City's current agreement with Microsoft, approved by Council on August 3, 2010, is set to expire and must be renewed. The City has budgeted for these licenses as part of the operating budget. Microsoft offers a program to municipalities where an annual fee can be paid and Microsoft will always provide the most recent version of the software to the City. In this way, the City will be assured it always has the most recent and up to date software for its desktop computers and selected servers.

The County of Riverside has already negotiated a competitive price for this annual software licensing program and this agreement may be used by any city wishing to procure these software licenses. The Tracy Municipal code section 2.20.220 permits the City to use a competitive program already negotiated or bid by another public agency. The City of Tracy is authorized under its purchasing ordinance to enter into this contract. The City would not be able to negotiate any better terms with Microsoft than what is already included in the County of Riverside contract.

The annual cost of the Microsoft licensing program is \$56,550.05 for each year of the five year agreement. However, if the City adds additional Microsoft licenses during the five year agreement the cost of these new licenses will be added onto the existing agreement thereby increasing the annual cost. The City will use the operating budget for these licenses.

STRATEGIC PLAN

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

FISCAL IMPACT

Funding for the software has already been included in the adopted FY2015-16 budget. No additional funds are being requested. The total cost is \$56,550.05 per year. Software licensing is expensed to Fund 602 (Central Services). This is an internal services fund and as such, is re re-expensed out to all funds that make use of the services.

RECOMMENDATION

It is recommended that the City Council, by resolution, authorize a five year agreement with Microsoft to supply software for City desktop computers and servers and authorize the Mayor to execute the agreement.

Prepared by: Matt Engen, IT Manager

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment: A – Microsoft Agreement  
Attachment B – Riverside County Agreement



## Program Signature Form

MBA/MBSA number

01E73134

000-jorob-s-832

Agreement number

01E73134

**Note:** Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.


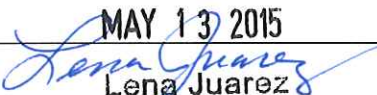
Contract Document	Number or Code
<Choose Agreement>	
<Choose Agreement>	
<Choose Agreement>	
<Choose Agreement>	
<Choose Agreement>	
Enterprise Enrollment	X20-10632
<Choose Enrollment/Registration>	
<Choose Enrollment/Registration>	
<Choose Enrollment/Registration>	
<Choose Enrollment/Registration>	
EA Product Selection Form	0324527.001 PSF
EA Enrollment Amendment	CTM (New)

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
<b>Name of Entity (must be legal entity name)*</b> City of Tracy
<b>Signature*</b> _____
<b>Printed First and Last Name*</b>
<b>Printed Title</b>
<b>Signature Date*</b>
<b>Tax ID</b>

\* indicates required field



Microsoft Affiliate	
Microsoft Corporation	
Signature _____	 <b>Microsoft</b> Microsoft Corporation <b>MAY 13 2015</b>  Lena Juarez Duly Authorized on behalf of Microsoft Corporation
Printed First and Last Name	
Printed Title	
Signature Date (date Microsoft Affiliate countersigns)	
Agreement Effective Date (may be different than Microsoft's signature date)	

Optional 2<sup>nd</sup> Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

\* indicates required field

Outsourcer
Name of Entity (must be legal entity name)*
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*

\* indicates required field

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

**Microsoft Corporation**  
 Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, Nevada 89511-1137  
 USA

Proposal ID

0324527.001

Enrollment Number

Language: English (United States)

**Enrolled Affiliate's Enterprise Products and Enterprise Online Services summary for the initial order:**

Profile	Qualified Devices	Qualified Users	Device / User Ratio	Enterprise Product Platform	CAL Licensing Model
Enterprise	320	320	1.0	No	Device Licenses

Products	Enterprise Quantity
<b>Office Professional Plus</b>	
Office Professional Plus	320
<b>Client Access License (CAL)</b>	
Core CAL, including Bridge CAL's (if applicable)	
Core CAL	320

<b>Enrolled Affiliate's Product Quantities:</b>				
Price Group	1	2	3	4
<b>Enterprise Products</b>	Office Professional Plus + Office Professional Plus for Office 365 + Office Standard + Office 365 (Plans E3 or E4) + Enterprise Cloud Suite USL	Client Access License + Office 365 (Plans E1, E3, E4) + Enterprise Cloud Suite USL	Client Access License + Windows Intune + EMS USL + Enterprise Cloud Suite USL	Win Desktop Upgrade + Win VDA + Win SA Per User USL + Win VDA Per User USL + Enterprise Cloud USL
<b>Quantity</b>	320	320	320	0

<b>Enrolled Affiliate's Price Level:</b>	
Product Offering / Pool	Price Level
<b>Enterprise Products and Enterprise Online Services USLs:</b> Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Groups 1 through 4.	D
<b>Additional Product Application Pool:</b> Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 1.	D
<b>Additional Product Server Pool:</b> Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Group 2 or 3.	D
<b>Additional Product Systems Pool:</b> Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 4.	D

**NOTES**

Unless otherwise indicated in the associated contract documents, the price level for each Product offering / pool is set as described above, based upon the quantity to price level mapping below:

Quantity of Licenses and Software Assurance	Price Level
2,399 and below	A
2,400 to 5,999	B
6,000 to 14,999	C
15,000 and above	D

**Note 1:** Enterprise Online Services may not be available in all locations. Please see the Product List for a list of locations where these may be purchased.

**Note 2:** Unless otherwise indicated in associated Agreement documents, the CAL selection must be the same across the Enterprise for each Profile.

**Note 3:** If Enrolled Affiliate does not order an Enterprise Product or Enterprise Online Service associated with an applicable Product pool, the price level for Additional Products in the same pool will be price level "A" throughout the term of the Enrollment. Refer to the Qualifying Government Entity Addendum pricing provision for more details on price leveling.

## Enterprise Enrollment Amendment ID CTM

000-jorob-s-832

This amendment ("Amendment") is entered into between the parties identified on the signature form for the Enrollment identified above ("Enrollment"). All terms used but not defined in this Amendment will have the same meanings provided in the Enrollment. Except for changes made by this Amendment, the Enrollment remains unchanged and in full force and effect.

1. The parties agree to delete the section titled "Term" on the Enrollment and replace it with the following:

**Enrollment Term.** This Enrollment will expire on the last day of the month, **60 full calendar months** from the Enrollment Effective Date. Any reference in this Enrollment to "day" will be a calendar day. Customer may terminate this Enrollment for its convenience without penalty on the third anniversary of this Enrollment (or at any other time as permitted by state law) subject to proportional licensing as set forth in the Section titled "Early Termination" of the Agreement. *All references to a Three-year Licensed Period in the Enrollment are deemed to be a five-year Licensed Period.*

**This Amendment must be attached to a signature form to be valid.**

**Enterprise Enrollment****State and Local**Enterprise Enrollment number  
(Microsoft to complete)

5359391

Proposal ID/Framework ID

000-jorob-s-832

Previous Enrollment number  
(Reseller to complete)Earliest expiring previous  
Enrollment end date <sup>1</sup>

7/31/2015

**This Enrollment must be attached to a signature form to be valid.**

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) any supplemental contact information form or Previous Agreement/Enrollment form that may be required, (5) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement. By entering into this Enrollment, Enrolled Affiliate agrees to be bound by the terms and conditions of the Enterprise Agreement.

All terms used but not defined are located at <http://www.microsoft.com/licensing/contracts>. In the event of any conflict the terms of this Agreement control.

**Effective date.** If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to "anniversary date" refers to the anniversary of the effective date each year this Enrollment is in effect.

**Term.** The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. If the Enrollment is renewed, the renewal term will expire 36 full calendar months after the effective date of the renewal term. Any reference in this Enrollment to "day" will be a calendar day.

**Product order.** The Reseller will provide Enrolled Affiliate with Enrolled Affiliate's Product pricing and order. Prices and billing terms for all Products ordered will be determined by agreement between Enrolled Affiliate and the Reseller. The Reseller will provide Microsoft with the order separately from this Enrollment.

**Terms and Conditions****1. Definitions.**

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

"Additional Product" means any Product identified as such in the Product List and chosen by Enrolled Affiliate under this Enrollment.

“Enterprise Online Service” means any Online Service designated as an Enterprise Online Service in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

“Enterprise Product” means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product List and chosen by Enrolled Affiliate under this Enrollment. Enterprise Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

“Expiration Date” means the date upon which the Enrollment expires.

“Industry Device” (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) (“Industry Program”). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

“L&SA” means a License with Software Assurance for any Product ordered.

“Qualified Device” means any device that is used by or for the benefit of Enrolled Affiliate’s Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Professional locally (in a physical or virtual operating system environment), OR (2) a device used to access a virtual desktop infrastructure (“VDI”). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, OR (2) an Industry Device, OR (3) not managed (as defined in the Product List at the start of the applicable initial or renewal term of the Enrollment) as part of Enrolled Affiliate’s Enterprise. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate’s Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

“Qualified User” means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product List.

“Reserved License” means for an Online Service identified as eligible for true-ups in the Product List, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

“Transition” means the conversion of one or more License to or from another License(s). Products eligible for Transition and permitted Transitions are identified in the Product List.

“Transition Period” means the time between the Transition and the next Enrollment anniversary date for which the Transition is reported.

“Use Rights” means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at the Volume Licensing Site. The Use Rights supersede the terms of any end user license agreement (on-screen or otherwise) that accompanies a Product. The Use Rights for Software are published by Microsoft in the Product Use Rights. The Use Rights for Online Services are published in the Online Services Terms.

## 2. Order requirements.

- a. **Minimum Order requirements.** Enrolled Affiliate's Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.
  - (i) **Enterprise Commitment.** If ordering any Enterprise Products, Enrolled Affiliate's order must include coverage for all Qualified Users and/or all Qualified Devices in any Product pool an Enterprise Product is ordered in. Enrolled Affiliate may elect to mix Enterprise Products and the corresponding Enterprise Online Services within a Product pool as long as all devices not covered by an Enterprise Product are only used by users covered with a per user license.
  - (ii) **Enterprise Online Services.** If ordering Enterprise Online Services only, then Enrolled Affiliate must maintain at least 250 Subscription Licenses.
- b. **Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products and Services.
- c. **Use Rights for Enterprise Products.** For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.
- d. **Country of usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.
- e. **Adding Products.**
  - (i) **Adding new Products not previously ordered.** New Enterprise Products or Enterprise Online Services may be added at any time by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.
  - (ii) **Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products other than Online Services may be added at any time but must be included in the next true-up order. Additional Licenses for Online Services must be ordered prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product List or (2) included as part of other Licenses.
- f. **True-up requirements.** Enrolled Affiliate must submit an annual true-up order that accounts for any changes since the initial order or last order. If there are no changes, then an update statement must be submitted instead of a true-up order.
  - (i) **Enterprise Products.** For Enterprise Products, Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.
  - (ii) **Additional Products.** For Additional Products that have been previously ordered under this Enrollment, Enrolled Affiliate must determine the maximum number of Additional Products used since the latter of the initial order, the last true-up order, or the prior anniversary date and submit a true-up order that accounts for any increase.
  - (iii) **Online Services.** For Online Services identified as eligible for true-up in the Product List, Enrolled Affiliate may reserve the additional Licenses prior to use. Microsoft will provide a report of Reserved Licenses in excess of existing orders to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retroactively to the month in which they were reserved.

**(iv) Transitions.** Enrolled Affiliate must report all Transitions. Transitions may result in an increase in certain Licenses to be included on the true-up order and a reduction of other Licenses for prior orders. Reductions in Licenses will be effective at end of the Transition Period. For Licenses paid up front, Microsoft will issue a credit for the remaining months of Software Assurance or Subscription Licenses that were reduced as part of the Transition.

**(v) Subscription License reductions.** Enrolled Affiliate may reduce the quantity of Subscription Licenses at the Enrollment anniversary date on a prospective basis if permitted in the Product List, as follows:

- a) For Subscription Licenses that are part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices and Qualified Users (if ordering user-based Licenses) identified on the Product Selection Form, and includes any additional Qualified Devices and Qualified Users added in any prior true-up orders. Step-up Licenses do not count towards this total count.
- b) For Enterprise Online Services that are not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.
- c) For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.

Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

**(vi) Update statement.** An update statement must be submitted instead of a true-up order if, as of the initial order or last true-up order, Enrolled Affiliate's Enterprise: (1) has not changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) has not increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative.

**(vii) True-up order period.** The true-up order or update statement must be received by Microsoft between 60 and 30 days prior to each Enrollment anniversary date. The third-year true-up order or update statement is due within 30 days prior to the Expiration Date, and any license reservations within this 30 day period will not be accepted. Enrolled Affiliate may submit true-up orders more often to account for increases in Product usage, but an annual true-up order or update statement must still be submitted during the annual order period.

**(viii) Late true-up order.** If the true-up order or update statement is not received when due:

- 1) Microsoft will invoice Reseller for all Reserved Licenses not previously ordered.
- 2) Transitions and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).

**g. Step-up Licenses.** For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

- (i) For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.
- (ii) If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.



- (iii) If Enrolled Affiliate has previously ordered an Online Service as an Additional Product and wants to step-up to an Enterprise Online Service eligible for a Transition, the step-up may be reported as a Transition.
- (iv) If Enrolled Affiliate Transitions a License, it may be able to further step-up the Transitioned License. If Enrolled Affiliate chooses to step-up and the step-up License is separately eligible to be Transitioned, such step-up Licenses may result in a License reduction at the Enrollment anniversary date following the step-up.
- h. **Clerical errors.** Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.
- i. **Verifying compliance.** Microsoft may, in its discretion and at its expense, verify compliance with this Enrollment as set forth in the Enterprise Agreement.

### **3. Pricing.**

- a. **Price Levels.** For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be Level "D" throughout the term of the Enrollment.
- b. **Setting Prices.** Enrolled Affiliate's prices for each Product or Service will be established by its Reseller. As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service will be fixed throughout the applicable initial or renewal Enrollment term. Price levels and Microsoft's prices for Resellers are reestablished at the beginning of the renewal term. However, if Enrolled Affiliate qualifies for a different price level during the applicable initial or renewal term, Microsoft may at its discretion establish a new price level for future new orders either upon Enrolled Affiliate's request or on its own initiative. Any changes will be based upon price level rules in the Product Selection Form.

### **4. Payment terms.**

For the initial or renewal order, Enrolled Affiliate may pay upfront or elect to spread its payments over the applicable Enrollment term. If spread payments are elected, unless indicated otherwise, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and on each Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

### **5. Transitions.**

- a. **Transition requirements.**
  - (i) Licenses with active Software Assurance or Subscription Licenses may be Transitioned at any time if permitted in the Product List. Enrolled Affiliate may not, however, reduce the quantity of Licenses or associated Software Assurance prior to the end of the Transition Period.
  - (ii) Enrolled Affiliate must order the Licenses to which it is transitioning for the year(s) following the Transition Period.
  - (iii) If a Transition is made back to a License that had active Software Assurance as of the date of Transition, then Software Assurance must be re-ordered for all such Licenses on a prospective basis following the Transition Period. Software Assurance coverage may

not exceed the quantity of perpetual Licenses for which Software Assurance was current at the time of any prior Transition. Software Assurance may not be applied to Licenses transferred by Enrolled Affiliate.

- (iv) If a device-based License is Transitioned to a user-based License, all users of the device must be licensed as part of the Transition.
- (v) If a user-based License is Transitioned to a device-based License, all devices accessed by the user must be licensed as part of the Transition.

**b. Effect of Transition on Licenses.**

- (i) Transition will not affect Enrolled Affiliate's rights in perpetual Licenses paid in full.
- (ii) New version rights will be granted for perpetual Licenses covered by Software Assurance up to the end of the Transition Period.
- (iii) For L&SA not paid in full at the end of the Transition Period, Enrolled Affiliate will have perpetual Licenses for a proportional amount equal to the amounts paid for the Transitioned Product as of the end of the Transition Period.
- (iv) For L&SA not paid in full or granted a perpetual License in accordance with the above or Subscription Licenses, all rights to Transitioned Licenses cease at the end of the Transition Period.

**6. End of Enrollment term and termination.**

- a. **General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.
- b. **Renewal Option.** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing the Enrollment for one additional 36 full calendar month term or signing a new Enrollment. Microsoft must receive a Renewal Form, Product Selection Form, and renewal order prior to or at the Expiration Date. The renewal term will start on the day following the Expiration Date. Microsoft will not unreasonably reject any renewal. Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.
- c. **If Enrolled Affiliate elects not to renew.**
  - (i) **Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring L&SA.
  - (ii) **Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product List, the following options are available at the end of the Enrollment initial or renewal term.
    - 1) **Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month ("Extended Term") is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price for Enrolled Affiliate's price level as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate does want an Extended Term, Reseller must submit a request to Microsoft. Microsoft must receive the request not less than 30 days prior to the Expiration Date.
    - 2) **Cancellation during Extended Term.** If Enrolled Affiliate has opted for the Extended Term and later determines not to continue with the Extended Term, Reseller must submit a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received the notice.

**(iii) Subscription Licenses and Online Services not eligible for an Extended Term.** If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate's Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

**(iv) Customer Data.** Upon expiration or termination of a License for Online Services, Microsoft will keep Customer's Data in a limited function account for 90 days so that Customer may extract it. Enrolled Affiliate will reimburse Microsoft if there are any associated costs. After 90 days Microsoft will disable Enrolled Affiliate's account and will delete its Customer Data. Enrolled Affiliate agrees that, other than as described above, Microsoft has no obligation to continue to hold, export or return Enrolled Affiliate's Customer Data and that Microsoft has no liability whatsoever for deletion of Enrolled Affiliate's Customer Data pursuant to these terms.

**d. Termination for cause.** Any termination for cause of this Enrollment will be subject to the "Termination for cause" section of the Agreement.

**e. Early termination.** Any Early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.

## Enrollment Details

### 1. Enrolled Affiliate's Enterprise.

- a. Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate's Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Check only one box in this section. If no boxes are checked, Microsoft will deem the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:

Enrolled Affiliate only

Enrolled Affiliate and all Affiliates

Enrolled Affiliate and the following Affiliate(s) (Only identify specific affiliates to be included if fewer than all Affiliates are to be included in the Enterprise):

Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:

- b. Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: Exclude future Affiliates

### 2. Contact information.

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (\*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at <https://www.microsoft.com/licensing/servicecenter>.

- a. **Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

**Name of entity (must be legal entity name)\*** City of Tracy

**Contact name\* First Last** Matt Engen

**Contact email address\*** matt.engen@ci.tracy.ca.us

**Street address\*** 333 Civic Center Plaza

**City\*** Tracy

**State/Province\*** CA  
**Postal code\*** 95376-4062  
(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)  
**Country\*** USA  
**Phone\*** 209-831-6806  
**Tax ID**

*\* indicates required fields*

- b. **Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized for applicable Online Services to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as primary contact (default if no information is provided below, even if the box is not checked).

**Contact name\*** First Last  
**Contact email address\***  
**Street address\***  
**City\***  
**State/Province\***  
**Postal code\*** -  
(For U.S. addresses, please provide the zip + 4, e.g. xxxxx-xxxx)  
**Country\***  
**Phone\***

**Language preference.** Choose the language for notices. English

This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.

*\* indicates required fields*

- c. **Online Services Manager.** This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses, step-up, and initiate Transitions prior to a true-up order.

Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

**Contact name\*:** First Last  
**Contact email address\***  
**Phone\***

This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.


*\* indicates required fields*

- d. **Reseller information.** Reseller contact for this Enrollment is:

**Reseller company name\*** CompuCom Systems, Inc.  
**Street address (PO boxes will not be accepted)\*** 7171 Forest Lane  
**City\*** Dallas  
**State/Province\*** TX  
**Postal code\*** 75230-2306  
**Country\*** USA  
**Contact name\*** Greg Landry  
**Phone\*** 972-856-3534  
**Contact email address\*** msadmin@compucom.com

*\* indicates required fields*

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

<b>Signature*</b> 
<b>Printed name*</b> Greg Landry
<b>Printed title*</b> Manager-Microsoft Ops
<b>Date*</b> 5/14/15

\* indicates required fields

**Changing a Reseller.** If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

- e. If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. *Otherwise, the notices contact and Online Administrator remains the default.*
- (i) Additional notices contact
  - (ii) Software Assurance manager
  - (iii) Subscriptions manager
  - (iv) Customer Support Manager (CSM) contact

### 3. **Financing elections.**

Is a purchase under this Enrollment being financed through MS Financing?  Yes,  No.

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft.

### CompuCom - software quote

**Quoted by Miles Allarea, CompuCom 7171 Forest Lane, Dallas TX 75230**

Phone 916-934-6023 miles.allarea@compucom.com

**Please fax your POs to Client Assistance Center at 800-366-9994. You may call 800-400-9852, option 2, to check status on orders.**

Quoted to: City of Tracy

5 Year Microsoft EA Renewal

Date 4/9/2015

EA#

5359391

**Important: Please provide the email address of the recipient designated to receive a CompuCom "order confirmation"**

Quantity	Part #	Description	Unit Price	Ext. Price
60	269-05623	OfficeProPlus ALNG LicSAPk MVL	\$ 126.41	\$ 7,584.60
260	269-05704	OfficeProPlus ALNG SA MVL	\$ 83.58	\$ 21,730.80
60	W06-00022	CoreCAL ALNG LicSAPk MVL DvcCAL	\$ 50.01	\$ 3,000.60
260	W06-00021	CoreCAL ALNG SA MVL DvcCAL	\$ 31.64	\$ 8,226.40
1	076-01912	Prjct ALNG SA MVL	\$ 97.57	\$ 97.57
1	H30-00238	PrjctPro ALNG SA MVL w1PrjctSvrCAL	\$ 162.62	\$ 162.62
2	D87-01159	VisioPro ALNG SA MVL	\$ 83.47	\$ 166.94
2	395-02504	ExchgSvrEnt ALNG SA MVL	\$ 605.06	\$ 1,210.12
18	7NQ-00292	SQLSvrStdCore ALNG SA MVL 2Lic CoreLic	\$ 535.58	\$ 9,640.44
1	T9L-00223	SysCtrStd ALNG SA MVL 2Proc	\$ 131.76	\$ 131.76
5	P71-07282	WinSvrDataCtr ALNG SA MVL 2Proc	\$ 919.64	\$ 4,598.20
Product-total				\$ 56,550.05
Sub-Total				\$ 56,550.05
Tax				\$ -
Shipping				No Charge
Total				\$ 56,550.05
<b>Annual Payment</b>				

**Prices good for 30 days**

Pass-Through Warranty and Other Rights. As a reseller, end-user warranties and liabilities (with respect to any third party hardware and software products provided by CompuCom) shall be provided as a pass-through from the manufacturer of such products. All software products are subject to the license agreement of the applicable software supplier, as provided with the software packaging or in the software at time of shipment.

# Microsoft | Volume Licensing

## Program Signature Form

MBAM/MSA number:   
 Agreement number: **01673134**

SGN:  CASP/VER/OP/V41

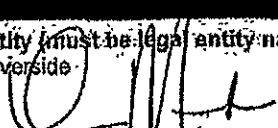

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, Customer shall mean the signing entity, enrolled Affiliate, Government, or other Microsoft Volume Licensing program participant.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
Enterprise Agreement	X20-02032
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Agreement>	Document Number or Code
<Choose Enrollment/Affiliate Registration Form>	Document Number or Code
<Choose Enrollment/Affiliate Registration Form>	Document Number or Code
<Choose Enrollment/Affiliate Registration Form>	Document Number or Code
Enterprise Agreement Amendment	C/M /NEW
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code
Document Description	Document Number or Code

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer	Microsoft Affiliate
Name of Entity (must be legal entity name)* County of Riverside	Microsoft Licensing, GP
Signature* 	Signature 
Printed Name* <b>INES MARK</b>	Printed Name <b>Meesha Falteke</b>
Printed Title* <b>PROCUREMENT CONTRACT SPECIALIST</b>	Printed Title <b>Program Manager, Compliance</b>
Signature Date* <b>11/20/2011</b>	Signature Date <b>NOV 23 2011</b> <small>(date Microsoft Affiliate countersigns)</small>



Tax ID: 95-6090930	Effective Date: <small>(may be different than Microsoft's signature date)</small> 11/30/11
--------------------	---

\*Indicates required field

Optional 2<sup>nd</sup> Customer signature or Outsourcer Signature (if applicable)

Customer	Outsourcer
Name of Entity (must be legal entity name)*	Name of Entity (must be legal entity name)*
Signature*	Signature*
Printed Name*	Printed Name*
Printed Title*	Printed Title*
Signature Date*	Signature Date*

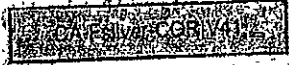
If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form. If no media form is included, no physical media will be sent.

After this signature form is signed by the Customer, send it and the Certificate documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation e-mail.

Microsoft Licensing GP  
 Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, Nevada 89514-1137  
 USA

Prepared By: Name of Preparer
Email of Preparer

Enterprise Agreement  
Amendment ID CTM



This amendment is entered into between the customer and Microsoft affiliate signing, as of the effective date identified below. All terms used but not defined will have the same meanings as in the Microsoft Enterprise Agreement identified above "the agreement". The following terms and conditions amend the terms and conditions of the agreement identified above with respect to the customer identified below and its enrolled affiliates. This amendment provides changes in accordance with the requests of the County of Riverside and allows for a discount pursuant to the more than 200,000 desks currently participating under the County of Riverside Enterprise Agreement Number 01E69633.

Section 2. e. of the Enterprise agreement is hereby amended and replaced in its entirety as follows:

**e. Establishing price levels.** Each product is assigned to one of the following pools: applications, systems or servers. An enrolled affiliate shall determine the price level for which it qualifies in each individual product pool. Price levels are established for enterprise products at level D-7.5% and additional products at level D-7.5% for all enrollments unless otherwise specified in an amendment to a specific enrollment.

Product pools from which an enterprise product has been ordered:

Generally, for each product pool from which an enrolled affiliate orders an enterprise product, the price level throughout the initial term of the enrollment for an enterprise product shall be D-7.5% and additional products ordered from the pool will be priced at level D-7.5% for the initial order at the time of enrollment. True-up pricing shall be D-7.5% for enterprise and additional products ordered at the time of enrollment.

When the user CALs are ordered, the price level for any enterprise products or additional products ordered from the server pool is established as follows:

If the user CALs are ordered as part of the Platform, then that price level is set as provided in the general rule.

If the user CALs are ordered in any other way, then that price level will be set based on the enrolled affiliate's initial number of qualified users.

Product pools from which no enterprise product has been ordered: For any product pool from which the enrolled affiliate does not order an enterprise product, the price level for additional products within that pool will be price level "D" throughout the term of the enrollment (including any renewals).

**Renewal price levels.** Generally, price levels for pools from which an enterprise product has been ordered will be level D-7.5% for Enterprise products and level D-7.5% for additional products at the initial order at the time of enrollment. True-up pricing shall be D-7.5% for enterprise and additional products ordered at the time of enrollment.

When renewing with the user CALs, the price level for any enterprise products or additional products ordered from the server pool is established as follows:

If the user CALs are renewed as part of the platform, then that price level is reset as provided in the general rule.

\* If the user CALs are renewed in any other way, then that price level will be the price level which the enrolled affiliate qualifies based on the enrolled affiliate's total number of qualified users, as of the date of the renewal order.

Z. A new section 15. q. is added to the agreement as follows:

*The County of Riverside has required us to provide a 36 month and 60 month enrollment offering per your original RFP and final award. Enrolled affiliates may terminate their enrollments for their convenience without penalty on the third anniversary of their enrollment or at any other time as permitted by California law, subject to proportional licensing as set forth in Section 12. a of the agreement.*

Q. A new section 15. r. is added to the agreement as follows:

*Microsoft purges to local file exchange Online, SharePoint Online, and Lync Online servers (and their directly attached storage) that will be accessed by Customer's users in production and disaster recovery data centers only in the continental United States, provided that the Windows Live ID associated with the administrator account for the online services identified for the applicable Enrollment is associated with an address in the United States.*

This amendment will be attached to signature copy to be valid.

# Enterprise Agreement Amendment

Agreement number  
Microsoft to complete

01E73134

Amendment ID

CTX-

CA-Fsilver-CORIV42

ID Number  
Microsoft to complete

This amendment is entered into between the Customer and Microsoft Affiliate signing, as of the effective date identified below. All terms used but not defined will have the same meanings as in the Microsoft Enterprise Agreement identified above ("the Agreement"). The following terms and conditions amend the terms and conditions of the Agreement identified above with respect to the Customer identified below and its Enrolled Affiliates.

- Section 2. e. of the Enterprise agreement is hereby amended and replaced in its entirety as follows:

- Establishing price levels.** Each product is assigned to one of the following pools: applications, systems or servers. An enrolled affiliate's prices are based on the "price level" for which it qualifies in each individual product pool. *Price levels are established for enterprise products at Level D-7.5% and additional products at level D-7.5% for all enrollments unless otherwise specified in an amendment to a specific enrollment. Premier Service, MCS and Azure products are priced at Level D for the period of the Agreement.*

**Product pools from which an enterprise product has been ordered,**

**Generally,** for each product pool from which an enrolled affiliate orders an enterprise product, the price level throughout the initial term of the enrollment for any enterprise products shall be D-7.5% and additional products ordered from that pool will be priced at level D-7.5% for the period of the Enrollment. *True-up pricing shall be D-7.5% for enterprise and additional products ordered during the enrollment. Service products do not fall within these pools and are priced at level D for the period of the Agreement.*

**When the user CALs are ordered,** the price level for any enterprise products or additional products ordered from the server pool is established as follows:

- If the user CALs are ordered as part of the Platform, then that price level is set as provided in the general rule.
- If the user CALs are ordered in any other way, then that price level will be set based on the enrolled affiliate's initial number of qualified users.


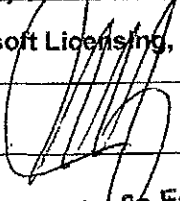
**Product pools from which no enterprise product has been ordered.** For any product pool from which the enrolled affiliate does not order an enterprise product, the price level for additional products within that pool will be price level "D" throughout the term of the enrollment (including any renewals).

**Renewal price levels.** Generally, price levels for pools from which an enterprise product has been ordered will be *level D-7.5% for Enterprise products and level D-7.5% for additional products at the initial order at the time of enrollment. True-up pricing shall be D-7.5% for enterprise and additional products ordered for the period of the enrollment.*

**When renewing with the user CALs,** the price level for any enterprise products or additional products ordered from the server pool is established as follows:

- If the user CALs are renewed as part of the platform, then that price level is reset as provided in the general rule.
- If the user CALs are renewed in any other way, then that price level will be the price level which the enrolled affiliate qualifies based on the enrolled affiliate's total number of qualified users as of the date of the renewal order.

Except for changes made by this amendment, all terms of this agreement remain unchanged. By signing below, the parties agree to be bound by the terms of this amendment.

<b>Customer</b>	<b>Contracting Microsoft Affiliate</b>
Name of Entity *	Microsoft Licensing, GP
County of Riverside	
Signature * 	Signature 
Printed Name * Ines M. Mark	Printed Name Mesfin Felleke
Printed Title * Procurement Contract Specialist	Printed Title Program Manager, Compliance
Signature Date * 04/04/2012	Signature Date (date Microsoft affiliate countersigns) APR 09 2012
	Effective Date (may be different than our signature date) 4/13/2012

\* indicates required field

Please sign this amendment and send to Customer's Reseller or Software Advisor. Customer's Reseller or Software Advisor must submit to the following address. When the amendment is fully signed, Customer will receive a confirming copy.

**Microsoft Licensing, GP**  
 Dept. 551, Volume Licensing  
 6100 Neil Road, Suite 210  
 Reno, Nevada USA 89511-1137

Prepared By: Forrest Silverman



# Enterprise Agreement

# State and Local

Not for Use with Microsoft Business Agreement or Microsoft Business and Services Agreement

## Contents

- 1. **Definitions.** ..... 1
- 2. **How the Enterprise and Enterprise Subscription program works.** ..... 3
- 3. **Licenses for Products.** ..... 3
- 4. **How to know what Product Use Rights apply.** ..... 4
- 5. **Making copies of Products and re-imaging rights.** ..... 5
- 6. **Transferring and reassigning Licenses.** ..... 5
- 7. **Term and termination.** ..... 6
- 8. **Restrictions on use.** ..... 7
- 9. **Open Source Restrictions.** ..... 7
- 10. **Confidentiality.** ..... 8
- 11. **Warranties.** ..... 8
- 12. **Defense of infringement and misappropriation claims.** ..... 9
- 13. **Limitation of liability.** ..... 10
- 14. **Verifying compliance.** ..... 11
- 15. **Miscellaneous.** ..... 11

This Microsoft Enterprise Agreement is entered into between the entities identified on the program signature form.

**Effective date.** The effective date of this agreement is the effective date of the first Enrollment or the date Microsoft accepts this agreement, whichever is earlier. Any reference in this agreement or an Enrollment to "day" will be a calendar day.

This agreement consists of (1) these agreement terms and conditions and the signature form and all attachments identified therein, (2) the Product List, (3) the Product Use Rights applicable to Products licensed under this agreement, (4) any Affiliate Enrollment entered into under this agreement,

**Please note:** Several documents referenced in this agreement but not attached to the signature form may be found at: <http://www.microsoft.com/licensing/contracts> and are incorporated by reference, including the Product List and Product Use Rights. These documents may contain additional terms and conditions for Products licensed under this agreement and may be changed from time to time. Customer and/or its Affiliates should review such documents carefully, both at the time of signing and periodically, to ensure a full understanding of all terms and conditions applicable to Products licensed.

## Terms and Conditions

### 1. Definitions.

"Affiliate" means

- a. with regard to Customer,
  - (i) any government agency, department, office, instrumentality, division, unit or other entity of the state or local government that is supervised by or is part of Customer, or which supervises Customer or of which Customer is a part, or which is under common supervision with Customer;
  - (ii) any county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of

Customer's state and located within Customer's state jurisdiction and geographic boundaries; and

(iii) any other entity in Customer's state expressly authorized by the laws of Customer's state to purchase under state contracts; provided that a state and its Affiliates shall not, for purposes of this definition, be considered to be Affiliates of the federal government and its Affiliates; and

b. with regard to Microsoft, any legal entity that Microsoft owns, that owns Microsoft, or that is under common ownership with Microsoft;

"available" means Microsoft has made Licenses for that Product available on the Product List for ordering under a particular licensing program;

"Customer" means the entity that has entered into this agreement and its Affiliates;

"Customer Data" means all data, including all text, sound, or image files that are provided to Microsoft by, or on behalf of, Enrolled Affiliate through its use of the Online Services.

"Enrolled Affiliate" means an entity, either Customer or any one of Customer's Affiliates, that has entered into an Enrollment under this agreement;

"Enrollment" means the document that an Enrolled Affiliate submits under this agreement to place its initial order;

"Enterprise" means the Enrolled Affiliate and the Affiliates it chooses on its Enrollment to include in its enterprise;

"Fixes" means Product fixes, modifications or enhancements, or their derivatives, that Microsoft either releases generally (such as service packs).

"License" means Enrolled Affiliate's right to use the quantity of a Product ordered. For certain Products, a License may be available on a subscription basis ("Subscription License"). Licenses for Online Services will be considered Subscription Licenses under this agreement;

"L&SA" means a License and Software Assurance for any Product ordered;

"Microsoft" means the Microsoft Affiliate that has entered into this agreement or an Enrollment and its Affiliates, as appropriate;

"Online Service" means the Microsoft-hosted services identified in the Online Services section of the Product List.

"Product" means all software, Online Services and other web-based services, including pre-release or beta versions, identified on the Product List.

"Product List" means the statement published by Microsoft from time to time on the World Wide Web at <http://www.microsoft.com/licensing/contracts> or at a successor site that Microsoft identifies, which identifies the Products that are or may be made available under a program (which availability may vary by region) and any Product-specific conditions or limitations on the acquisition of licenses for, or use of, those Products.

"Product Use Rights" means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at <http://www.microsoft.com/licensing/contracts> or at a successor site.

"Reseller" means a large account Reseller authorized by Microsoft to resell Licenses under this program;

"Service Level Agreement" means the document specifying the standards Microsoft agrees to adhere to and by which it measures the level of service for an Online Service.

"Software Assurance" means an offering that provides new version rights and other benefits for Products as further described in the Product List.



"Trade Secret" means information that is not generally known or readily ascertainable to the public, has economic value as a result, and has been subject to reasonable steps under the circumstances to maintain its secrecy;

"use" or "run" means to copy, install, use, access, display, run or otherwise interact.

## **2. How the Enterprise and Enterprise Subscription program works.**

**The Enterprise and Enterprise Subscription Program.** The Enterprise and Enterprise Subscription programs establish a Customer's overall licensing framework and the applicable terms and conditions. Under the Enterprise program, Customer may license Products by entering into Enrollments. The Enterprise Subscription program offers Customer the same options as the Enterprise Program, but on a subscription basis, with an optional buy-out to obtain perpetual Licenses.

- a. **Enrollments.** The Enterprise program gives Customer and/or its Affiliates the ability to enter into one or more Enrollments to order Products. Subscription Enrollments may be available for some of these Enrollments.
- b. **Licenses.** The types of Licenses available are L&SA, Licenses obtained under Software Assurance and Subscription Licenses. These License types as well as additional License Types are defined in the Product List.
- c. **How Enrolled Affiliates acquire Licenses.** An Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders will be made out to and submitted to the Enrolled Affiliate's Reseller. Microsoft will invoice that Reseller according to the terms in the applicable Enrollment.
- d. **Choosing and maintaining a Reseller.** Each Enrolled Affiliate must choose and maintain a Reseller authorized in the Enrolled Affiliate's location.
- e. **Pricing.**
  - (i) **Establishing Price Levels.** Each Product generally is assigned to a Product pool (e.g., applications, systems, or servers). Each Product pool will be assigned one of four price levels (A, B, C, and D). Enrolled Affiliate's Price Level will be Level D for all Enterprise Products, Enterprise Online Services, Online Services and Additional Products ordered under any Enrollment.
  - (ii) **Placing Orders through Reseller.** Orders under an Enrollment will be made to the Reseller. Microsoft will invoice the Reseller according to the terms in the applicable Enrollment. Throughout this agreement the term "price" refers to reference price. The Reseller and the Enrolled Affiliate will determine the Enrolled Affiliate's actual price and payment terms.
- f. **Order Requirements.** Order Requirements are outlined in each Enrollment.
- g. **Management and Reporting.** Customer and/or Enrolled Affiliate may manage account details (e.g., contacts, orders, Licenses, software downloads) on Microsoft's Volume Licensing Service Center ("VLSC") web site (or successor site) at: <https://www.microsoft.com/licensing/servicecenter>. Upon the effective date of this agreement and any Enrollments, the contact(s) identified for this purpose will be provided access to this site and may authorize additional users and contacts.

## **3. Licenses for Products.**

- a. **General.** Enrolled Affiliate will have the number of Licenses ordered for the latest version of a Product, and may use prior versions as permitted in the Product Use Rights, so long Microsoft receives timely orders from Reseller for all required Licenses for such Products and complies with applicable license terms. The Licenses obtained under an Enrollment are not

related to any order or fulfillment of software media. The ability to use a Product ordered may be affected by minimum hardware or software requirements.

- b. **Use by Affiliates.** The Enrolled Affiliate may sublicense the right to use the Products to any Affiliates covered under its Enrollment, but Affiliate recipient of these Licenses may not sublicense these rights and their use must be consistent with the License terms contained in this agreement.
- c. **When Licenses become perpetual.** The right to run any Product licensed under an Enrollment is temporary unless and until it becomes perpetual as follows:
  - (i) A License is temporary until Enrolled Affiliate's Reseller has paid for a License in full and the applicable initial Enrollment or renewal term during which the License was ordered must have expired or been terminated as permitted in this agreement.
  - (ii) Subscription Licenses are never perpetual. If a buy-out option is available, Enrolled Affiliate may obtain a perpetual License by exercising the buy-out option and paying for the License in full.
  - (iii) Enrolled Affiliate will have perpetual Licenses to use the Products ordered in the latest version available (or any prior version) as of the date of expiration, termination, or renewal.
  - (iv) All perpetual Licenses acquired under this agreement remain subject to the terms of this agreement and such terms survive expiration or termination of this agreement or an Enrollment.
- d. **Perpetual Licenses through Software Assurance.** Perpetual Licenses received through Software Assurance supersede and replace the underlying perpetual Licenses for which Software Assurance coverage was ordered. In the case of Early Termination, the terms in Section 7 titled "Term and Termination will apply."
- e. **License confirmation.** This agreement, the applicable Enrollment, the Enrolled Affiliate's order confirmation, and any documentation evidencing transfers of Licenses, together with proof of payment, will be the Enrolled Affiliate's evidence of all Licenses obtained under its Enrollment.
- f. **Reorganizations, Consolidations, and Privatizations.** If the number of Qualified Devices or Qualified Users covered by an Enrollment changes by more than ten percent as a result of a reorganization, consolidation, or privatization of an Enrolled Affiliate, Microsoft will work with the Enrolled Affiliate in good faith to determine how to accommodate its changed circumstances in the context of this agreement. If an Enrolled Affiliate consolidates with a third party with an existing agreement or enrollment, Microsoft will work with the Enrolled Affiliate in good faith to accommodate its changed circumstances in the context of this agreement.

#### **4. How to know what Product Use Rights apply.**

- a. **Product Use Rights.** The Product Use Rights in effect on the effective date of an Enrollment will apply to Enrolled Affiliate's use of then-current versions of each Product (excluding Online Services). For future versions, the Product Use Rights in effect when those future versions are first released will apply. In both cases, subsequent changes made by Microsoft to the Product Use Rights for a particular version will not apply to Enrolled Affiliate's use of that version, unless Enrolled Affiliate chooses to have such changes apply. The use rights for Online Services and the process for updating them as the Online Services evolve are detailed in the Product Use Rights.
- b. **Product Use Rights for earlier versions (downgrade).** If Enrolled Affiliate runs an earlier version of a Product than the version that was current on the Enrollment effective date, the Product Use Rights for the version licensed, not the version being run, will apply. However, if

the earlier version includes components that are not part of the licensed version, any Product Use Rights specific to those components will apply to Enrolled Affiliate's use of those components.

- c. **Reservation of rights.** All rights not expressly granted are reserved.

## **5. Making copies of Products and re-imaging rights.**

- a. **General.** Enrolled Affiliate may make as many copies of Products, if applicable, as it needs to distribute them within its organization. Copies must be true and complete (including copyright and trademark notices) from master copies obtained from a Microsoft approved fulfillment source. Enrolled Affiliate may use a third party to make these copies, but Enrolled Affiliate agrees it will be responsible for any third party's actions. Enrolled Affiliate agrees to use reasonable efforts to notify its employees, agents, and any other individuals who use the Products that the Products are licensed from Microsoft and subject to the terms of this agreement.
- b. **Copies for training/evaluation and back-up.** For all Products other than Online Services, Enrolled Affiliate may: (1) use up to 20 complimentary copies of any licensed Products in a dedicated training facility on its premises for purposes of training on that particular Product, (2) use up to 10 complimentary copies of any Products for a 60 day evaluation period, and (3) use one complimentary copy of any licensed Product for back-up or archival purposes for each of its distinct geographic locations. Trials for Online Services may be available if specified in the Product Use Rights.
- c. **Right to re-image.** In certain cases, re-imaging is permitted using the Product media. If the Microsoft Product is licensed (1) from an original equipment manufacturer (OEM), (2) as a full packaged Product through a retail source, or (3) under another Microsoft program, then media provided under this agreement may generally be used to create images for use in place of copies provided through that separate source. This right is conditional upon the following:
  - (i) Separate Licenses must be owned from the source for each Product that is re-imaged.
  - (ii) The Product, language, version, and components of the copies made must be identical to the Product, language, version, and all components of the copies they replace and the number of copies or instances of the re-imaged Product permitted remains the same.
  - (iii) Except for copies of an operating system and copies of Products licensed under another Microsoft program, the Product type (e.g., upgrade or full License) must be identical to the Product type from the separate source.
  - (iv) Enrolled Affiliate must adhere to any Product-specific processes or requirements for re-imaging identified in the Product List.
  - (v) Re-images made under this subsection remain subject to the terms and use rights provided with the License from the separate source.
  - (vi) This subsection does not create or extend any warranty or support obligation.

## **6. Transferring and reassigning Licenses.**

- a. **License Transfers.** License transfers are not permitted, except as explicitly set forth in the Perpetual License Transfer Form. The resale of Licenses is prohibited, including any transfer by a Customer or its Affiliate(s) for the purpose of transferring those Licenses to an unaffiliated third party.
- b. **Internal Assignment of Licenses and Software Assurance.** Licenses and Software Assurance must be assigned to a single user or device within the Enterprise. Licenses may be reassigned within the Enterprise as described in the Product Use Rights.

## 7. **Term and termination.**

- a. **Term.** The term of this agreement will be 36 months from the Effective date unless terminated by either party as described below. Each Enrollment will have the term provided in that Enrollment.
- b. **Termination without cause.** Either party may terminate this agreement, without cause, upon 60 days written notice. Such termination will merely terminate either party's and its Affiliates' ability to enter into new Enrollments under this agreement. Such termination will not affect any Enrollment or order not otherwise terminated, and any terms of this agreement applicable to any Enrollment or order not otherwise terminated will continue in effect with respect to that Enrollment or order. An Enrolled Affiliate may terminate an Enrollment without liability, penalty or further obligation to make payments if funds to make payments under the Enrollment are not appropriated or allocated for such purpose.
- c. **Termination for cause.** Either party to an Enrollment may terminate it if the other party materially breaches its obligations under this agreement, including any obligation to submit orders or pay invoices (even if such non-payment is caused by non-appropriation of funds). Except where the breach is by its nature not curable within 30 days, the terminating party must give the other party 30 days notice and opportunity to cure.

If Microsoft gives such notice to an Enrolled Affiliate, Microsoft will give Customer a copy of that notice as well and Customer agrees to assist in attempting to resolve the breach. If the breach also affects other Enrollments and cannot be resolved between Microsoft and Customer within a reasonable period of time, Microsoft may also terminate this agreement and all other Enrollments under it, unless the basis for termination of the Enrollment is non-appropriation of funds to the Enrolled Affiliate, in which event Microsoft may only terminate the affected Enrollment(s). If an Enrolled Affiliate ceases to be Customer's Affiliate, Customer must promptly notify Microsoft, and Microsoft may terminate its Enrollment.

- d. **Early termination.** If (1) an Enrolled Affiliate terminates its Enrollment as a result of a breach by Microsoft, or (2) if Microsoft terminates an Enrollment because the Enrolled Affiliate has ceased to be an Affiliate of Customer, or (3) Enrolled Affiliate terminates an Enrollment for non-appropriation of funds, or (4) Microsoft terminate an Enrollment for non-payment due to non-appropriation of funds, then the Enrolled Affiliate will have the following options:
  - (i) It may immediately pay the total remaining amount due, including all installments, in which case, the Enrolled Affiliate will have perpetual rights for all Licenses it has ordered; or
  - (ii) It may pay only amounts due as of the termination date, in which case the Enrolled Affiliate will have perpetual Licenses for:
    - 1) all copies of Products (including the latest version of Products ordered under SA coverage in the current term) for which payment has been made in full, and
    - 2) the number of copies of Products it has ordered (including the latest version of Products ordered under Software Assurance coverage in current term) that is proportional to the total of installment payments paid versus total amounts due (paid and payable) if the early termination had not occurred.
  - (iii) In the case of Early Termination under Subscription Enrollments, Enrolled Affiliate will have the following options:
    - 1) For eligible products Enrolled Affiliate may obtain perpetual Licenses as described in the section titled "Buy-out option," provided that Microsoft receives the buy-out order for those Licenses within 60 days after Enrolled Affiliate provides notice of termination.

- 2) Where not exercising buy-out option, in the event of breach by Microsoft, Microsoft will issue Reseller a credit for any amount paid in advance that would apply after the date of termination.

Nothing in this section shall affect perpetual License rights acquired either in a separate agreement or in a prior term of the terminated Enrollment.

- e. **Effect of termination or expiration.** When an Enrollment expires or is terminated,
  - (i) Enrolled Affiliate must order Licenses for all copies of Products it has run for which it has not previously submitted an order. Any and all unpaid payments or any order of any kind, including subscription services, remain due and payable. Except as provided in the subsection titled "Early termination," all unpaid payments for Licenses immediately become due and payable.
  - (ii) Enrolled Affiliate's right to Software Assurance benefits under this agreement ends if it does not renew Software Assurance.
- f. **Modification or termination of an Online Service for regulatory reasons.** Microsoft may modify or terminate an Online Service where there is any current or future government requirement or obligation that: (1) subjects Microsoft to any regulation or requirement not generally applicable to businesses operating there; (2) presents a hardship for Microsoft to continue operating the Online Service without modification; and/or (3) causes Microsoft to believe these terms or the Online Service may be in conflict with any such requirement or obligation. For example, Microsoft may modify or terminate an Online Service in connection with a government requirement that would cause Microsoft to be regulated as a telecommunications provider.
- g. **Program updates.** Microsoft may make a change to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments.

## 8. **Restrictions on use.**

**Restrictions on use.** Enrolled Affiliate must not:

- a. separate and use the components of a Product on two or more computers, upgrade or downgrade components at different times, or transfer components separately, except as provided in the Product Use Rights;
- b. reverse engineer, decompile or disassemble any Product or Fix, except where applicable law permits it despite this limitation; or
- c. distribute, sublicense, rent, lease, lend, or host any Product or Fix except as permitted in the Product Use Rights or in a separate written agreement.

## 9. **Open Source Restrictions.**

Certain third party license terms require that computer code be generally (1) disclosed in source code form to third parties; (2) licensed to third parties for the purpose of making derivative works; or (3) redistributable to third parties at no charge (collectively, "Open Source License Terms"). Neither party may use, incorporate, modify, distribute, provide access to, or combine the computer code of the other with any other computer code or intellectual property (collectively, "Provide") in a manner that would subject the other's computer code to Open Source License Terms. Microsoft is not responsible for Customer's upload, use or distribution of Customer's code from the Online Services. Customer may upload code to an Online Service and allow third parties access to use or download Customer's code on the Online Service, provided that (1) such use is not restricted by a Supplemental Agreement or the Product Use Rights and (2) any Open Source License Terms apply solely to Customer and their uploaded code, and not to any code or Products provided by Microsoft. Each party warrants that it will not provide

the other party with, or give third parties access through the Online Services to, computer code that is governed by Open Source License Terms, except as described above.

## **10. Confidentiality.**

To the extent permitted by applicable law, the terms and conditions of this agreement are confidential. Neither party will disclose such terms and conditions, or the substance of any discussions that led to them, to any third party other than Affiliates or agents, or to designated or prospective resellers who: (1) have a need to know such information in order to assist in carrying out this agreement; and (2) have been instructed that all such information is to be handled in strict confidence.

## **11. Warranties.**

a. **Limited warranty.** Microsoft warrants that:

- (i) Online Services will perform in accordance with the applicable Service Level Agreement;
- (ii) Products other than Online Services will perform substantially as described in the applicable Microsoft user documentation; and

b. **Limited warranty term.** The limited warranty for:

- (i) Online Services is for the duration of Enrolled Affiliate's use of the Online Service, subject to the notice requirements in the applicable Service Level Agreement;
- (ii) Products other than Online Services is one year from the date Enrolled Affiliate first uses the Product; and

c. **Limited warranty exclusions.** This limited warranty is subject to the following limitations:

- (i) any implied warranties, guarantees or conditions not able to be disclaimed as a matter of law last for one year from the start of the limited warranty;
- (ii) the limited warranty does not cover problems caused by accident, abuse or use in a manner inconsistent with this agreement or the Product Use Rights, or resulting from events beyond Microsoft's reasonable control;
- (iii) the limited warranty does not apply to components of Products that Enrolled Affiliate is permitted to redistribute;
- (iv) the limited warranty does not apply to free, trial, pre-release, or beta products; and
- (v) the limited warranty does not apply to problems caused by the failure to meet minimum system requirements.

d. **Remedies for breach of limited warranty.** If Microsoft fails to meet any of the above limited warranties and Enrolled Affiliate notifies Microsoft within the warranty period, then Microsoft will:

- (i) for Online Services, provide the remedies identified in the Service Level Agreement for the affected Online Service;
- (ii) for Products other than Online Services, at its option either (1) return the price paid or (2) repair or replace the Product; and

These are Enrolled Affiliate's only remedies for breach of the limited warranty, unless other remedies are required to be provided under applicable law.

e. **DISCLAIMER OF OTHER WARRANTIES. OTHER THAN THIS LIMITED WARRANTY, MICROSOFT PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS. MICROSOFT DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE OR NON-**

INFRINGEMENT. THESE DISCLAIMERS WILL APPLY UNLESS APPLICABLE LAW DOES NOT PERMIT THEM.

## 12. *Defense of infringement and misappropriation claims.*

- a. **Microsoft's agreement to protect.** Microsoft will defend Enrolled Affiliate against any claims made by an unaffiliated third party that any Product or Fix that is made available by Microsoft for a fee infringes that party's patent, copyright, or trademark or makes intentional unlawful use of its Trade Secret. Microsoft will also pay the amount of any resulting adverse final judgment (or settlement to which Microsoft consents). This section provides Enrolled Affiliate's exclusive remedy for these claims.
- b. **Limitations on defense obligation.** Microsoft's obligations will not apply to the extent that the claim or award is based on:
- (i) Customer Data, code, or materials provided by Enrolled Affiliate as part of an Online Service;
  - (ii) Enrolled Affiliate's use of the Product or Fix after Microsoft notifies it to discontinue that use due to a third party claim;
  - (iii) Enrolled Affiliate's combination of the Product or Fix with a non-Microsoft product, data or business process;
  - (iv) damages attributable to the value of the use of a non-Microsoft product, data or business process;
  - (v) modifications that Enrolled Affiliate makes to the Product or Fix;
  - (vi) Enrolled Affiliate's redistribution of the Product or Fix to, or its use for the benefit of, any unaffiliated third party, except as expressly permitted by the Product Use Rights;
  - (vii) Enrolled Affiliate's use of Microsoft's trademark(s) without express written consent to do so; or
  - (viii) any Trade Secret claim, where Enrolled Affiliate acquires the Trade Secret (1) through improper means; (2) under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (3) from a person (other than Microsoft or its Affiliates) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the Trade Secret.

Enrolled Affiliate will be responsible for any costs or damages that result from any of these actions.

### c. **Specific rights and remedies in case of infringement.**

- (i) **Microsoft's rights in addressing possible infringement.** If Microsoft receives information concerning an infringement claim related to a Product or Fix, Microsoft may, at its expense and without obligation to do so, either:
- 1) procure for Enrolled Affiliate the right to continue to use the allegedly infringing Product or Fix; or
  - 2) modify the Product or Fix, or replace it with a functional equivalent, to make it non-infringing, in which case Enrolled Affiliate will immediately cease use of the allegedly infringing Product or Fix after receiving notice from Microsoft.
- (ii) **Enrolled Affiliate's specific remedy in case of injunction.** If, as a result of an infringement claim, Enrolled Affiliate's use of a Product or Fix that is made available by Microsoft for a fee is enjoined by a court of competent jurisdiction, Microsoft will, at its option:
- 1) procure the right to continue its use;

- 2) replace it with a functional equivalent;
  - 3) modify it to make it non-infringing; or
  - 4) refund the amount paid (or, for Online Services, refund any amounts paid in advance for unused Online Services) and terminate the license or right to access the infringing Product or Fix.
- d. **Enrolled Affiliate's Responsibility.** Enrolled Affiliate will be responsible for any costs or damages arising from any claims made by an unaffiliated third party that:
- (i) any Customer Data or non-Microsoft software Microsoft hosts on Enrolled Affiliate's behalf infringes the third party's patent, copyright, or trademark or makes intentional unlawful use of its Trade Secret; or
  - (ii) arise from Enrolled Affiliate's or its end user's violation of the Product Use Rights or these Additional Use Right and Restrictions.

Enrolled Affiliate must pay the amount of any resulting adverse final judgment (or settlement to which Enrolled Affiliate consents).

- e. **Obligations of protected party.** Enrolled Affiliate must notify Microsoft promptly in writing of a claim subject to the subsection titled "Microsoft's agreement to protect" and Microsoft must notify Enrolled Affiliate promptly in writing of a claim subject to the subsection titled "Enrolled Affiliate's Responsibility." To the extent permitted by applicable law, where Enrolled Affiliate y invokes its right to protection it must (1) give Microsoft sole control over the defense or settlement; and (2) provide reasonable assistance in defending the claim. Microsoft will reimburse Enrolled Affiliate for reasonable out of pocket expenses that it incurs in providing assistance.

### 13. **Limitation of liability.**

- a. **Limitation on liability.** To the extent permitted by applicable law, the liability of Microsoft and Enrolled Affiliate, their respective Affiliates and contractors arising under this agreement is limited to direct damages up to (1) for Products other than Online Services, the amount Enrolled Affiliate was required to pay for the Product giving rise to that liability and (2) for Online Services, the amount Enrolled Affiliate was required to pay for the Online Service giving rise to that liability during the prior 12 months. In the case of Products provided free of charge, or code that Enrolled Affiliate is authorized to redistribute to third parties without separate payment to Microsoft, Microsoft's liability is limited to U.S. \$5,000. These limitations apply regardless of whether the liability is based on breach of contract, tort (including negligence), strict liability, breach of warranties, or any other legal theory. However, these monetary limitations will not apply to:
- (i) Microsoft's and Enrolled Affiliate's obligations under the section titled "Defense of infringement, misappropriation, and third party claims";
  - (ii) liability for damages caused by either party's gross negligence or willful misconduct, or that of its employees or its agents, and awarded by a court of final adjudication (provided that, in jurisdictions that do not recognize a legal distinction between "gross negligence" and "negligence," "gross negligence" as used in this subsection shall mean "recklessness");
  - (iii) liabilities arising out of any breach by either party of its obligations under the section entitled "Confidentiality", except that Microsoft's liability arising out of or in relation to Customer Data shall in all cases be limited to the amount Enrolled Affiliate paid for the Online Service giving rise to that liability during the prior 12 months;
  - (iv) liability for personal injury or death caused by either party's negligence, or that of its employees or agents, or for fraudulent misrepresentation; and



- (v) violation by either party of the other party's intellectual property rights.
- b. **EXCLUSION OF CERTAIN DAMAGES.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES, OR CONTRACTORS, WILL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, OR INCIDENTAL DAMAGES, OR DAMAGES FOR LOST PROFITS, REVENUES, BUSINESS INTERRUPTION, OR LOSS OF BUSINESS INFORMATION ARISING IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. HOWEVER, THIS EXCLUSION DOES NOT APPLY TO EITHER PARTY'S LIABILITY TO THE OTHER FOR VIOLATION OF ITS CONFIDENTIALITY OBLIGATIONS (EXCEPT TO THE EXTENT THAT SUCH VIOLATION RELATES TO CUSTOMER DATA), THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR THE PARTIES' RESPECTIVE OBLIGATIONS IN THE SECTION TITLED "DEFENSE OF INFRINGEMENT, MISAPPROPRIATION, AND THIRD PARTY CLAIMS."
- c. **Affiliates and Contractors.** Neither Microsoft nor Enrolled Affiliate shall bring any action against the other's Affiliates or contractors in respect of any matter disclaimed on their behalf in this agreement.

#### **14. Verifying compliance.**

- a. **Right to verify compliance.** Enrolled Affiliate must keep records relating to the Products it and its Affiliates use or distribute. Microsoft has the right, to the extent permitted by applicable law, to verify compliance with the license terms for Products, at Microsoft's expense.
- b. **Verification process and limitations.** To verify compliance, Microsoft will engage an independent auditor, which will be subject to a confidentiality obligation. Verification will take place upon not fewer than 30 days notice, during normal business hours and in a manner that does not interfere unreasonably with Enrolled Affiliate's operations. Enrolled Affiliate must promptly provide the independent auditor with any information it reasonably requests in furtherance of the verification, including access to systems running the Products and evidence of Licenses for Products Enrolled Affiliate hosts, sublicenses, or distributes to third parties. As an alternative, Microsoft can require Enrolled Affiliate to complete Microsoft's self-audit questionnaire relating to the Products Enrolled Affiliate and any of Affiliates use or distribute, but reserve the right to use a verification process as set out above.

If Microsoft undertakes verification and does not find material unlicensed use (License shortage of 5% or more per Product), Microsoft will not undertake another verification of the same entity for at least one year. Microsoft and the independent auditors will use the information obtained in compliance verification only to enforce Microsoft's rights and to determine whether Enrolled Affiliate are in compliance with the license terms for the Products. By invoking the rights and procedures described above, Microsoft does not waive its rights to enforce the agreement or to protect Microsoft's intellectual property by any other means permitted by law.

- c. **Remedies for non-compliance.** If verification or self-audit reveals any unlicensed use, Enrolled Affiliate must promptly direct its Reseller to order sufficient Licenses to cover such use. If material unlicensed use is found, Enrolled Affiliate must reimburse Microsoft for the costs Microsoft has incurred in verification and acquire the necessary additional Licenses at single retail license cost within 30 days.

#### **15. Miscellaneous.**

- a. **Notices to Microsoft.** Notices, authorizations, and requests in connection with this agreement must be sent by regular or overnight mail, express courier, or fax to the addresses

and numbers listed on the signature form and in this agreement. Notices will be treated as delivered on the date shown on the return receipt or on the courier or fax confirmation of delivery.

**Copies should be sent to:**

Microsoft Corporation  
Legal and Corporate Affairs  
Volume Licensing Group  
One Microsoft Way  
Redmond, WA 98052  
USA  
  
Via Facsimile: (425) 936-7329

Microsoft may provide information about upcoming Enrollment deadlines and Online Services in electronic form. Such information may be provided by email to contacts provided by Enrolled Affiliate under an Enrollment, or through a web site Microsoft identifies. Notice by email is given as of the transmission date.

- b. **Assignment.** Either party may assign this agreement to an Affiliate only. Assignment will not relieve the assigning party of its obligations under the assigned agreement. If either party assigns this agreement, it must notify the other party of the assignment in writing.
- c. **Severability.** If a court holds any provision of this agreement to be illegal, invalid or unenforceable, the rest of the document will remain in effect and this agreement will be amended to give effect to the eliminated provision to the maximum extent possible.
- d. **Waiver.** A waiver of any breach of this agreement is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of the waiving party.
- e. **Applicable law; Dispute resolution.** The terms of this agreement will be governed by the laws of Enrolled Affiliate's state, without giving effect to its conflict of laws. Disputes relating to this agreement will be subject to applicable dispute resolution laws of Enrolled Affiliate's state.
- f. **This agreement is not exclusive.** Customer is free to enter into agreements to license, use or promote non-Microsoft software.
- g. **Entire agreement.** This agreement, the Product List, all Enrollments under this agreement, and the Product Use Rights constitute the entire agreement concerning the subject matter and supersede any prior or contemporaneous communications. In the case of a conflict between any documents referenced in this agreement that is not expressly resolved in the documents, their terms will control in the following order: (1) these terms and conditions and the accompanying signature form; (2) an Enrollment; (3) the Product List; (4) the Product Use Rights; (5) any other documents; and (6) all orders submitted under this agreement.
- h. **Survival.** Provisions regarding ownership and license rights, fees, Product Use Rights, restrictions on use, evidence of perpetual licenses, transfer of licenses, warranties, defense of infringement and misappropriation claims, Microsoft's and Customer's obligations to protect each other, limitations of liability, confidentiality, compliance verification, obligations on termination or expiration and the other provisions in this section entitled "Miscellaneous" will survive termination or expiration of this agreement and of any agreement in which they are incorporated.
- i. **No transfer of ownership.** Microsoft does not transfer any ownership rights in any licensed Product.
- j. **Free Products.** It is Microsoft's intent that the terms of this agreement and the Product Use Rights be in compliance with all applicable federal law and regulations. Any free Product

provided to Enrolled Affiliate is for the sole use and benefit of the Enrolled Affiliate, and is not provided for use by or personal benefit of any specific government employee.

- k. **Amending the agreement.** This agreement (except the Product List and the Product Use Rights) can be changed only by an amendment signed by both parties.
- l. **Resellers and other third parties cannot bind Microsoft.** Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.
- m. **Privacy.** Microsoft and Customer will comply with all applicable privacy and data protection laws and regulations. Customer may choose to provide personal information to Microsoft on behalf of third parties (including, Customer's contacts, resellers, distributors, and administrators) as part of this agreement. Customer represents and warrants that it has and will comply with any applicable laws to provide notices to or obtain permissions from any such individuals to allow sharing of their personal information with Microsoft for the purpose of allowing Microsoft or its agents to facilitate Customer's agreements and related services.

Customer consents to Microsoft's use of the contact information provided by Customer for purposes of administering its agreements, the business relationship and related services and with Microsoft's sharing of Customer's information with Customer's designated representatives, resellers, distributors, and administrators for such purposes, including allowing such individuals to update Customer's contact information on Customer's behalf. The personal information Customer provides in connection with this agreement will be used and protected according to the privacy statement available at <https://www.microsoft.com/licensing/servicecenter> to the maximum extent permitted by applicable law. Product-specific privacy commitments are described in the Product Use Rights.

- n. **Natural disaster.** In the event of a "natural disaster," Microsoft may provide additional assistance or rights by posting them on <http://www.microsoft.com> at such time.
- o. **Copyright violation.** Except as set forth in the section above entitled "Transferring and reassigning Licenses", the Enrolled Affiliate agrees to pay for, and comply with the terms of this agreement and the Product Use Rights, for the Products it uses. Except to the extent Enrolled Affiliate is licensed under this agreement, it will be responsible for its breach of this contract and violation of Microsoft's copyright in the Products, including payment of License fees specified in this agreement for unlicensed use.
- p. **U.S. export jurisdiction.** Products and Fixes are subject to U.S. export jurisdiction. Customer will comply with all U.S. Export Administration Regulations and International Traffic in Arms Regulation requirements as well as all end-user, end-use, and destination restrictions issued by the U.S. and other governments applicable to this agreement. For additional information, see <http://www.microsoft.com/exporting>

RESOLUTION \_\_\_\_\_

AUTHORIZING A FIVE YEAR AGREEMENT WITH MICROSOFT FOR SOFTWARE UPDATES TO DESKTOP COMPUTERS AND SERVERS AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The City budgeted \$57,000 to purchase Microsoft licenses for software updates to desktop computers and servers, and

WHEREAS, Microsoft offers a program to municipalities where an annual fee can be paid and Microsoft will provide the most recent version of the software to the City, and

WHEREAS, The County of Riverside has negotiated a competitive price for the annual software licensing program and this agreement may be used by any city wishing to procure the Microsoft licenses, and

WHEREAS, Tracy Municipal Code section 2.20.220 permits the City to use a competitive program already negotiated or bid by another public agency, and

WHEREAS, The annual cost of the Microsoft licensing program for the City of Tracy is \$56,550.05 each year of the five year program, and

WHEREAS, The City will use the operating budget for this program, and

WHEREAS, Software licensing is expensed to fund 602 (Central Services), an internal services fund and is re-expensed out to all funds making use of the services;

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes a five year agreement with Microsoft to supply software for City computers and servers and authorizes the Mayor to execute the agreement.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST

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

AGENDA ITEM 1.L

REQUEST

**AUTHORIZE A CONTRACT WITH SUPERIOR AUTO PARTS (MONUMENT CAR PARTS) FOR VEHICLE AND EQUIPMENT PARTS, AUTHORIZE THE CITY MANAGER TO EXECUTE SUBSEQUENT CONTRACT EXTENSIONS, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT**

EXECUTIVE SUMMARY

This item requests authorization of a Contract with Superior Auto Parts (Monument Car Parts) to provide and deliver vehicle and equipment parts for the City of Tracy. The Contract is for three years with the option to extend the Contract for two additional one-year terms.

DISCUSSION

The Public Works Department is responsible for the repairs and maintenance of approximately 235 City vehicles and 114 pieces of equipment. These items require regular service maintenance to maintain, and at time extend, their lifecycle and overall performance.

This Contract will provide discounted parts to the City's Central Garage for repairs and maintenance on City owned vehicles and equipment. The Contract is for three years, from August 1, 2015 through July 31, 2018, with the option to extend the Contract for two additional one-year terms.

As part of the Request for Bids, the bidders were required to complete a cost sheet specifying the discount percentage the City would receive below Jobber's Cost. Jobber's Cost is 40% below list price. The Public Works Department received two bids to provide vehicle and equipment parts. The bid submitted by O'Reilly Auto Parts was not responsive. The bid submitted by Superior Auto Parts (Monument Car Parts) provides the City with the lowest overall cost for vehicle and equipment parts needed for repairs and maintenance by offering a 10% to 25% discount below Jobber's Cost. The City has previously used the services of Superior Auto Parts (Monument Car Parts) for the past five years and recommends Superior Auto Parts (Monument Car Parts) be awarded the vehicle and equipment parts Contract.

STRATEGIC PLAN

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

FISCAL IMPACT

For Fiscal Year 2015-2016, there is approximately \$76,500 budgeted for parts to services City vehicles and equipment.

RECOMMENDATION

That the City Council, by resolution, authorize a Contract with Superior Auto Parts (Monument Car Parts) for vehicle and equipment parts, authorize the City Manager to execute subsequent Contract extensions, and authorize the Mayor to execute the Contract.

Prepared by: Connie Vieira, Management Analyst I  
Robert Gravelle, Public Works Superintendent

Reviewed by: David Ferguson, Public Works Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment A: Contract

CITY OF TRACY AND SUPERIOR AUTO PARTS (MONUMENT CAR PARTS) FOR  
VEHICLE AND EQUIPMENT PARTS PURCHASE

CITY OF TRACY, A MUNICIPAL CORPORATION  
OF SAN JOAQUIN COUNTY, CALIFORNIA

\* \* \* \* \*

This Contract ("Contract") is entered into between the City of Tracy, a municipal corporation ("City"), and Superior Auto Parts/Monument Car Parts ("Vendor").

**RECITALS**

- A. On June 22, 2015, City issued a Request for Bids for Vehicle and Equipment Parts (hereinafter "Project").
- B. On July 2, 2015, the Vendor submitted its bid for the Project to the City.
- C. The Vendor provided a responsible bid for the performance of services in accordance with the terms set forth in this Contract.

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

1. CONTRACT PERIOD:

The contract will cover the City's requirements for vehicle and equipment parts purchased for the period of August 1, 2015 through July 31, 2018, with the option to extend the Contract for two additional one-year extensions. Prices will not be increased without two weeks prior notice to the City, and only if due to verified industry fluctuations.

2. WARRANTY:

The warranty will guarantee the material and workmanship, and that the parts are properly designed and constructed to perform as intended. All materials, labor, assemblies and components will be subject to the warranty conditions and terms, unless specifically exempted in writing and agreed to by the City of Tracy.

3. SAFETY/REGISTRATION:

The parts must comply with all requirements of the State of California - Division of Industrial Safety, OSHA, and all other regulatory agencies affecting the final use of the parts.

4. DELIVERY:

All parts will be delivered to the City of Tracy, Boyd Service Center, Central Garage located at 520 Tracy Boulevard, Tracy, California 95376. Order deliveries will be guaranteed for within 30 minutes of order placement of in-stock items.

5. INSPECTION AND ACCEPTANCE:

Upon delivery of the parts to the City of Tracy, an authorized representative of the Public Works Department will make the final inspection and acceptance. If upon initial inspection or during the warranty term the parts are found to be defective in their construction or deficient in any of the requirements of these specifications, the Contractor must remedy or remove and replace the parts in an acceptable manner and no compensation will be allowed for such correction for either material, labor, or transportation of material and/or repairmen.

8. SPECIFICATIONS:

All parts must be at minimum, original equipment manufacturers (OEM) standard.

7. COSTS

Costs for parts listed in this Contract are valid for the term of the Contract and any subsequent extensions of the Contract. All costs include delivery.

8. SIGNATURES

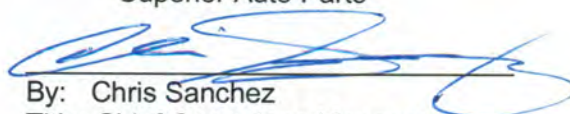
The individuals executing this Contract represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Contract on behalf of the respective legal entities of Vendor and City. This Contract will inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

City of Tracy

Superior Auto Parts

By: Michael Maciel  
Title: Mayor

  
By: Chris Sanchez  
Title: Chief Operations Manager

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

Date: 7/9/15  
Fed. Employer ID No. 94-1714516

Attest:

By: Nora Pimentel  
Title: City Clerk

  
By: Tina Garcia  
Title: Chief Financial Officer

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

Date: 7/9/15

Approved As To Form:

By: Daniel G. Sodergren  
Title: City Attorney

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



# City of Tracy

## Vehicle and Equipment Parts Costs

Item Number	Description	% Discount Below Jobber's Cost
1	Air Conditioning	20%
2	Alternators/Starters	20%
3	Batteries - Deka Brand	20%
4	Bearings, Ball, Roller, and Seals	20%
5	Belts and Hoses - Gates Brand	15%
6	Brakes - Wagner Brand	25%
7	Electrical and Ignition	20%
8	Emissions and Exhaust	20%
9	Engine and Drive Train	15%
10	Filters - Oil, Gas, Air, and Transmission - Wix Brand	20% - 25%
11	Gaskets and Seals	10%
12	Heating and Cooling (Engine)	15%
13	Lamps, Lighting, and Mirrors	25%
14	Oil, Lubricants Regular & Synthetic	10%
15	Pumps - Fuel and Water - Gates Brand	15%
16	Power Window/Lock Motors and Regulators	20%
17	Suspension, Shocks, and Steering	15%
18	Wipers and Washers	25%
19	Winter Accessories	10%
20	All other	10%

RESOLUTION \_\_\_\_\_

AUTHORIZING A CONTRACT WITH SUPERIOR AUTO PARTS (MONUMENT CAR PARTS) FOR VEHICLE AND EQUIPMENT PARTS, AUTHORIZING THE CITY MANAGER TO EXECUTE SUBSEQUENT CONTRACT EXTENSIONS, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT

WHEREAS, on June 22, 2015, staff issued a Request for Bids for vehicle and equipment parts and reviewed both bids received, and

WHEREAS, staff has drafted a Contract with Superior Auto Parts (Monument Car Parts) to perform the services necessary to carry out terms outlined in the Contract, and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The City Council approves a three year Contract with Superior Auto Parts (Monument Car Parts) for providing and delivering vehicle and equipment parts; and
2. The City Council authorizes the Mayor to execute the Contract; and
3. The City Council authorizes the City Manager to execute future Contract extensions for up to two additional one-year terms.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.M

REQUEST

**AUTHORIZE A PROFESSIONAL SERVICES AGREEMENT WITH WEST COAST ARBORISTS FOR TREE MAINTENANCE SERVICES IN THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AND GENERAL FUND AREAS, AUTHORIZE THE CITY MANAGER TO EXECUTE SUBSEQUENT AGREEMENT EXTENSIONS, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

This item requests authorization of a Professional Services Agreement with West Coast Arborists to provide tree maintenance services in the City's Landscape Maintenance District (LMD) and General Fund areas. The Agreement is for five years with the option to extend the Agreement for three additional one-year terms.

DISCUSSION

The Public Works Department is responsible for the maintenance of approximately 37,000 City street and park trees (Landscape Maintenance District – 27,233; General Fund – 9,789). These trees require trimming to ensure the safe use of streets, sidewalks, and parks, and to maintain their health and attractiveness. Also required is the removal of unsafe, unhealthy or dead trees; or trees found in conflict with utilities or other amenities. In addition, as part of the agreement tree stumps are removed to eliminate trip hazards.

The City has contracted tree trimming services since 2006 to replace the tree trimming work previously performed by City crews. This Agreement will provide contracted tree maintenance within the Landscape Maintenance Districts and General Fund areas throughout the City. The Agreement is for five years, from August 1, 2015 through July 31, 2020, with the option to extend the Agreement for three additional one-year terms.

On June 19, 2015, staff issued a Request for Proposals to provide tree maintenance services in the City's LMD and General Fund areas. The Public Works Department received one proposal. The proposal submitted by West Coast Arborists (WCA) is a responsible bid. The Department negotiated final terms of the Professional Services Agreement with WCA. West Coast Arborists proposal provides the City with contractual tree trimming services within the established budget and delivers the needed services at the greatest benefit to the City. The City has previously used the services of West Coast Arborist and recommends West Coast Arborists, be awarded the tree maintenance Agreement.

Although proposed costs for basic tree maintenance services have increased approximately sixteen percent (e.g. emergency response) to thirty four percent (e.g. tree removal) over the previous contract, this increase was anticipated for two reasons: (1) costs of services had not been increased at all over the entirety of the previous

agreement, and (2) recent directives from the Department of Industrial Relations mandated an increase in the prevailing wage for tree maintenance services. Staff will adjust the tree maintenance service schedule accordingly this fiscal year and will propose future budget augmentations and/or Landscape Maintenance District assessments in order to sustain needed services for the City's urban forest.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

Assessments levied and collected will be used to pay for tree maintenance services within the Landscape Maintenance Districts as needed and money from the General Fund will be used to pay for tree maintenance services within the General Fund areas.

For Fiscal Year 2015-2016, there is approximately \$595,802 budgeted for tree maintenance services: LMD \$352,172 (all zones combined); GF Street Trees \$198,520; GF Parks \$45,110.

#### RECOMMENDATION

That the City Council, by resolution, authorize a Professional Services Agreement with West Coast Arborists to provide tree maintenance services in the City's Landscape Maintenance District (LMD) and General Fund areas, authorize the City Manager to execute subsequent extensions to the Agreement, and authorize the Mayor to execute the Agreement.

Prepared by: Connie Vieira, Management Analyst I  
Don Scholl, Public Works Superintendent

Reviewed by: David Ferguson, Public Works Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment A: Professional Service Agreement

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT  
TREE MAINTENANCE SERVICES**

This Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Coast Arborist, Inc., a California Corporation ("Contractor").

**RECITALS**

- A. June 19, 2015, staff issued a Request for Proposals for Tree Maintenance Services within the City's Landscape Maintenance Districts and General Fund areas and reviewed the proposal received.
- B. On July 7, 2015, Contractor submitted its proposal and staff has negotiated an Agreement with the Contractor to perform the services and tasks necessary to carry out terms outlined in the Agreement.
- C. On July 21, 2015, the City Council authorized the execution of this Agreement, pursuant to Resolution Number 2015-\_\_\_\_\_.

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

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

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT  
TREE MAINTENANCE SERVICES**

**Page 2 of 6**

an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Contractor. Contractor is free to work for other entities while under contract with the City. Contractor is not entitled to City benefits.

- 4. CONFLICTS OF INTEREST.** Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.
- 5. COMPENSATION.**
  - 5.1 General.** For services performed by Contractor under this Agreement, City shall pay Contractor on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Contractor's fee for this Agreement is Not to Exceed \$1,377,000. Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 Invoices.** Contractor shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Contractor based upon the services described on the invoice and approved by the City.
- 6. TERMINATION.** The City may terminate this Agreement by giving 90 days written notice to Contractor. Upon termination, Contractor shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Contractor for this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
- 7. OWNERSHIP OF WORK.** All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's services, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.
- 8. INDEMNIFICATION.** Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT  
TREE MAINTENANCE SERVICES**

Page 3 of 6

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

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

9. **BUSINESS LICENSE.** Before beginning work under this Agreement, Contractor shall obtain a City of Tracy Business License.
  
10. **INSURANCE.**
  - 10.1 **General.** Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.
  - 10.2 **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
  - 10.3 **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
  - 10.4 **Workers' Compensation.** Coverage shall be maintained as required by the State of California.
  - 10.5 **Endorsements.** Contractor shall obtain endorsements to the automobile and commercial general liability with the following provisions:
    - 10.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
    - 10.5.2 For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.
  - 10.6 **Notice of Cancellation.** Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT  
TREE MAINTENANCE SERVICES**

Page 4 of 6

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

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

**12. MISCELLANEOUS.**

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

To City:

Public Works Director  
City of Tracy  
520 Tracy Blvd.  
Tracy, CA 95376

To Contractor:

Victor M. Gonzales  
West Coast Arborist, Inc.  
2200 East Via Burton Street  
Anaheim, CA 92806

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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



**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT  
TREE MAINTENANCE SERVICES**

Page 5 of 6

- 12.2 Modifications.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
- 12.3 Waivers.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
- 12.4 Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.
- 12.5 Jurisdiction and Venue.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
- 12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.
- 12.7 Compliance with the Law.** Contractor shall comply with all local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.
- 12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Contractor's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.
- 12.9 Corporate Status.** Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.
- 13. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Contractor and the City. This Agreement shall inure to the benefit of and be binding upon the

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT  
TREE MAINTENANCE SERVICES**

**Page 6 of 6**

parties hereto and their respective successors and assigns.

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

City of Tracy

West Coast Arborist, Inc.

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

\_\_\_\_\_  
By: Patrick Mahoney  
Title: President

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

Date: \_\_\_\_\_  
Fed. Employer ID No. 95-3250682

Attest:

\_\_\_\_\_  
By: Nora Pimentel  
Title: City Clerk

\_\_\_\_\_  
By: Richard Mahoney  
Title: Assistant Financial Secretary

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

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

Approved As To Form:

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

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

Exhibits:

- A: Scope of Services
- B: Schedule of Compensation

Exhibit "A"

**CITY OF TRACY  
TREE MAINTENANCE SERVICES  
SCOPE OF SERVICES**

**I. GENERAL INFORMATION**

The City has approximately 37,000 street and park trees (Landscape Maintenance District – 27,233; General Fund – 9,789) that comprise its Urban Forest.

The purpose of this maintenance Agreement is to provide the City of Tracy with the best possible tree care to maintain the City's Community Forest at a level expected by the City's residents, City Council, City staff, and visitors of the community. The selected firm will work closely with the City's Parks, Sports Fields & Trees Superintendent and/or other City staff to insure the most appropriate care and maintenance of the City's Community Forest with sensitivity to the City of Tracy, its residents and visitors.

The City does not guarantee a specific amount of work and the quantity of work may increase or decrease depending on the annual needs of the Community Forest and/or available budget.

The Contractor will perform tree and other woody plant maintenance, removal and occasional replacement services in accordance with the statement of work described herein and all applicable American National Standards Institute (ANSI) and International Society of Arboriculture (ISA) standards at various sites. The work performed on this Agreement (includes watering, trimming, pruning, planting, removal and replacement of trees and plants) is routine, recurring, and usual, but may require responses to emergencies. The rates included in the Schedule of Compensation is based on applicable California Department of Industrial Relations prevailing wages for each person that will be providing the work.

The Agreement term is from August 1, 2015 through July 31, 2020 with the ability to extend the Agreement for three individual one-year extensions. The Agreement can be terminated by either party for any reason with a minimum of a 90-day notice to either party.

**II. REQUIRED QUALIFICATIONS**

Contractor must hold a valid State California C-27 and a C-61/D49 Contractor's License. Both licenses must be in good standing for the previous seven consecutive years without any official unresolved record of complaints registered or filed with the State Contractor's Licensing Board or California Department of Consumer Affairs.

Contractor must have OSHA certification of aerial equipment to be used throughout the term of this project.

Personnel must be qualified and trained in the tree maintenance industry. This will include the staffing of a manager who is an ISA Certified Arborist and fluent in the English language. At all times during contracted tree maintenance activities, the Contractor will have work crews on site that are represented by an English

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

speaking supervisor or foreman who can receive and carry out instructions given by proper authorities.

The Contractor will be held liable for complying with any lawful instructions from the City, not in conflict with the Agreement, which is delivered to said party or its representatives regarding the work.

Contractor must have staff that includes Certified Crane Operator(s) as recognized by the National Commission for the Certification of Crane Operators (NCCCO).

Contractor will have a Quality Control Plan with an effective and efficient means of identifying and correcting problems throughout the entire scope of operations. Contractor will be required to comply with this quality control throughout the term of the Agreement. Contractor must have a current Safety Manual that meets SB 198 requirements for injury and illness prevention.

**III. PROJECT SPECIFICATIONS**

It must be understood that the Contractor will be required to perform and complete the landscape and/or tree maintenance work in a thorough and professional manner, and to provide labor, tools, equipment, materials, and supplies necessary to complete all the work in a timely manner that will meet the City's requirements. Contractor may be required to perform the following tree maintenance activities at various sites throughout the City:

- Tree pruning
- Tree removal
- Tree planting
- Crew rental
- Emergency response
- Line clearance pruning
- Clearance pruning
- Grid pruning program
- Tree watering
- Small tree care
- Palm trunk skinning
- Root pruning
- Specialty equipment rental
- Arborist services/inspection

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

- Foliar and pesticide treatments
- Data entry
- Webpage development
- Additional work
- Qualifications
- GPS tree inventory
- Online processing of City of Tracy work requests on City designated program – currently Government Outreach
- Online maintenance access\*

\* Online maintenance is defined as Internet access to an Urban Forestry Management tool that includes work order tracking, ability to send work requests including but not limited to pruning, planting, and removal, access to reports for tree inventory, value of the urban forest, job balance and GPS accessibility (if applicable).

**A. ANNUAL PRUNING PROGRAM**

Tree pruning per pre-designed districts, grids, or prune routes on a set cycle to include all trees. Pruning will include structural pruning, crown raising, clearance trimming, and crown cleaning in accordance with the standards set forth by the International Society of Arboriculture Pruning Standards (Best Management Practices), the ANSI A300 Standards, and the City of Tracy Maintenance Standards. Contractor will be required to furnish all supervision, labor, equipment and materials necessary to accomplish the work in accordance with the Agreement. The intent of this Agreement is to have all trees pruned a minimum of one time by the end of the five-year contract period. Special projects that are difficult to access and will require the need for specialty equipment (e.g., 95-foot tower) will fall under Crew Rental rate. Service request removals, pruning, or pruning to reduce and/or pruning to restore will fall under Crew Rental or by applicable diameter at breast height (DBH) as determined by the City.

**B. INSPECTION OF HAZARDOUS CONDITIONS**

All City trees will receive routine maintenance and periodic inspections. The Contractor will have an ISA Certified Arborist on site for a regularly scheduled minimum of eight hours per month. Tree problems that are clearly visible by the inspection, but not considered hazardous, will be reported to the City for direction and/or further evaluation. Also, the crew performing maintenance must properly notify the City of any tree-related problems that are clearly visible. This may be in written form if not considered hazardous or within 24 hours if deemed hazardous. It is the

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

intent to correct problems prior to reaching crisis levels and to correct any immediate hazards before injury or damage to property occurs.

**C. TREE INVENTORY**

The Contractor will provide the City access to a record keeping system consisting of an Internet-based software program that allows the City to maintain information about its tree population, including the description of each tree by species, height, diameter, work history, and tree and planting site location. The tree inventory software program must be an Internet-driven tracking program. The program will have the capability to produce detailed listings of tree and site information, work histories, service requests, summary reports, and pictures of City tree species. The Contractor will provide software support to the City for the entire term of the Agreement.

The Contractor will provide the City with recommendations for tree maintenance, recommended planting locations, and recommended removals. Attributes to be collected by field personnel may include address, street, facility, species, diameter, crown, height, recommended maintenance, overhead utilities, and parkway size and type.

**1. GPS Tree Inventory**

Provide the City with Global Positioning System (GPS) coordinates for all trees in public spaces. This includes, but is not limited to, all publicly owned trees on street rights-of-way, parks, City facilities, and open spaces such as medians, greenscapes, etc. The address information contained in the inventory should be linked directly to a Geographical Information System (GIS) program, such as ArcView. Using a handheld computer and a backpack GPS receiver, the inventory collector will identify the trees by their global coordinates of longitude and latitude. By collecting the data using the GPS system, the City can consolidate the tree data with other various GPS coded programs in the City. At the end of the project, the City will receive a complete listing of all sites inventoried, both in hard copy and on the software, which will enable the user to connect the inventory to the City's GIS program and create various frequency reports.

A GPS tree inventory will be created with a database using the City's standardized addressing system for all parks and open space areas. Contractor will be required to create an ESRI ArcView/ArcGIS compatible "shape file". The inventory must be capable of showing the location of every existing tree site and vacancies on the City's existing GIS base maps (streets, parcels, addresses, right-of-way and hardscape, etc.) The Contractor's tree inventory will be conducted by visiting each tree site or vacant planting site and plot the position. The data will be compatible with the latest version of

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

ArcView. Minimum accuracy will be not more than one meter. Any proposed system must be compatible with, and able to accurately and completely import, all existing City tree inventory data.

**2. Experience**

The Contractor has a minimum of five years experience in collecting tree inventories and developing inventory databases, including an extensive program that simplifies the management of the City's Urban Forest. The program should have specialized reports designed specifically for City representatives' needs. The program should be developed based on the needs of the City and allow the City to modify and structure the program specific to the City's needs. The user-friendly program should allow customers to generate a variety of reports quickly.

**3. Scope of Work**

The project will include field data collection, data entry, access to the computer software, and training of City employees on the use of the system, future technical maintenance and support, and as required, conversion of the existing database. Contractor will manage the entire inventory project. Attributes to be collected by field personnel may include, but are not limited to:

- Tree Number
- City district/grid/LMD zone/parks/R-Areas/residential
- Street
- Location by address
- Location by GIS
- Species by botanical name & common name
- Tree diameter
- Tree height
- Recommended maintenance classification
- Existing overhead utilities
- Parkway size
- Parkway type
- Sidewalk damage

**4. Technical Support and Maintenance**

The Contractor will provide routine maintenance, archive, backup, restore, and disaster recovery procedures as may be requested by the City. The Contractor will provide complete support rapidly with

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

experienced staff available to the City during the hours of 7:00 A.M. to 5:00 P.M. Monday through Friday. The Contractor must be readily available by telephone, e-mail or may respond to the City's location within a timely manner.

**VII. PROJECT SPECIAL PROVISIONS**

This project may consist of tree pruning, traffic clearance pruning, and palm pruning as specified in the Project Special Provisions Contract Documents. All pruning methods must comply with the International Society of Arboriculture Pruning Standards (Best Management Practices), the ANSI A300 Standards, and City of Tracy Maintenance Standards.

**A. DEFINITIONS**

Where "as directed," "as required," "as permitted," "approve," "acceptance," or words of similar import are used, it will be understood that the direction, requirement, permission, approval, or acceptance by the City of Tracy is intended unless otherwise stated. As used herein, "provide" will be understood to mean "provide complete," in total. The word "site" as used hereinafter will be understood to mean the location receiving the service. The use of the word "Contractor" will be held to mean the Contractor and/or any person employed by the firm and working under this Agreement.

**B. WORK QUALITY**

All tree pruning must comply with good arboreal practice for the particular species of trees being trimmed and must be consistent with the Pruning Standards and Best Management Practices as adopted by the International Society of Arboriculture. The Contractor will also meet the requirements of the American National Standards, Z133-1-2006, entitled "Safety Requirements for Arboricultural Operation," published by the American National Standard Institute, Inc., 1430 Broadway, New York, New York 10018.

The City Parks, Sports Fields & Trees Superintendent or designee will determine if the Contractor has met all pruning requirements and payment will not be made for pruning that is not in accordance with the above standards. The Contractor will be deemed in Agreement default, if the Contractor consistently fails to comply with the aforementioned standards.

**C. STANDARDS**

Prior to beginning the work, the Contractor will review with the City Parks, Sports Fields & Trees Superintendent or designee various methods, tools, and work scheduling to be used on the project. Unless otherwise indicated, tree pruning will include, but is not limited to, accepted pruning activities.

Daily tree pruning operations will commence no earlier than 7:00 A.M. and will be completed each day no later than 5:00 P.M.



**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

Limbs one inch in diameter or greater must be precut to prevent splitting. When there is a chance of bark tearing at the crotch, remove large limbs with three cuts. Make the first cut on the underside of the branch, one foot to two feet from the crotch. The undercut should be at least one-third of the diameter. Make the second cut one-inch to three inches further from the crotch than the first. The final cut is made at the crotch in a manner to favor the earliest possible covering of the wound by callus growth. Cuts must not be made so large that they will prevent sap flow. All cut branches three and one-half inches or larger in diameter must be lowered by proper ropes to the ground. Any damage caused by dropping limbs must be repaired within three days at the Contractor's expense and to the satisfaction of the City Parks, Sports Fields & Trees Superintendent or designee. All debris resulting from tree pruning operations must be removed from the work site on a daily basis.

**1. Tool Sanitation**

On all trees, including palms, known or suspected to be diseased, pruning tools and cut surfaces must be disinfected with a ten percent chlorine bleach solution after each cut and between trees where there is danger of transmitting the disease on tools. Fresh solution must be mixed daily.

**2. Annual Tree Pruning**

Tree pruning per pre-designed districts, grids or prune routes on a set cycle is to include all trees. Pruning will include structural pruning, crown raising, and crown cleaning in accordance with the standards set forth by the International Society of Arboriculture Pruning Standards (Best Management Practices) and the ANSI A300 Standards. Special projects that are difficult to access will require the need for specialty equipment (i.e., 95-foot tower) will fall under Crew Rental rate. Service request removals, pruning, or pruning to reduce and/or pruning to restore, will fall under Crew Rental or by applicable diameter at breast height (DBH) as determined by City.

- a. Contractor must comply with Standards of CAL OSHA and the American National Standard Institute, Z133 Safety Requirements.
- b. Contractor will notify the resident a minimum of 24 hours in advance of scheduled pruning and non-emergency removals – preferably 48 hours in advance.
- c. Contractor will provide and post “No Parking” signs 24 hours in advance of the work.

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

- d. Contractor will endeavor to maintain good public relations at all times. The work will be conducted in a manner which will cause the least possible interference and annoyance to the public. Work will be performed by competent employees and supervised by an experienced, English speaking, supervisor in tree maintenance operations. The Contractor will be responsible for advance notification to the residents at each work location of the intended tree operations. The Contractor will be responsible to see that private property and vehicles at work locations are not endangered or damaged during the course of work.
- e. Contractor will exercise precautions as necessary when working adjacent to aerial and subterranean utilities. In the event that aerial utility wires present a hazard to the Contractor's personnel or others near the work site, work is to immediately cease and the appropriate utility company notified. Work will then commence in accordance with instructions from the utility company. In the event that work causes excavation, the City or Contractor will properly mark the location and the Contractor is responsible for appropriate notification of Underground Service Alert (USANorth811).
- f. No hooks, gaffs, spurs or climbers will be used for anything other than removals.
- g. Final pruning cuts will be made without leaving stubs. Cuts will be made in a manner to promote fast callous growth.
- h. When pruning fungus, disease, or fire blight infected limbs or fronds, all pruning tools must be cleaned after each cut with the appropriate solution (e.g. alcohol or bleach).
- i. Topping will not be done unless specifically requested by the City.
- j. The specific techniques employed will be consistent with industry practice for the size and species of tree being trimmed. The goal will be a safe, healthy, clear, balanced and aesthetically pleasing structure for the tree. All dead, broken, damaged, diseased or insect infested limbs must be removed at the trunk or main branch. All cuts will be made sufficiently close, without leaving a stub, to the parent stem so that compartmentalization and callous development can readily start under normal conditions. All limbs two inches or greater will be undercut to prevent splitting. The remaining limbs and

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

branches will not be split or broken at the cut. All crossed or rubbing limbs will be removed unless removal will result in large gaps in the general outline of the tree.

- k. Cut laterals to preserve the natural form of the tree, leaving the head open enough for the branching system to show and permitting the dead material to be easily cleaned out and light to show through the head. Tree foliage will be reduced by at least 15% but no more than 25%.
- l. Trim to remove dead wood or weak, diseased, insect-infested, broken, low, or crossing limbs. Branches with an extremely narrow angle of attachment should normally be removed.
- m. Small limbs, including suckers and waterspouts, will be cut close to the trunk or branch from which they arise.
- n. Heading cuts and/or topping will not be allowed under any circumstances. Heading, rounding over, or stubbing will not be an accepted practice for reducing the size or the framework of any tree.

**3. Pruning for Traffic Clearances**

Tree pruning for traffic clearances must provide clearances of at least 14 feet and no greater than 16 feet above finish grade for moving vehicles within the traveled roadway, for pedestrians on sidewalks in accordance with standards set forth by the International Society of Arboriculture Pruning Standards (Best Management Practices) and the ANSI A300 Standards under "Pruning to Raise." Clearance trims are performed on a grid system or on a street-by-street basis. Clearances for adjacent structures and their connecting utility lines (service drops), will be determined by the City Parks, Sports Fields & Trees Superintendent or designee and conform to the following:

- a. The minimum clearance under trees within the street right-of-way shall be 14 feet over the traveled road, and nine feet over the curb line and the sidewalk side of the tree. When pruning the bottom branches, care will be given to obtain a balanced appearance when viewed from across the street immediately opposite the tree.
- b. Cut to laterals to preserve the natural form of the tree. Remove lateral branches at their point of origin, or shorten the

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

length of a branch by cutting to a lateral, which is large enough to assume leadership.

- c. When cutting back, avoid cutting back to small suckers. Remove smaller limbs and twigs in such a manner as to leave the foliage pattern evenly distributed.

**4. Pruning Palm Trees**

Palm tree pruning will consist of the removal of loose dead fronds, fruit clusters and other vegetation from the trunks of all palms in a manner selected by the Contractor and approved by the City Parks, Sports Fields & Trees Superintendent or designee, and in accordance with the following:

- a. The use of climbing spurs or spike shoes for the purpose of climbing palm trees is prohibited, unless specifically approved by the City Parks, Sports Fields & Trees Superintendent or designee. The Contractor will be required to use an aerial tower with sufficient height to reach the crown for the purpose of pruning City Palm trees.
- b. Palm Skinning (additional service and cost) - Dead fronds, and parts thereof, including stubs, can be removed along the entire length of the trunk of each palm, leaving a clean unsheathed appearance slicked from the ground to approximately 24 inches to 36 inches from the base of the green fronds at the top of the tree. The frond stubs (cut close to trunk) can be left in place within a span of at least 18 inches but no greater than 36 inches.

**5. Service Request Tree Pruning**

Trees that need service prior to their scheduled grid trim for safety, clearance, or aesthetic purposes must be trimmed within two weeks of notification by the City to the Contractor unless City determines the work to be of a more urgent nature. Trees designated for aesthetic trimming will be trimmed, shaped, and thinned. The trimming will provide a symmetrical shape and aesthetically pleasing appearance typical of the species. In addition, trees will be trimmed to provide at least 14 feet and no greater than 16 feet above finish grade for moving vehicles within the traveled roadway and nine feet over walkways. Trees will also be trimmed to remove any obstruction around traffic control devices, traffic signs, and streetlights. Additional trimming will be performed to mitigate any extreme effect of the clearance trimming and provide an aesthetic appearance.

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

The specific techniques employed must be consistent with industry practice for the size, and specific of tree being trimmed. All dead, broken, damaged, diseased, or insect infested limbs must be removed at the trunk or main branch. All cuts will be made sufficiently close, without leaving a stub, to the parent stem so that compartmentalization and callous development can readily start under normal conditions. All limbs two inches or greater must be undercut to prevent splitting. The remaining limbs and branches will not be split or broken at the cut. All crossed or rubbing limbs will be removed unless removal will result in large gaps in the general outline of the tree. All trees will be thinned of smaller limbs when necessary to distribute the foliage evenly.

**6. Tree Removals**

City prepares list of trees to be removed or assigns work requests, marks trees, notifies homeowners, and submits the list or work request to the Contractor. Contractor calls Underground Service Alert (USANorth811) and prepares internal work order. Crew removes tree and hauls all debris. Crew grinds stumps to a depth of 18 inches. All holes will be backfilled with soil, as well as all debris cleaned up and hauled away. Special projects that are difficult to access with equipment, or require the need for a crane or an aerial tower over 75 feet would fall under Crew Rental rates. The City Parks, Sports Fields & Trees Superintendent or designee will make the final determination to remove or provide public noticing for removal at a later date. Removals must be conducted in good workmanlike manner in accordance with the standards of the arboricultural profession.

All wood from removed trees is the property of the City and will be disposed of at the direction of the City Parks, Sports Fields & Trees Superintendent or designee. No wood will be left along public right-of-way unless approved by the City Parks, Sports Fields & Trees Superintendent or designee. All tree parts are to be loaded into transport vehicles or containers. The vehicles or containers must have the front, sides, and rear solid and the top must be tarped, or otherwise tightly enclosed. The transporting of tree parts must be made so that no debris escapes during the transport. Branches, suckers, bark, and other tree parts that are chipped are to be covered while transported and hauled to the disposal site during the workday.

The City and/or Contractor are responsible for marking trees so that they are easily identifiable by Underground Service Alert (USANorth811) and the Contractor. The Contractor will be required to call Underground Service Alert (USANorth811) at least two days

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

before stumps are to be ground out. All tree stumps must be removed to at least 18 inches below the lowest soil level adjacent to the stump, or until deep roots are no longer encountered. The Contractor must grind the stump a minimum distance of one and a half feet around the outer circumference of the stump, or until surface roots are no longer encountered. The Contractor will remove any exposed surface roots over two inches in diameter and backfill with soil as needed to prevent trip hazards.

Stumps should be cut low enough to the ground where routing can be done safely. This may be accomplished by cutting the stump at the time of grinding, or at the time of tree removal, except for infrastructure conflicts. Holes created by stump and root grinding must be filled the same day. All excess routing chips debris will be removed and loaded into transport vehicle for disposal. Any damaged paved surfaces or irrigation systems must be restored to their original condition by the Contractor.

**7. Tree Planting**

Planting includes the tree, stakes, ties, and complete installation and watering for 90 calendar days. The City will supply the planting list to the Contractor on an as needed basis. Contractor will guarantee the quality of the tree stock and the workmanship.

- a. Contractor must provide all equipment, labor, and materials necessary for the planting of trees throughout the City in accordance with the specifications herein.
- b. The City will be responsible for marking locations and the Contractor will notify Underground Service Alert (USANorth811) prior to planting.
- c. Planting pit must be dug twice the width and the same depth of the root ball. The planting pit sides must be scarified. The root ball of the new tree will be loosened as need to prevent encircling roots and facilitate rooting in to the surrounding soil. Before placing the tree in the planting pit, Contractor must examine root ball for injured roots and canopy for broken branches. Damaged roots should be cleanly cut off at a point just in front of the break. Broken branches should be cut out of the canopy making sure that the branch collar is not damaged.
- d. Tree will be placed in the planting pit with its original growing level (the trunk flare) at the same height of the surrounding finish grade. In grass-covered parkways, the top of the root

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

ball must be level or slightly higher than the surrounding soil. In a concrete tree well, the root ball must be three inches below the level of the finished surface of the concrete.

- e. Backfill material should be native soil. Eliminate all air pockets while backfilling the planting pit by watering the soil as it's put into the hole.
- f. Trees must have a four inch to six inch high water retention basin built around the tree capable of holding at least ten gallons of water. In a concrete tree well, soil should be raked against the edge of the concrete to create a sloping basin. Immediately after planting, the tree must be watered thoroughly by filling the water retention basin twice.
- g. All trees must be staked with two wooden lodge poles and two ties per pole. Minimum size of lodge poles will be ten feet long, with a one and a half inch diameter. Tree ties will be placed at one-third and two-thirds of the trunk height. Stakes will not penetrate the root ball and will be driven into the ground approximately 24 inches to 30 inches below grade.
- h. Trunk protectors such as Arbor-Guards or an approved equal must be placed at the base of the trunk of all new trees immediately after planting.
- i. Clean up all trash and any soil or dirt spilled on any paved surface at the end of each working day.
- j. All trees must be of good nursery stock that adheres to the American Standard for Nursery Stock as described in the ANSI Z60.1-1996 Standards. Trees must be free from pests, disease, and structural defects.

**8. Crew Rental**

The standard crew is three workers, one chipper truck, one chipper, one aerial tower, and all necessary hand tools. The crew and equipment can be modified to complete any type of miscellaneous tasks including special projects that may consist of extraordinary work such as hanging flags, changing light bulbs, or trimming specific trees requiring immediate attention prior to their scheduled trim. Trees requiring service prior to their regularly scheduled grid or annual trim to rectify a specific problem such as blocked street lighting or signs, right-of-way clearance for utility lines, or broken limbs, may be performed under the Crew Rental rate.

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

**9. Emergency Response**

The Contractor will be required to provide emergency on-call response for damaged trees as a result of storms or other reasons. Emergency calls may occur at any given time. The Contractor will be provided with locations and the work to be done at each location via telephone from a City authorized representative. The Contractor's crew will do what is necessary to remove/secure the hazardous tree or render the tree-related condition safe until the following work day. Emergency work must begin within two hours of the initial telephone call.

Contractor is required to provide a 24 hour emergency phone number and the names of at least five contact individuals. Should the contact persons or their phone numbers change during the course of the Agreement, those changes must be submitted to the City within two working days.

Contractor is required to provide all necessary traffic control during the course of emergency work. Should the work involve any high voltage power lines or any utility lines, the Contractor will be required to notify the responsible utility company.

Work performed under the emergency provision of this Agreement will be paid for on a crew hour basis. This will include all labor, tools, equipment, disposal fees, and necessary materials.

**10. Line Clearance Pruning**

During the course of this agreement, the Contractor may be required to perform utility line clearance in conjunction with routine or non-routine pruning activities. The Contractor will be required to furnish all supervision, labor, equipment and materials necessary to accomplish the work in accordance with the Agreement. The Contractor has the responsibility for compliance with safety and health standards of the California Occupational Safety and Health Act (OSHA) and all applicable rules, regulations, and orders. The supervisor overseeing the project should be an ISA Certified Arborist Utility Specialist and the persons completing the work should be Line Clearance Treeworkers. The competency of the Contractor's personnel must be maintained through regular training. All persons performing tree work on City trees in or around primary electrical lines must be trained to do so in accordance with the "Electrical Safety Orders" of the State of California.



**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

**11. Tree Watering**

Watering is performed by a one-person crew with a water truck who will water various routes including landscape median and young trees that are three years old and younger.

**12. Small Tree Care**

The City requires an active approach to the care of its young and newly planted trees. The Contractor will be required to perform basic maintenance that will include, but is not be limited to, tree well adjustments and watering, removal of weeds from tree wells, structural pruning, and re-staking when necessary.

**13. Arborist Services**

On occasion, the City requires tree evaluations including written reports. The Contractor will provide an hourly rate for an Arborist that can respond to the City's request(s) for the preparation of detailed Arborist's reports, tree evaluations, and site inspections. Reporting can be generated on as little as one tree to an entire urban forest population and is handled on a case-by-case basis.

**D. TRAFFIC CONTROL**

Contractor must conform to all City Traffic Safety requirements and operating rules at all times while this Agreement is in effect. The Contractor must employ staff certified as Traffic Control Design Specialists and Traffic Control Technicians in accordance with the American Traffic Safety Services Association (ATSSA).

Contractor will be responsible for supplying and using all safety equipment necessary to close or delineate traffic lanes to through traffic. This is to include a high visibility arrow/message board(s) as necessary. The City, prior to use, must approve all traffic safety equipment for use.

Illuminated arrow/message boards, sign stands, delineators and/or cones must be used to identify the work site for vehicular and pedestrian safety.

**E. PUBLIC NOTICING OF TREE PRUNING OPERATIONS**

Contractor will be required to notify residents and/or businesses of scheduled tree pruning operations at least 24 hours prior to the work being performed. Notifications will be made in the form of door hangers.

City approved "No Parking" signs must be posted on individual trees scheduled for pruning 24 hours prior to the work being performed.

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

**F. CLEAN UP**

Contractor must clean all job sites when work is completed, including the raking of leaves, twigs, etc. from the lawns and parkways and the sweeping of streets. Every effort will be made by the Contractor to prevent debris or materials from tree work to be allowed to enter the City's storm drainage system. The Contractor must comply with all storm water runoff regulations.

Each day's scheduled work will be completed and cleaned up and under no circumstances will any brush, leaves, debris, or equipment be left on the street overnight.

Brush and debris must be removed daily, sidewalks swept, lawns and parkways raked out, and gutters cleaned.

The City Parks, Sports Fields & Trees Superintendent or designee, will be the sole judge as to the adequacy of the clean up.

**G. DISPOSAL OF DEBRIS**

All tree branches, trunks, chips, etc. produced as a result of the Contractor's operations under this Agreement will be reduced, reused, recycled, and/or transformed. The City will receive access to their Greenwaste Recycling report detailing the amount of debris recycled and the location. This report is to be used for compliance with Assembly Bill 939.

**1. Greenwaste Recycling Report**

Greenwaste that is transported to an off-site facility for grinding into mulch must be documented and available to the City Parks, Sports Fields & Trees Superintendent or designee on a monthly basis.

**2. Wood Chips**

a. Chips generated from pruning operations within the City of Tracy may first be dumped at a City designated site for possible reuse as landscaping mulch.

b. At the direction of the City Parks, Sports Fields & Trees Superintendent or designee, wood waste generated from tree removals will be chipped into pure wood chips with an even uniform size.

**H. PARKING**

The City of Tracy will make every attempt to identify a suitable space for parking of vehicles and equipment for the purpose of this Agreement. The

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

Contractor will hold the City of Tracy harmless and release the City of liability as a result of theft or vandalism.

**I. INVOICE**

Contractor will be required to submit invoices on a monthly basis. Invoice format will include, but is not be limited to: the district or LMD zone that tree maintenance operations took place, a list of each street that the tree work occurred, the address of each individual tree, the species and its height and trunk diameter of each individual tree. Failure to submit invoices in this format may result in non-payment until these requirements are met.

**J. INSPECTIONS**

The City Parks, Sports Fields & Trees Superintendent or designee, will at all times have access to the work and will be furnished with every reasonable facility for ascertaining full knowledge respecting the staffing, progress, workmanship, and character of materials and equipment used and employed in the work.

**K. WITHHOLDING PAYMENT**

The City may withhold payment to such extent as may be reasonably necessary to protect the City from loss including, but not limited to the following:

1. Defective or inadequate work not corrected.
2. Work performed on incorrect trees.

**L. MINOR MODIFICATIONS AND/OR ADDITIONAL WORK**

1. The City may modify these specifications with the joint approval of the Contractor and the City of Tracy. All modifications will be in writing.
2. In the event that the City of Tracy should require additional work beyond the requirements of these specifications, the Contractor will perform all work at a competitive price.
3. Additional work may be added to the Agreement work as the need arises. The Contractor will perform all specified and approved additional work at the unit prices listed in Exhibit "B."
4. The Contractor must be willing to provide a competitive price for additional work that may be added to the Agreement. Contractor will be required to demonstrate the ability to properly execute the expanded workload with the necessary increase in labor, materials and equipment needed to complete the additional work in a timely manner.

**CITY OF TRACY  
TREE MAINTENANCE PROGRAM  
SPECIFICATIONS**

5. The Contractor must have the ability to receive and respond to emergency situations and must respond to emergency call outs within two hours of receipt of the call.

**M. COOPERATIVE PURCHASING**

It is intended that other public agencies (e.g., city, county, school district, special district, public authority, public agency, and other political subdivision of the State of California) and/or other City departments will have the option to participate in any agreement created as a result of this Agreement with the same terms and conditions as to the price of the product and/or service. The City of Tracy will incur no financial or legal responsibility in connection with a purchase order from another public agency. Any public agency that “piggy-backs” on any negotiated agreement between the City of Tracy and the Contractor will accept sole responsibility for negotiating, placing orders, and making payment to the Contractor. The Contractor may or may not agree to the cooperative purchasing clause.

## Exhibit "B"

### SCHEDULE OF COMPENSATION

In conformity with the terms and conditions of the contract, West Coast Arborists hereby proposes to the City of Tracy the following schedule of compensation:

<b><u>DESCRIPTION</u></b>	<b><u>UNIT</u></b>	<b><u>UNIT PRICE</u></b>
Annual/Grid Tree Trimming – LMD	per tree	\$ 65.00
Annual/Grid Tree Trimming – General Fund	per tree	\$ 79.00
<b><u>AESTHETIC PRUNING</u></b>		
0-6" dbh	per tree	\$ 40.00
7-12" dbh	per tree	\$ 95.00
13-18" dbh	per tree	\$ 175.00
19-24" dbh	per tree	\$ 275.00
25-30" dbh	per tree	\$ 350.00
31" + dbh	per tree	\$ 495.00
<b><u>CLEARANCE TRIMMING ONLY (grid basis)</u></b>	per tree	\$ 50.00
<b><u>PALM TREE TRIMMING</u></b>		
Washingtonia palm, any size	per tree	\$ 79.00
Canary Island Date Palm, any size	per tree	\$ 285.00
<b><u>TREE REMOVAL</u></b>		
Tree and stump removal 0-36"	per DBH inch	\$ 29.00
Tree and stump removal over 36"	per DBH inch	\$ 49.00
Tree only removal	per DBH inch	\$ 25.00
Stump only removal	per diameter inch	\$ 14.00
<b><u>PLANTING</u></b>		
15 gallon tree	per tree	\$ 165.00
24 inch box tree	per tree	\$ 295.00
36 inch box tree	per tree	\$ 1,100.00
<b><u>TREE WATERING</u></b>	per day	\$ 600.00
<b><u>CREW RENTAL</u></b>		
3 man crew with equipment	per hour	\$ 225.00
2 man crew with equipment	per hour	\$ 150.00
1 man crew with equipment	per hour	\$ 75.00
<b><u>SPECIALTY EQUIPMENT</u></b>		
95 Aerial Tower	per hour	\$ 95.00
Loader/Roll-off 40 yard	per hour	\$ 95.00
Crane	per hour	\$ 95.00
<b><u>EMERGENCY RESPONSE</u></b>		
3-man crew with equipment (evening, weekend, or holiday call-out)	per hour	\$ 285.00
<b><u>TREE INVENOTRY AND SOFTWARE PACKAGE (re-inventory of area/zone)</u></b>	per tree site	\$ 3.00
<b><u>GPS INVENTORY UPDATES (new areas)</u></b>	per tree site	\$ 5.00
<b><u>ARBORIST SERVICES</u></b>	per hour	\$ 125.00

RESOLUTION \_\_\_\_\_

AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH WEST COAST ARBORISTS FOR TREE MAINTENANCE SERVICES IN THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AND GENERAL FUND AREAS, AUTHORIZING THE CITY MANAGER TO EXECUTE SUBSEQUENT AGREEMENT EXTENSIONS, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, on June 19, 2015, staff issued a Request For Proposals for Tree Maintenance Services within the City's Landscape Maintenance Districts and General Fund areas and reviewed the proposal received, and

WHEREAS, staff has negotiated an agreement with West Coast Arborists (Consultant) to perform the services and tasks necessary to carry out terms outlined in the Professional Services Agreement (PSA), and

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The City Council approves a five year Professional Services Agreement (PSA) with West Coast Arborists for services required for Tree Maintenance Services, and
2. The City Council authorizes the Mayor to execute the PSA, and
3. The City Council authorizes the City Manager to execute future Agreement extensions for up to three additional one-year terms.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
Mayor

ATTEST:

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

AGENDA ITEM 1.N

REQUEST

**AUTHORIZATION TO ENTER INTO AN AGREEMENT WITH THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY FOR SHARING THE PROPORTIONATE COST OF 2015-MENDOTA CANAL EMERGENCY PUMPING FACILITY PROJECT, APPROPRIATION FROM THE WATER FUND AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

Execution of an agreement with the San Luis & Delta-Mendota Water Authority will enable the City to continue surface water from the Delta Mendota Canal (DMC) during its potential shut down this summer.

DISCUSSION

Due to extreme drought conditions and ongoing changes in the operations of the Central Valley Project (CVP) and State Water Project as directed by the State Water Control Board, the quantity and timing of pumping at the Jones Pumping Plant into DMC is becoming uncertain during this summer. Such uncertainty may continue for a longer period if the existing drought continues. As a result, DMC may be shut down during the summer and no water supply will be available for that period to the City of Tracy and the neighboring Irrigation Districts (Agencies). The Irrigation Districts include Banta Carbona Irrigation District (MCID), West Stanislaus Irrigation District (WSID), Del Puerto Water District (DPWD), Byron Bethany Irrigation District (BBID) and Patterson Irrigation District.

To ensure availability of a continuous supply of surface water in the upper DMC near Tracy, the Agencies explored various alternatives including reverse pumping in DMC. This involves pumping the stored CVP water from the San Luis Reservoir into DMC upstream. This will be achieved by reverse pumping at three locations in the DMC. The work will be approved and constructed by the San Luis and Delta-Mendota Water Authority and paid by each participant proportionately.

Even though the City's water portfolio has multiple sources and the City has a robust water supply, it is in the best interest of the City to join this group and share the proportionate capital cost of installation of the Pumps and Base Operational and Maintenance cost. The additional cost for fuel (diesel) used for the pumps will depend upon the actual use of the pumps for the amount of water drawn from DMC by the City of Tracy.

As of today, the Water Resources Control Board has not required the United States Bureau of Reclamation to shut down the DMC and may not shut down DMC during and after summer this year. However, the reverse pumping into DMC is an additional insurance to the Agencies including the City of Tracy.

San Luis & Delta-Mendota Water Authority has agreed to the proposal of the Agencies for reverse pumping and has prepared a draft agreement (Attachment A) to be executed by all participants. The total Capital Cost of the pumps is estimated at \$977,000 with the City's share at \$39,080 (4%). The monthly fixed operational and maintenance (O&M) cost for Tracy is estimated at \$3,063.47. Any additional cost of fuel will depend upon the amount of water drawn by the City of Tracy from DMC. The majority of the cost is shared between BCID, WSID and DPWD. An appropriation of \$60,000 is recommended to cover the City's share of the capital and o & m cost

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

The installation of pumps and cost of O&M for the reverse flows in the DMC will be paid from the Water Treatment Plant Operational Budget and there is no impact to the General Fund. An appropriation of \$60,000 is needed from the water fund to cover the City's share of the capital and O&M cost. This amount will be good for an approximate period of six months, if the City does not pump this water and use this project as insurance. This amount will last only about three months, if the City starts pumping its share of water from the reverse pumping due to additional share of fuel costs.

#### RECOMMENDATION

That City Council, by resolution, authorize entering into an agreement with the San Luis & Delta-Mendota Water Authority for sharing the proportionate cost of 2015-Mendota Canal Emergency Pumping Facility Project, further authorize appropriation of \$60,00 from the Water fund to cover the costs and authorize the Mayor to execute the Agreement

Prepared by: Kuldeep Sharma, Utilities Director

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Attachment A – Letter Agreement – 2015 Delta-Mendota Canal Emergency Pumping Facilities  
Attachment B – Cost Allocation and O&M Cost



[San Luis & Delta-Mendota Water Authority Letterhead]

Kuldeep Sharma, Utilities Director  
City of Tracy  
520 Tracy Blvd  
Tracy, CA 95376

David Weisenberger, Manager  
Banta-Carbona Irrigation District  
3514 W. Lehman Road  
Tracy California 95304

Rick Gilmore, Manager  
Byron-Bethany Irrigation District  
6995 Bruns Road  
Byron, CA 94514

Anthea Hansen, Manager  
Del Puerto Water District  
P. O. Box 1596  
Patterson, CA 95363

Peter Rietkerk, Manager  
Patterson Irrigation District  
P. O. Box 685  
Patterson, CA 95363

Bobby Pierce, Manager  
West Stanislaus Irrigation District  
P. O. Box 37  
Westley, CA 95387

RE: LETTER AGREEMENT – 2015 Delta-Mendota Canal Emergency Pumping Facilities

Dear Utility Director Sharma and District Managers:

Given extreme drought and ongoing-changes in operations of the Central Valley Project and State Water Project in response to orders of the State Water Resources Control Board, the quantity and timing of pumping at the Jones Pumping Plant this summer is so uncertain that your agencies have requested the San Luis & Delta-Mendota Water Authority ( Authority) to immediately install temporary pumping plants (Project) at milepost (MP) 54.41 (Check Structure No 10; MP 38.68 (check Structure No. 7) and MP 24.43 (Check Structure No. 4), in order to allow delivery to your agencies of water stored by your agencies in the San Luis Reservoir by

back-flow through the Delta-Mendota Canal. The Authority is willing to act upon your request, in accordance with the terms and conditions set forth in this Letter.

Therefore, under this Letter Agreement, the City of Tracy, Banta-Carbona Irrigation District, Byron Bethany Irrigation District, Del Puerto Water District, Patterson Irrigation District and West Stanislaus Irrigation District (the City and Districts) and the Authority (the Parties) hereby agree to the following terms and conditions:

1. The Authority shall be responsible for all activities described in Section 2 of Exhibit A (Scope of Work), which generally consists of installing a total of four temporary pumping stations within the DMC. Figure 1 and Figure 2 to Exhibit A set forth the basic design specifications and depictions of the Work. Exhibit A, including Figures 1 and 2, is attached hereto and incorporated herein by this reference.
2. The Authority also shall prepare documentation pursuant to the California Environmental Quality Act, coordinate with Reclamation on the preparation of documentation pursuant to National Environmental Protection Act and obtain all required permits, licenses and consents required for the construction, operation and maintenance of the Project, including but not limited to any license or consents required by the United States, Department of the Interior, Bureau of Reclamation (Reclamation). The Authority shall not add a cost for preparation of its CEQA document; Reclamation shall recover its cost for preparation of the NEPA document through separate letter agreements under the CVP water service contracts of the City and the Districts..
3. The Authority will perform the Work on a time and materials basis with an initial estimated cost as set out in the Scope of Work, Section 3; the estimated costs shall be adjusted to actual when the construction and installation are completed and for O&M, following the period of use of the temporary DMC pumps. Payments made under this Letter Agreement shall be adjusted by credits or additional billing as appropriate.
4. The City and Districts shall each be entitled to utilize the capacity of the temporary pumping plants based upon their respective reserved shares of total pumping capacity set forth on Exhibit B to this Letter Agreement; provided, that if at any time the total demand of the Parties exceeds the actual capacity at one or more pumping stations, the Authority agrees to contact the Parties and the Parties agree to coordinate to reduce their demands so that the total pumping capacity is not exceeded at any pumping station.
5. The City and Districts shall schedule deliveries at least 24 hours in advance in the same manner as such agencies would schedule deliveries from the DMC of water pumped at the Jones Pumping Plant. The Authority shall determine the amount of pumping necessary at the temporary DMC pumping facilities based upon available DMC pumping in order to meet scheduled deliveries.
6. The City and the Districts agree that the cost of construction shall include overtime paid for purposes of construction as a capital cost. The City and the Districts agree to reimburse the Authority's actual costs for construction and installation of the temporary DMC pumping facilities by a lump sum payment upon completion of construction and billing by the Authority based upon the following capital allocation percentages:

Banta-Carbona Irrigation District	44%
Byron-Bethany Irrigation District	6%
City of Tracy	4%
Del Puerto Water District	17%
Patterson Irrigation District	7%
West Stanislaus Irrigation District	<u>22%</u>
	100%

7. The Authority shall recover its costs for operating, maintaining, and removing the temporary DMC Pumping facilities as follows: The Estimated Monthly O&M cost for the temporary DMC pumping facilities and the Fixed O&M cost are described in Exhibit B, Table 2. The Authority shall invoice the City and the Districts monthly for the Fixed O&M cost, based upon such agency's reserved capacity, as described on Exhibit B, Table 1. Fuel Cost will be invoiced separately based on the deliveries to each agency in the month following such deliveries through the Temporary DMC pumping facilities. Exhibit B is attached hereto and incorporated herein by this reference.

8. Payments to the Authority pursuant to Paragraph 6 of this Letter of Agreement are separate from and in addition to the Authority's water rates for the Upper DMC cost pool. The City and the Districts remain liable for Upper DMC cost pool rates, subject to crediting for Jones Pumping Plant power cost for water delivered through the temporary DMC pumping facilities.

9. Payments to the Authority: All payments to the Authority under this Letter Agreement are due and payable 30 days following receipt. Any payment which remains unpaid for sixty (60) days after its billing date shall bear interest from such sixtieth day at the interest rate of the Local Agency Investment Fund then in effect computed on a monthly basis plus two percent until paid.

10. The Authority will seek State and Federal Drought Funding to fund the capital and operating cost of the temporary DMC Pumping facility. In the event funding is secured, the City and District shall be reimbursed for payments made to the Authority to the extent costs are paid from any such State and Federal funding.

11. Other Terms:

11.1 This Letter Agreement shall become effective upon execution by all of the Parties, and will remain in effect until all Work, including operation and maintenance and removal, has been performed and the City and the Districts have paid the Authority or State or Federal funding has been secured.

11.2 In performing the Work, the Authority shall comply with all applicable laws and obligations, including but not limited to the Authority's obligations to Reclamation under its Transfer Agreement, as amended.

11.3 This Letter Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The Parties authorize each other to detach and combine original signature pages

and consolidate them into a single identical original. Any one of such completely executed counterparts shall be sufficient proof of this Agreement.

11.4 To the extent reasonably required, each Party to this Agreement shall, in good faith, assist the other in obtaining all such necessary approvals and preparation of required environmental documents or permits. The Parties agree to cooperate and assist each other in good faith in meeting such requirements of regulatory agencies as may be applicable to performance of any terms of the Agreement.

If you are in agreement with the terms and conditions as set forth herein, please have the appropriate authorized representative for your agency sign and date, and return one original of this LOA and return to the undersigned.

Sincerely,

Frances C. Mizuno  
Assistant Executive Director

Enclosure

City of Tracy

By: \_\_\_\_\_

Authorized Representative

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

Banta-Carbona Irrigation District

By: \_\_\_\_\_

Authorized Representative

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

Byron Bethany Irrigation District

By: \_\_\_\_\_

Authorized Representative

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

Del Puerto Water District

By: \_\_\_\_\_

Authorized Representative

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

Patterson Irrigation District

By: \_\_\_\_\_

Authorized Representative

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

West Stanislaus Irrigation District

By: \_\_\_\_\_

Authorized Representative

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

## **EXHIBIT A SCOPE OF WORK**

Section 1 – Introduction: In order to address impacts of the severe drought and forecasted pumping restrictions at the C.W. “Bill” Jones Pumping Plant this summer, the Upper Delta-Mendota Canal Member Agencies (UDMCC) requested the San Luis & Delta-Mendota Water Authority (Authority) to install temporary pumping plants at milepost (MP) 54.41 on the Delta-Mendota Canal (DMC) (Check Structure No. 10) in order to reverse flow CVP and non-CVP water previously stored in San Luis Reservoir to CVP contractors located north of O’Neill Forebay. Installation of the 75 cfs pumping plants was completed in June 2015. Further, due to a revised Sacramento River Temperature Water Management Plan, the Authority has determined that additional temporary facilities are needed in order to provide CVP and non-CVP water to the following contractors this summer: Byron-Bethany Irrigation District, Banta-Carbona Irrigation District, City of Tracy, Del Puerto Water District, Patterson Irrigation District, and West Stanislaus Irrigation District.

The UDMCC has requested the Authority to install the additional three temporary pump stations within the DMC at MP 54.41 (Check Structure No. 10), MP 38.68 (Check Structure No. 7), and MP 24.43 (Check Structure No. 4) on the Delta-Mendota Canal (see Figure 1). This installation is in addition to the 75 cfs pump station that has already been installed at Check 10 in early June, 2015. Each new pump station would include a series of pumps mounted within the downstream bays of the three check structures with the following capacities:

- Approximately 280 cfs at Check Structure No. 10, for a total of apx. 350 cfs
- Approximately 210 cfs at Check Structure No. 7
- Approximately 140 cfs at Check Structure No. 4

Section 2 – Description of the Work: The reverse flow project would consist of the 75 cubic foot per second (cfs) capacity together with three additional separate temporary emergency pump stations. Each pump station would include a series of 300 HP vertical pumps each with a capacity of 70 cfs. The pumps would be mounted within the downstream bays on certain strategically located check structures on the Delta-Mendota Canal (DMC). The pump station would pump water from the downstream side of the check structure and pump the water over the closed radial gates and discharge into the upstream canal pool through a 30-inch diameter discharge pipe. The flow rate discharged from each pump station will meet the demand of the upper DMC pools. One pump station located at Check Structure No. 10, MP 54.41 of the DMC would have four pumps with a total capacity of 280 cfs, in addition to the initial 75 cfs capacity, for a total capacity of approximately 350 cfs. The second pump station located at Check Structure No. 7, MP 38.68 of the DMC would have three pumps installed and would be able to pump approximately 210 cfs. The third pump station would be located at Check Structure No. 4, MP 24.43 of the DMC and would have a capacity to pump approximately 140 cfs. Each pump station would be set up similarly, except for its pumping capacity. A structural steel framework would be anchored to the check structure pier walls and the pumping units would be set into position on the frame. The pump station for Check Structure No. 10 is shown in Figure 1. Each site will have Electrical Control Panels, a properly sized engine generator and a fuel tank with a spill containment system. See Figure 2 for site layout at each Check structure. NOTE: Since

these check structures are located in remote locations, security fencing will be installed at each site and a security guard will be on the site at all times to protect the facilities from vandalism/theft. No ground disturbance would be required for installation or operation of the pump stations and associated infrastructure. This emergency pump back system would be installed by the San Luis & Delta-Mendota Water Authority (“SLDMWA”). The approximate footprint for these pump stations would be 30 feet by 150 feet at each site. A crane would be required to set the steel framework, pumps, motors and discharge pipes in place.

The pump stations would be operated, as needed, from July through September of 2015 to reverse flow up to 93,000 acre-feet of CVP and non-CVP water currently stored in San Luis Reservoir to Byron Bethany Irrigation District, Banta-Carbona Irrigation District, City of Tracy, Del Puerto Water District, Patterson Irrigation District, and West Stanislaus Irrigation District. The water would be released from San Luis Reservoir into O’Neill Forebay and then into the Delta-Mendota Canal near Check No. 13. This water would then be pumped into the upper portion of the Delta-Mendota Canal from Check No. 10 to Check No. 4 via the temporary pump stations for delivery to the CVP contractors listed above. During operation, gates would be closed between the three Check Structures in order to create pools that would allow water to be pumped between the pump stations for delivery to the contractors.

Authority staff would conduct daily visits to the pump stations for visual inspection and to perform any required maintenance. The Authority would contract for fuel delivery from a local company and fuel would be delivered on a daily basis during operation. The Authority may also contract for night security to safeguard the site from vandals.

Section 3 – Estimated Budget: The estimated construction and monthly operating cost for the temporary pump stations are provided below:

<b>Emergency Pump-Back Pumping Plants- Estimated Cost</b>	
<b>Construction</b>	<b>Cost (\$)</b>
Pump Modification	\$135,000
Switchgear	\$150,000
Generators	\$252,000
Electrical	\$300,000
Miscellaneous	\$50,000
75 cfs Pump Station	\$90,000
SubTotal	\$977,000
<b>Operations</b>	<b>Cost/month (\$)</b>
Generators Rental	\$61,200
Fuel (Generators & Diesel Pumps)	\$455,000
Security (24/7 @ 3 sites)	\$45,000
Temp Fencing	\$300
Trench Plate Rentals	\$1,000
<b>Subtotal</b>	<b>\$562,500</b>

EXHIBIT B - Cost Allocation and O&M Cost

TABLE 1 - Allocation of Reserved Demand & Capital Allocation

Site	Capacity, CFS	District Demand, CFS							Sum of Districts	Daily AF	Monthly AF
		WSID	PID	BCID	DPWD	Tracy	BBID				
Check 10	350		90	60	120	90	11	15	386	772	23,932
Check 7	204		90		120	37	11	15	273		
Check 4	136				120	12	11	15	158		
Total:	690		180	60	360	139	33	45	817		
			22%	7%	44%	17%	4%	6%			

TABLE 2 - O&M Cost Allocation= Actual District Demand/Total Demand

Emergency Pump-Back Pumping Plants- Estimated Monthly Cost

Construction		Cost (\$)	
Pump Modification		\$135,000	
Switchgear		\$150,000	
Generators		\$252,000	
Electrical		\$300,000	
Misc		\$50,000	
75 cfs Pumping Plant		\$90,000	
<b>SubTotal</b>		\$977,000	
<b>Operations</b>		Cost/month (\$)	Fixed O&M cost (\$)
Generators Rental		\$61,200	\$61,200
Fuel (Generators & Diesel Pumps)		\$455,000	
Security (24/7 @ 3 sites)		\$45,000	\$45,000
Temp Fencing		\$300	\$300
Trench Plate Rentals		\$1,000	\$1,000
<b>Subtotal</b>		\$562,500	\$107,500
O&M Rate	Mo AF/Mo Cost	\$23.50	\$4.49

TABLE 3 - Monthly Fixed O&M Cost Rate = \$4.49/AF. Each agency will pay based on their monthly reserved capacity (AF).

Site	Capacity, CFS	WSID	PID	BCID	DPWD	Tracy	BBID
Check 10	350	5580	3720	7440	5580	682	930
Mthly Payment for Fixed O&M Cost		\$25,064.77	\$16,709.84	\$33,419.69	\$25,064.77	\$3,063.47	\$4,177.46

Fuel Cost will be invoiced separately if plants are operated



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

AUTHORIZING ENTERING INTO AN AGREEMENT WITH THE SAN LUIS & DELTA-MENDOTA WATER AUTHORITY FOR SHARING THE PROPORTIONATE COST OF 2015-MENDOTA CANAL EMERGENCY PUMPING FACILITY PROJECT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Due to extreme drought conditions and ongoing changes in the operations of the Central Valley Project (CVP) and State Water Project as directed by the State Water Control Board, the quantity and timing of pumping at the Jones Pumping Plant into DMC is becoming uncertain during this summer, and

WHEREAS, To ensure availability of a continuous supply of surface water in the upper DMC near Tracy, the Agencies explored various alternatives including reverse pumping in DMC which involves pumping the stored CVP water from the San Luis Reservoir into DMC upstream, and

WHEREAS, Even though the City's has a robust water supply, it is in the best interest of the City of join this group and share the proportionate capital cost of installation of the Pumps and Base Operational and Maintenance cost, and

WHEREAS, Execution of an agreement with the San Luis & Delta-Mendota Water Authority will enable the City to continue pumping surface water from the Delta Mendota Canal (DMC) during its potential shut down this summer, and

WHEREAS, The total Capital Cost of the pumps is estimated at \$977,000 with the City's share at \$39,080 (4%). The monthly fixed operational and maintenance (O&M) cost for Tracy is estimated at \$3,063.47, and

WHEREAS, Appropriation of \$60,000 is needed from the Water Fund to pay for the capital and O&M costs;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves entering into an agreement with the San Luis & Delta-Mendota Water Authority for sharing the proportionate cost of 2015-Mendota Canal Emergency Pumping Facility Project and authorizes the Mayor to execute the Agreement

\* \* \* \* \*

The foregoing Resolution 2015-\_\_\_\_\_ was adopted by Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

---

MAYOR

ATTEST:

---

CITY CLERK

AGENDA ITEM 1.O

REQUEST

**ADOPT RESOLUTION APPROVING THE 2015 MULTI-AGENCY POST-CONSTRUCTION STORMWATER STANDARDS MANUAL AS REQUIRED BY FEDERAL AND STATE REGULATIONS**

EXECUTIVE SUMMARY

Adoption of the 2015 Multi-Agency Post-Construction Stormwater Standards Manual establishes post-construction and low impact design standards to address stormwater quality for the City, as required by Federal and State regulations for new development and redevelopment projects. The adoption of this Manual will replace the previous Manual for Stormwater Quality Control Standards in New and Re-development adopted by City Council in July 2008.

DISCUSSION

On April 30, 2003, the California State Water Resources Control Board (State Water Board) adopted the first general National Pollutant Discharge Elimination System (NPDES) permit (CAS000004) under Order No. 2003-0005-DWQ for small Municipal Separate Storm Sewer System (MS4), including non-traditional small MS4s (e.g., universities, military bases), that required compliance with section 402(p) of the CWA and defined the minimum acceptable elements of stormwater management programs (SWMP) for small MS4s. The City of Tracy developed and adopted by resolution the Manual for Stormwater Quality Control Standards in New and Re-development as required under the City's SWMP and began implementing these standards in August 2008. On February 5, 2013, the State Water Board adopted Order No. 2013-0001-DWQ, which replaced the previous Order No. 2003-0005-DWQ and required that the Agencies regulate post-construction development (Provision E.12).

The Cities of Lathrop, Lodi, Manteca, Patterson, and Tracy, and portions of the County of San Joaquin (collectively Agencies) are each classified as Phase II MS4 communities. In 2013, the State Water Board adopted a NPDES general permit, henceforth referred to in this document as the Phase II Permit, for Phase II MS4 communities to regulate stormwater and non-stormwater discharges from MS4s to waters of the United States. As part of the Phase II Permit, the Agencies are required, within the second year of the permit, to develop/update post-construction standards to address stormwater quality for regulated new development and redevelopment projects (Provision E.12).

The Agencies collaborated to prepare this 2015 Multi-Agency Post-Construction Stormwater Standards Manual (Manual) to assist the development community in complying with the requirements of Provision E.12 of the Phase II Permit and local ordinances. This Manual provides guidance for planning, implementing, and maintaining effective control measures with the intention of improving water quality and mitigating potential water quality impacts, including hydromodification, from stormwater and non-stormwater discharges.

Some of the changes under the new Manual that developers will need to comply with are:

- Those projects that create or replace between 2500 sf and 4999 sf of impervious surface will need to implement at least one site design measure. Previously it was only those projects 5000 sf or more.
- All “regulated” projects that create or replace 5000 sf of impervious surface will need to implement Low Impact Development (LID) standards that reduce runoff, treat storm water and provide baseline hydromodification. Previously LID was not required. These LID standards include:
  - Site Assessment;
  - Drainage Management Areas;
  - Numeric Sizing Criteria for Storm Water Retention and Treatment either flow based or volumetric;
  - Site Design Measures;
  - Source Control; and
  - Storm Water Treatment Measures and Baseline Hydromodification Management Measures.
- On any project that creates or replaces one acre or more of impervious surface, post-project runoff shall not exceed estimated pre-project flow rate for the 2 year, 24 hour storm. Not previously required in the old permit.
- All regulated projects must complete and record, where applicable, a site access and maintenance agreement for the installed post-construction device(s) and annually self-certify the upkeep according to that agreement. Not previously required.
- Bio-retention shall be used on all regulated projects unless it is not feasible. Only then may vaults or other equally effective treatment be used. Previously, you could use any stormwater treatment device or facility on any project.

A stakeholder process consisting of the development community throughout San Joaquin and Stanislaus counties were conducted throughout the development of this Manual. Stakeholders were able to comment on the Manual through various stages and prior to the final product. The Manual was also provided to the State Water Board for their review. All comments throughout the development of this product were taken in to consideration and incorporated where it was determined to be of benefit for all parties concerned.

In order to further comply with the Phase II Permit, staff will be making several amendments to Tracy Municipal Code Chapter 11.34 Stormwater Management and Discharge Control. These recommended additions and changes will be brought to City Council at a later date.

### STRATEGIC PLAN

This agenda item does not relate to the Council’s Strategic Plans.

### FISCAL IMPACT

There is a fiscal impact from implementation of the standards contained in the Manual to new developments and redevelopments. However, since the City is working with the development community, and is in the process of forming community facilities districts to

fund these new requirements, the cost of impacts for private development will be borne by the property owners of the new development. For City projects, the cost of installation and long term maintenance for the implemented standards will be borne by the City and will have a direct impact on the General Fund.

RECOMMENDATION

It is recommended that the City Council adopt by resolution the 2015 Multi-Agency Post-Construction Stormwater Standards Manual.

Prepared by: Stephanie Reyna-Hiestand, Management Analyst II, Utilities Department

Reviewed by: Kul Sharma, Utilities Director  
Andrew Malik, Acting Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A: Multi-Agency Post-Construction Stormwater Standards Manual (Oversize Item: Available at the City of Tracy Website:

[http://www.ci.tracy.ca.us/documents/Multi\\_Agency\\_Post\\_Construction\\_Stormwater\\_Standards\\_Manual.pdf](http://www.ci.tracy.ca.us/documents/Multi_Agency_Post_Construction_Stormwater_Standards_Manual.pdf) )

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

APPROVING THE ADOPTION OF THE 2015 MULTI-AGENCY POST-CONSTRUCTION  
STORMWATER STANDARDS MANUAL AS REQUIRED BY FEDERAL AND STATE  
REGULATIONS

WHEREAS, The State Water Resources Control Board (Water Board) by adoption of Order No. 2013-0001-DWQ, required through general permit that all National Pollutant Discharge Elimination System (NPDES) Phase II Small Municipal Separate Storm Sewer System (MS4) permittees, including Tracy, regulate post-construction development, and

WHEREAS, The Water Board further mandated as part of the NPDES Phase II MS4 general permit that all Phase II MS4 permittees must develop/update post-construction standards to address stormwater quality for regulated new development and redevelopment projects, and

WHEREAS, The agencies of Lathrop, Lodi, Manteca, Patterson, Tracy and San Joaquin County collaborated to prepare this Manual for continuity in implementation for the development community, and

WHEREAS, A development community stakeholder process was conducted throughout the preparation of this Manual which included comment and feedback, and

WHEREAS, The Manual complies with the Water Boards mandate;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the adoption of the 2015 Multi-Agency Post-Construction Stormwater Standards Manual.

\*\*\*\*\*

The foregoing Resolution 2015-\_\_\_\_\_ was adopted by Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.P

REQUEST

**AWARD A CONSTRUCTION CONTRACT FOR THE JOE WILSON POOL RECONSTRUCTION PROJECT - CIP 78152, TO THE LOWEST RESPONSIVE BIDDER, AUTHORIZE AN ALLOCATION OF FUNDS FROM THE GENERAL FUND 301, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT**

EXECUTIVE SUMMARY

The Joe Wilson Pool Reconstruction Project involves demolition, reconstruction, and widening of the existing swimming pool with accessories including improvements to the bathroom plumbing and site improvements. RJM Design Group, Inc., is the design consultant and had estimated that the project could be completed within the available construction budget of \$3.16 million. However, the construction bids received by the City reflect that the lowest bid is approximately \$1.5 million higher than the Consultant's estimate.

This resulted in the need for additional funding of approximately \$1.82 million to construct this project. This amount includes the construction contingencies and inspection costs. Staff believes that some increase in construction cost is warranted, but an increase of \$1.5 million is not justified. Staff further believes that if the Council rejects the bids and authorizes staff to re-advertise for bid, the City may not receive better results due to market conditions. Therefore, it is recommended that City Council award the construction contract for the base bid and authorize the payment of the difference from the funds to be received from the Tracy Unified School District (\$1.3 million) and authorize an appropriation of \$520,100 from the General Fund.

DISCUSSION

The scope of work for the Joe Wilson Pool Reconstruction project consists of the demolition, reconstruction, and widening of the existing swimming pool including all its accessories, site improvements, equipment and mechanical systems, pool pump room renovations, improvements, and modifications. The pool building renovations and improvements consist of selected demolition and renovation of finish surfaces, roofing, passive solar system, plumbing replacements and modifications, electrical improvements, and equipment replacement. Site improvements include grading, utilities, parking areas, fencing, walkways, landscaping, lighting, and other civil improvements.

Background

The services of RJM Design Group (Consultant), of Sacramento, California, were acquired by the City to design the Joe Wilson Pool Reconstruction Project – CIP 78152. The Principal, John Courtney of RJM Design Group, previously worked with the Parks and Recreation Department on the design of the Aquatic Center and was familiar with the City's Joe Wilson Pool.

The Consultant prepared the conceptual plans and cost estimates of the project and presented to the City Council at its November 18, 2014, meeting. At that time, the

Consultant estimated that construction of this project could be achieved within the remaining available budget of \$3.16 million.

During the City Council meeting, the Council directed the Consultant to include another pool lane in the pool design and the Consultant responded that this could be achieved within the available budget. City Council also directed the Consultant to add additional features in the project as additive bid items in case the construction bid amounts came in lower than estimated. This included splash pads inside and outside the pool fence, an arbor and shade structure. These items were identified through the public outreach process.

When the Consultant submitted the first preliminary design for the City's review, the plans were received and reviewed by Development Services and Public Works Departments. The site investigations revealed that the plumbing and sewer connection of the bathroom facilities need to be replaced. The condition of the adjacent parking lot also warranted improvements for positive flows and ADA requirements.

These comments were conveyed to the Consultant and were added to the project since they were necessary to make the facility functional for its users. The Consultant added this work, but believed the costs were still within budget.

#### Construction Bids

After completion of the project plans and specifications by the Consultant, the project was advertised for competitive bids on May 8 and May 15, 2015. The bid document was divided into a base bid and six additive bid items to allow flexibility to award the construction contract based on the base bid with or without the additive bid items, depending upon the bid amounts and availability of funds. The six additive bid alternatives included construction of the following items:

- A1 Splash Pad (Inside Pool Fence)
- A2 Splash Pad (Outside of Pool Fence)
- A3 Arbor Shade Structure
- A4 30' x 30' Shade Structure
- A5 Relocated Shade Canopies
- A6 Install a Fire Hydrant

The following five bids were received and publicly opened at 2:00 p.m., on June 23, 2015, with the following results:

<b>Contractor</b>	<b>Base Bid</b>	<b>A1</b>	<b>A2</b>	<b>A3</b>	<b>A4</b>	<b>A5</b>	<b>A6</b>
Diede Construction	\$4,331,000	\$398,000	\$625,000	\$108,000	\$153,000	\$18,000	\$12,000
Bobo Construction	\$4,409,000	\$420,000	\$540,000	\$134,000	\$125,000	\$50,000	\$13,000
Gonsalves & Stronck	\$4,729,000	\$433,600	\$620,500	\$135,300	\$ 85,700	\$16,500	\$21,700
Zovich Construction	\$4,840,100	\$415,000	\$425,000	\$123,000	\$140,000	\$20,000	\$15,000
Tricon Construction	\$5,137,212	\$330,000	\$530,000	\$150,000	\$120,000	\$25,000	\$20,000

The lowest base bid amount of \$4,331,000 is approximately \$1.5 million higher than the engineer's estimate of \$2,834,881, provided by the consultant.



The contract documents require that the contract be awarded on the basis of the lowest base bid amount without regard to the amounts of the additive bid items. Diede Construction Inc., of Woodbridge, California is the lowest monetary bidder. Bid analysis indicates the lowest monetary bid is responsive and the bidder is responsible. Diede Construction Inc. has the appropriate contractor's license in active standing with the State of California and has completed similar projects for other public agencies.

Since the project construction has a limited budget of \$3.16 million, the total estimated cost of this project is as follows, if the construction contract is awarded to Diede Construction Inc.:

<u>Construction Cost</u>	<u>Base Bid</u>
Contractor's Bid for Construction	\$4,331,000
Construction Contingency @ 10%	\$ 433,100
Construction Management and Inspection (5%)	<u>\$ 216,000</u>
Total Construction Cost	\$4,980,100
Available Budget for Construction	<u>\$3,160,000</u>
Additional Appropriation of Funds	\$1,820,100

The total cost of the project exceeds the allocated budget amount of this project. The explanation received from the Consultant indicates multiple reasons for the increase in cost including the additional plumbing, sewer, parking improvements, the overall increase in construction costs and the flood of work in the construction industry.

Staff believes that some increases in cost are rightly justified. Staff further believes that receipt of five bids reflect that the contractors submitted very competitive bids and sharpened their pencils. If City Council rejects the bids and the project is re-advertised for bids, the City may not receive a similar response. If Council awards this contract, completion of construction is expected by the end of February 2016.

Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager to approve change orders up to the contingency amount approved by Council. The recommended contingency amount for this project is \$433,100.

### STRATEGIC PLAN

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

### FISCAL IMPACT

This is an approved Capital Improvement Project – 78152 with an allocated budget of \$3.53 million. Out of this amount, \$0.37 million has been spent on design by the Consultant, with a remaining available fund of \$3.16 million for construction purposes. In order to award this construction contract, additional fund in the amount of \$1,820,100 is needed. This amount can be partially paid by the \$1.3 million scheduled to be received

from the Tracy Unified School District for the City stopping use of their facilities for swimming purposes. The remaining \$520,100 needs to be appropriated from the General Fund.

RECOMMENDATION

That City Council, by resolution, award a construction contract for the Joe Wilson Pool Reconstruction Project - CIP 78152, to Diede Construction Inc., of Woodbridge, California, in the amount of \$ 4,331,000, authorize an allocation of \$1,300,000 to be received from Tracy Unified School District to this project and authorize an appropriation of \$520,000 from the General Fund 301 to CIP 78152, authorize the City Manager to approve change orders up to the specified project contingency amount of \$433,100 if needed, and authorize the Mayor to execute the construction contract.

Prepared by: Ed Lovell, Management Analyst II  
Moheb Argand, Associate Civil Engineer  
Paul Verma, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer  
Kul Sharma, Utilities Director  
Bill Dean, Interim Development Services Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

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

AWARDING A CONSTRUCTION CONTRACT FOR THE JOE WILSON POOL RECONSTRUCTION PROJECT - CIP 78152, TO THE LOWEST RESPONSIVE BIDDER, AUTHORIZING AN ALLOCATION OF FUNDS FROM THE GENERAL FUND 301, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT

WHEREAS, The scope of work for the Joe Wilson Pool Reconstruction project consists of the demolition, reconstruction, and widening of the existing swimming pool including all its accessories, site improvements, equipment and mechanical systems, pool pump room renovations, improvements, and modifications, and

WHEREAS, The services of RJM Design Group (Consultant), of Sacramento, California, were acquired by the City to design the Joe Wilson Pool Reconstruction Project – CIP 78152, and

WHEREAS, After completion of the project plans and specifications by the Consultant, the project was advertised for competitive bids on May 8 and May 15, 2015, and

WHEREAS, five bids were received and publicly opened at 2:00 p.m., on June 23, 2015, and

WHEREAS, The lowest base bid amount of \$4,331,000 is higher than the engineer's estimate of \$2,834,881, provided by the consultant, and

WHEREAS, The contract documents require that the contract be awarded on the basis of the lowest base bid amount without regard to the amounts of the additive bid items, and

WHEREAS, This is an approved Capital Improvement Project – 78152, with an allocated budget of \$3.53 million, and

WHEREAS, \$0.37 million has been spent on design by the Consultant, with a remaining available fund of \$3.16 million for construction purposes, and

WHEREAS, In order to award this construction contract, additional funds in the amount of \$1,820,100 are needed, and

WHEREAS, This amount can be partially paid by the \$1.3 million scheduled to be received from the Tracy Unified School District for the City stopping use of their facilities for swimming purposes, and

WHEREAS, The remaining \$520,100 needs to be appropriated from the General Fund;

NOW, THEREFORE BE IT RESOLVED, That City Council awards a construction contract for the Joe Wilson Pool Reconstruction Project - CIP 78152, to Diede Construction Inc., of Woodbridge, California, in the amount of \$ 4,331,000, authorizes an allocation of \$1,300,000 to be received from Tracy Unified School District to this project and authorizes an appropriation of \$520,100 from the General Fund 301 to CIP 78152, authorizes the City Manager to approve change orders up to the specified project contingency amount of \$433,100 if needed, and authorizes the Mayor to execute the construction contract.

\* \* \* \* \*

The foregoing Resolution 2015-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>ST</sup> day of July 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.Q

REQUEST

**APPROVE AN OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH PHASE 1B - PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS ON HANSEN ROAD AND NEW SCHULTE ROAD, AND ASSOCIATED IMPROVEMENTS FOR THE MEDLINE INDUSTRIAL BUILDING AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

Approval of the Offsite Improvement Agreement (OIA) will allow Prologis L.P., a Delaware limited partnership (Developer), to proceed with construction of streets and utility improvements that are necessary for the business operation of the Medline Industrial Building within the Cordes Ranch Business Park (now known as International Park of Commerce).

DISCUSSION

On October 23, 2014, the Development Services Director approved the Development Review application for the construction of an industrial distribution facility now called as Medline Industrial Building which includes a 1,005,480 square foot industrial building, parking, and associated improvements such as landscaping and storm water treatment facilities. The Medline Industrial Building will be located at the northeast corner of Hansen Road and New Schulte Road.

The existing Development Agreement between the Developer and the City allows the Developer to elect and construct program roadway improvements and receive development fee credits and reimbursements.

The Developer has elected to construct the program roadway and recycled water (purple pipe) improvements on Hansen Road and New Schulte Road. The Developer also elected to construct an intelligent transportation system (traffic signal interconnect) on Hansen Road and New Schulte Road as they are critical component of the traffic signal operation and it must be installed with the roadway improvements. Construction of these program roadway improvements are to be completed prior to building occupancy of the Medline Industrial Building.

To guarantee completion of the program roadway improvements or work by the Developer in an orderly manner under the City's inspections and directions, the Developer was required to execute an Offsite Improvement Agreement and post insurance and surety bonds.

The Developer has completed the design of the program roadway improvements described above, 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 program roadway improvements described above. The Offsite Improvement Agreement and Improvement Plans are on file with the City Engineer and are available for review upon request.

The Developer has requested that the public landscaping improvements along Hansen Road and New Schulte Road be excluded as part of the work described in the OIA, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures and storm water treatment, and work with City staff in finalizing the improvement plans for the parkway irrigation and landscaping improvements on Hansen Road and New Schulte Road.

The work related to parkway irrigation and landscaping improvements will be added through an amendment to the OIA at a later date. After completion of the irrigation and landscaping plans, the Developer will sign an agreement to amend the OIA and submit the required improvement security. Improvement plans for the parkway irrigation and landscaping improvements is anticipated to be completed in four to five weeks.

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 plan checking, engineering inspection, and processing the agreement.

#### STRATEGIC PLAN

This agenda item is consistent with the City 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 for Cordes Ranch - Phase 1B Program Roadway and Recycled Water Improvements on Hansen Road and New Schulte Road and associated improvements to serve the Medline Industrial Building, and authorize the Mayor to execute the Offsite Improvement Agreement.

Prepared by: Criseldo Mina, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer  
William Dean, Interim Development Services Director  
Andrew Malik, Interim Assistant City Manager

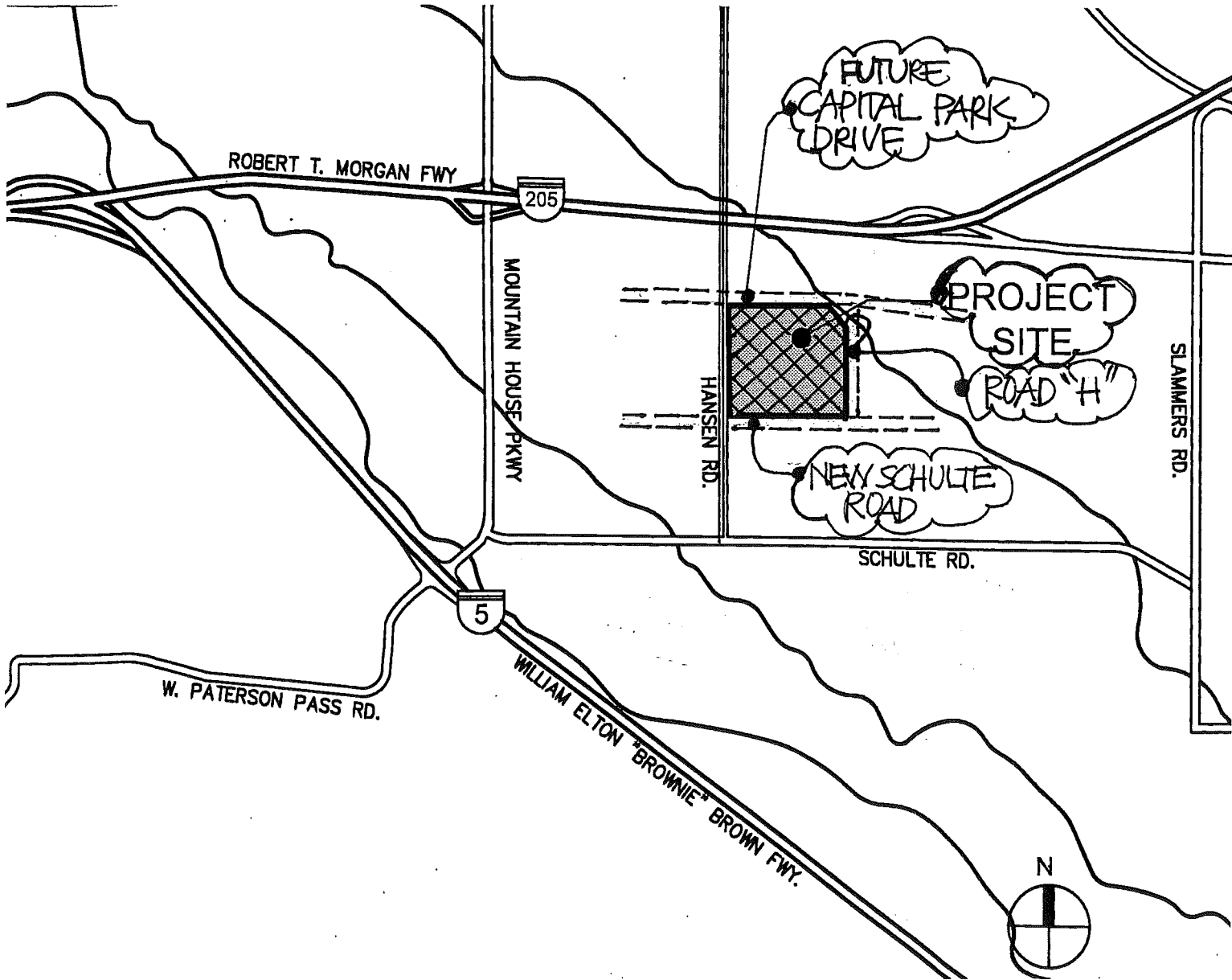
Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Attachment A – Location Map

Attachment B – Offsite Improvement Agreement for Cordes Ranch - Phase 1B Program Roadway Improvements

CORDES RANCH - PHASE 1B PROGRAM ROADWAY  
AND RECYCLED WATER IMPROVEMENTS



LOCATION MAP  
NTS

**CITY OF TRACY  
OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING**

This **OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS FOR MEDLINE INDUSTRIAL BUILDING** (“*Agreement*”) is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (“*City*”) and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as “*Developer*”).

RECITALS

- A. Developer is the legal owner of approximately one thousand two hundred and forty two (1,242) acres of real property, as shown and more particularly described in attached Exhibit A (“*Property*”).
- B. The Property is within the Cordes Ranch Specific Plan Area, which consists of approximately one thousand seven hundred and eighty (1,780) acres (“*Specific Plan Area*”). The Cordes Ranch Specific Plan (“*Specific Plan*”) is intended to create a state-of-the-art commerce and business park within the Specific Plan Area by establishing land use, zoning and development standards and regulations to provide for the phased development of approximately thirty one (31) million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, as described more fully therein (“*Project*”).
- C. On September 3, 2013, the Tracy City Council (“*City Council*”) adopted the Specific Plan and approved related land use entitlements to enable the Project to proceed. In connection therewith, the City Council approved that certain *Development Agreement By and Between the City of Tracy and Prologis, L.P.* (the indirect parent of Developer) (“*Development Agreement*”).
- D. The Development Review Application (D14-0016) for the construction of an industrial distribution and office building along with associated parking and landscape improvements at the northeast corner of Hansen Road and New Schulte Road (“*Medline*”), as approved by the Development Services Director on October 23, 2014, is on file with the Office of the City Engineer, and is incorporated herein by reference. The approval of the Development Review Application, D14-0016 was subject to specific conditions of approval (hereinafter “*Conditions of Approval*”), attached hereto as Exhibit “B,” and incorporated herein by reference.
- E. In accordance with the Development Agreement, the Specific Plan, Conditions of Approval, and the Citywide Water System Master Plan (“*Master Plan*”), Developer has submitted, and City has approved, those certain improvement plans and specifications relating to the construction of streets and utilities improvements on Hansen Road and New Schulte Road, and all associated improvements (collectively, “**Phase 1B Program Roadway & Recycled Water Improvements**” or “*Work*”). The Work is described more fully in the ninety-four (94) sheets of improvement plans entitled “International Park of Commerce – Phase 1B Street Improvement Plans for Hansen Road, New Schulte Road,



**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 2 of 10**

Road "H" , and Capital Park Drive, WID#5539C370860" prepared by Kier & Wright Engineers of Livermore, California (excluding irrigation land landscaping plans described as Sheets I1 through I10 and L1 through L9 prepared by David Babcock & Associates of Lafayette, California ("**Plans and Specifications**"). The Plans and Specifications are on file with the City Engineer, and are incorporated herein by reference.

F. The Plans and Specifications have been prepared on behalf of Developer and City, and approved by the City Engineer, which describe in more detail the Work required in this Agreement.

G. Since the Work, as described above and in the Plans and Specifications, has not been completed, Developer has requested to execute this Agreement as authorized by Government Code Section 66462.

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

1. SCOPE OF WORK. Developer shall perform, or cause to be performed, the Work, to the satisfaction of the City Engineer, pursuant to Section 4 of the Development Agreement. The Work shall be performed, and all materials and labor shall be provided, at Developer's expense, in the manner described in the Plans and Specifications, subject to fee reconciliation provisions set forth in Section 6 of the Development Agreement. No material change shall be made to the scope of Work unless authorized in writing by the City Engineer, such approval not to be unreasonably withheld. Developer may submit a written request to the City Engineer for a change in the scope of Work, as required by Tracy Municipal Code Section 12.36.060(f). Any portion(s) of the Work that are within City's right(s)-of-way and/or easement(s) are to be performed by the Developer in accordance with the requirements of the State prevailing wage laws, in the event and to the extent applicable.
  - 1.1. Developer shall complete the design and preparation of improvement plans, specifications, and cost estimates for the irrigation and landscaping improvements within the median on Hansen Road and New Schulte Road (Additional Work) within thirty (30) calendar days from the date of City Council's approval of this Agreement. Prior to construction of the Additional Work, the Developer shall enter into an amendment to the Agreement for the Additional Work, as approved by the City Engineer, in substantially the form set forth in Exhibit "C" to this Agreement (First Amendment to the Agreement) with the City and post improvement security for the Additional Work.
2. DEVELOPER'S AUTHORIZED REPRESENTATIVE. At all times during the progress of the Work, Developer shall have a competent foreman or superintendent ("**Authorized Representative**") on site with authority to act on Developer's behalf. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the name and telephone number of the Authorized Representative. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 3 of 10**

Work. Exhibit C attached hereto includes the initial contact information referenced herein.

3. LOCATION OF PERFORMANCE. Developer shall perform the Work at the locations and grades shown on the Plans and Specifications or as otherwise approved by the City Engineer. Subject to Section 3.8 of the Development Agreement, in the event and to the extent required for the Work, Developer shall acquire all easements and/or rights-of-way necessary for the performance of the Work, at Developer's expense, subject to fee reconciliation provisions set forth in Section 6 of the Development Agreement.
4. IMPROVEMENT SECURITY. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:

Program Roadway and Recycled Water Improvements

- 4.1 Faithful Performance security in the amount of **\$9,391,373.88** to secure faithful performance of this Agreement (until the date when the City Council accepts the Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
- 4.2 Labor and Material security in the amount of **\$9,391,373.88** to secure payment by Developer to laborers and materialmen (until the date when any and all claims in connection with the Work are required to be made by laborers and materialmen in accordance with applicable laws) pursuant to Government Code Sections 66499.2, 66499.3, 66499.4, and 66499.7(b).
- 4.3 Warranty security in the amount of **\$939,137.39** to secure faithful performance of this Agreement (from the date when the City Council accepts the Work as complete until one (1) year thereafter) pursuant to Government Code Section 66499.1, 66499.4, and 66499.9.
5. INSURANCE. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish evidence to City that all of the following insurance requirements have been satisfied by the Developer or its general contractor responsible for the Work.
  - 5.1. General. Developer shall, throughout the duration of this Agreement, maintain or cause to be maintained insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services for the Work covered by this Agreement at the minimum levels set forth herein.
  - 5.2. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING**

**Page 4 of 10**

Three Million Dollars (\$3,000,000) general aggregate and One Million Dollars (\$1,000,000) per occurrence for general liability, bodily injury, personal injury, and property damage.

- 5.3. Automobile Liability (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto”) coverage shall be maintained in an amount not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- 5.4. Workers’ Compensation coverage shall be maintained as required by the State of California.
- 5.5. Endorsements. Developer shall ensure the automobile and commercial general liability provide the following provisions:
  - 5.5.1. City (including its elected and appointed officials, officers, employees, and agents) shall be named as an additional “insured.”
  - 5.5.2. For any claims related to this Agreement, Developer’s coverage shall be primary insurance with respect to City. Any insurance maintained by City shall be excess of Developer’s insurance and shall not contribute with it.
- 5.6. Notice of Cancellation. Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days’ prior written notice to City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 5.7. Authorized Insurers. All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 5.8. Insurance Certificate. Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form reasonably satisfactory to the City Attorney.
- 5.9. Substitute Certificates. No later than five (5) calendar days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 5.10. Developer’s Obligation. Maintenance of insurance by Developer as specified in this Agreement shall in no way be interpreted as relieving Developer of any of its obligations hereunder (including indemnity obligations under this Agreement), and Developer may carry, at its own expense, such additional insurance as it deems necessary or desirable.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING**

**Page 5 of 10**

6. PERMITS, LICENSES AND COMPLIANCE WITH LAW. Developer shall, at its expense, obtain and maintain all necessary permits, approvals and licenses for performance of the Work, subject to City's cooperation pursuant to Sections 3.4 and 3.5 of the Development Agreement. In its performance of the Work, Developer shall comply with all applicable local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
  
7. TIME OF PERFORMANCE. Time is of the essence in the performance of the Work, and Developer shall with diligence and in good faith adhere to the timing requirements set forth herein unless otherwise modified in writing in accordance with this Agreement. Developer shall submit all requests for extensions of time to City, in writing, no later than ten (10) days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.
  - 7.1. Commencement of Work. No later than fifteen (15) days prior to the commencement of the Work, Developer shall provide written notice to the City Engineer of the date on which Developer intends to commence the Work. Developer shall not commence the Work until after the notice required by this Section 7.1 is provided, and Developer shall not commence Work prior to the date specified in said written notice.
  
  - 7.2. Schedule of Work. Concurrently with the written notice of commencement of Work, Developer shall provide City with a written estimated schedule of Work, which shall be updated in writing as necessary to accurately reflect Developer's prosecution of the Work.
  
  - 7.3. Completion of Work. Developer shall complete all Work prior to the issuance of building certificate of occupancy of the Federal Express Ground Facility Project or no later than three hundred sixty-five (365) calendar days after Developer's submittal of its notice of commencement of work pursuant to Section 7.1 above, whichever occurs first, and subject to extension for force majeure.
  
8. INSPECTION BY CITY. In order to permit City to inspect the Work, Developer shall, at all times, provide to City reasonable and safe access to the Work site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation. City inspections of the Work shall be conducted in accordance with Section 4 of the Development Agreement.
  
9. INSPECTION, OTHER FEES AND PROGRAM FEE CREDITS. All fees due to City in connection with the Work shall be paid in accordance with the Development Agreement. Accordingly, concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall pay City the applicable Program Soft Costs (as that term is defined in the Development Agreement) in accordance with Section 5.1(b) of the Development Agreement.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 6 of 10**

10. DEFAULT.

10.1. Notice of Default. Subject to compliance with Sections 4.4(a) and (b) of the Development Agreement, in the event that Developer is in default of this Agreement, as defined in this Section 10, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.

10.2. Material Breach. Developer shall be in default of this Agreement if Developer fails to perform one or more material requirements of this Agreement, and fails to cure any such non-performance pursuant to Section 10.3, below.

10.3. Cure of Default. In the event that Developer fails, within thirty (30) calendar days after receipt of written notice, to either cure the default or provide adequate written assurance to the reasonable satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:

10.3.1. Cure the default in accordance with Section 4.4(b) of the Development Agreement.

10.3.2. Demand that Developer complete performance of the Work.

10.3.3. Demand that Developer's surety (if any) complete performance of the Work.

11. REPAIR OF ANY DAMAGE. In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other property owners, then Developer shall promptly take all reasonable steps to repair or replace (as necessary) such property to remedy the damage caused thereto.

12. ACCEPTANCE OF WORK. Prior to acceptance of the Work by the City Council, Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Work site.

13. WARRANTY PERIOD. Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one (1) year after acceptance of the Work by the City Council. In the event that (during said one-year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default and shall cure such default as required hereunder.

14. INDEPENDENT CONTRACTOR STATUS. Developer is an independent contractor, and the parties agree that City shall have no responsibility for any acts of

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING**

**Page 7 of 10**

Developer's employees, agents, representatives, contractors or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of City as an agent, or to bind City to any obligation whatsoever, unless City provides prior written authorization to Developer.

15. OWNERSHIP OF WORK. All original documents prepared by Developer for this Agreement shall be given to City upon City's acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws.
16. ATTORNEY'S FEES. In the event any legal action or proceeding is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
17. INDEMNIFICATION. Consistent with the security provisions contained herein, Developer shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting in the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors, or employees until such time as the City Council accepts the Work, and the City becomes responsible for the maintenance, operation and repair of the Work, at which time the indemnification obligations under this Section 17 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, this termination shall not affect Developer's warranty obligations set forth in Section 13, above.
18. ASSIGNMENT AND DELEGATION. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of Developer's duties be delegated, without the written consent of City, which shall not be unreasonably withheld, delayed or denied. Any attempt to assign or delegate this Agreement without City's written consent shall be void and of no force and effect. Consent by City to one assignment shall not be deemed to be consent to any subsequent assignment.
19. NOTICES.
  - 19.1. Notice in Writing. All notices, demands, or other communications that this Agreement contemplates, authorizes or requires shall be in writing and shall be personally delivered or mailed to the respective party as follows:

City: City of Tracy  
Attn: City Engineer  
333 Civic Center Plaza  
Tracy, CA 95376

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 8 of 10**

Copy to: City Attorney's Office  
Attn: City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

Prologis: Prologis L.P.  
Attn: Dan Letter  
Pier 1, Bay 1  
San Francisco, CA 94111  
Tel: (415) 733-9973  
Fax: (415) 733-2171

Copy to: Miller Starr Regalia  
Attn: Nadia Costa  
1331 North California Blvd., 5<sup>th</sup> Floor  
Walnut Creek, CA 94596  
Tel: 925.935.9400  
Fax: 925.933.4126

Copy to: Prologis L.P.  
Attn: General Counsel  
4545 Airport Way  
Denver, CO 80239  
Tel: 303.567.5000  
Fax: 303.567.5903

- 19.2. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) two (2) business days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
20. MODIFICATIONS. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
21. WAIVERS. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
22. ROADWAY FEE CREDITS AND PARTIAL RELEASE OF SECURITY. By entering into this Agreement, Developer shall be entitled to \$9,391,373.88 (Nine Million Three Hundred Ninety One Thousand Three Hundred Seventy Three and 88/100 Dollars) of fee credits. The Medline property described in Exhibit "D", attached hereto and being developed under the City Building Permit Number 15-0080 ("**Medline Permit**") shall be allocated \$2,638,714 (Two Million Six Hundred Thirty Eight Thousand Seven Hundred Fourteen and 00/100 Dollars of Roadway Fee Credits) of these fee credits and an equal amount of the cash security previously posted by the Developer for the Medline Permit shall be released by the City and returned to the Developer."

CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER  
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING

Page 9 of 10

23. RECYCLED WATER FEE CREDITS AND PARTIAL RELEASE OF SECURITY. By entering into this Agreement, Developer shall be entitled to \$9,391,373.88 (Nine Million Three Hundred Ninety One Thousand Three Hundred Seventy Three and 88/100 Dollars) of fee credits. The Medline property described in Exhibit "D", attached hereto and being developed under the City Building Permit Number 15-0080 ("**Medline Permit**") shall be allocated \$554,821 (Five Hundred Fifty Four Thousand Eight Hundred Twenty One and 00/100 Dollars of Recycled Water Credits) of these fee credits and an equal amount of the cash security previously posted by the Developer for the Medline Permit shall be released by the City and returned to the Developer."
24. STORM DRAINAGE FEE CREDITS AND PARTIAL RELEASE OF SECURITY. By entering into this Agreement, Developer shall be entitled to \$9,391,373.88 (Nine Million Three Hundred Ninety One Thousand Three Hundred Seventy Three and 88/100 Dollars) of fee credits. The Medline property described in Exhibit "D", attached hereto and being developed under the City Building Permit Number 15-0080 ("**Medline Permit**") shall be allocated \$191,357 (One Hundred Ninety One Thousand Three Hundred Fifty Seven and 00/100 Dollars of Storm Drainage Fee Credits) of these fee credits and an equal amount of the cash security previously posted by the Developer for the Medline Permit shall be released by the City and returned to the Developer."
25. SEVERABILITY. In the event a court of competent jurisdiction holds any term of this Agreement invalid, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
26. JURISDICTION AND VENUE. The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
27. ENTIRE AGREEMENT. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the Work. This Agreement supersedes all prior negotiations, representations or agreements as such may relate to performance of the Work.

Portion of this Page Intentionally Left Blank



CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH - PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 10 of 10

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

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

CITY OF TRACY, a municipal corporation

\_\_\_\_\_  
Michael Maciel  
MAYOR  
Date: \_\_\_\_\_

Attest:

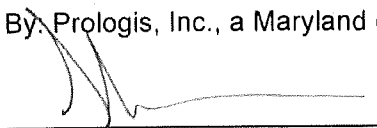
\_\_\_\_\_  
Nora Pimentel  
CITY CLERK  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Dan Sodergren  
CITY ATTORNEY  
Date: \_\_\_\_\_

PROLOGIS:  
PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., a Maryland corporation, its General Partner

  
\_\_\_\_\_  
Scott Swenson  
Its: Vice President  
Date: 2-15-15

04-021315cm

CRBC49447\911851.2

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

APPROVING AN OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH PHASE 1B - PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS ON HANSEN ROAD AND NEW SCHULTE ROAD, AND ASSOCIATED IMPROVEMENTS FOR THE MEDLINE INDUSTRIAL BUILDING AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, On October 23, 2014, the Development Services Director approved the Development Review application for the construction of an industrial distribution facility now called as Medline Industrial Building which includes a 1,005,480 square foot industrial building, and

WHEREAS, The existing Development Agreement between the Developer and the City allows the Developer to elect and construct program roadway improvements and receive development fee credits and reimbursements, and

WHEREAS, The Developer has elected to construct the program roadway and recycled water (purple pipe) improvements on Hansen Road and New Schulte Road, and

WHEREAS, The Developer also elected to construct an intelligent transportation system (traffic signal interconnect) on Hansen Road and New Schulte Road as they are critical component of the traffic signal operation and it must be installed with the roadway improvements, and

WHEREAS, The Developer has completed the design of the program roadway 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 program roadway improvements, and

WHEREAS, The Developer has requested that the public landscaping improvements along Hansen Road and New Schulte Road be excluded as part of the work described in the OIA, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures and storm water treatment, and

WHEREAS, The work related to parkway irrigation and landscaping improvements will be added through an amendment to the OIA at a later date, and

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

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

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the Offsite Improvement Agreement for Cordes Ranch - Phase 1B Program Roadway and Recycled Water Improvements on Hansen Road and New Schulte Road and associated improvements to serve the Medline Industrial Building, and authorizes the Mayor to execute the Offsite Improvement Agreement.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST

\_\_\_\_\_  
MAYOR

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

AGENDA ITEM 1.R

REQUEST

**APPROVE AN OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS AND OTHER ASSOCIATED IMPROVEMENTS ON HANSEN ROAD, NEW SCHULTE ROAD, CAPITAL PARK DRIVE, AND ROAD "H" FOR THE MEDLINE INDUSTRIAL BUILDING, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT**

EXECUTIVE SUMMARY

Medline Industries, the developer of the Medline Industrial Building has assigned its obligation to Prologis L.P., a Delaware limited partnership (Developer) and the Developer assumed the responsibility of constructing frontage improvements on Hansen Road, New Schulte Road, a portion of Capital Park Drive, and Road "H" which are required to be constructed prior to building occupancy of the Medline Industrial Building.

Approval of the Offsite Improvement Agreement (OIA) will allow the Developer, to proceed with construction of streets and utility improvements that are necessary for the business operation of the Medline Industrial Building within the Cordes Ranch Business Park (now known as International Park of Commerce).

DISCUSSION

On October 23, 2014, the Development Services Director approved the Development Review application for the construction of an industrial distribution facility now called Medline Industrial Building which includes a 1,005,480 square foot industrial building, parking, and associated improvements such as landscaping, and storm water treatment facilities. Medline Industrial Building will be located at the northeast corner of Hansen Road and New Schulte Road.

Approval of the Medline Industrial Building project was required to complete the construction of frontage roadway improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H", prior to occupying the building. The frontage roadway improvements include concrete curb, gutter, asphalt concrete pavement, parkway landscaping, driveway, street light, water and sewer mains and laterals, storm drain line and inlets, recycled water line (purple pipe) and irrigation service, fire hydrant, pavement marking and striping, signing and striping, and other improvements. These frontage roadway improvements described above are considered non-program roadway improvements and are not subject to development impact fee credits.

The Developer has completed the design of the frontage roadway improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H" and has submitted the Improvement Plans, Specifications and Cost Estimates (PSE). City staff has reviewed the PSE and found them to be complete.

To guarantee completion of the work by the Developer in an orderly manner under the City's inspections and directions, the Developer was required to execute an Offsite

Improvement Agreement and post insurance and surety bonds. The Developer has executed the Offsite Improvement Agreement and submitted the required security to guarantee completion of the frontage roadway improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H". The Offsite Improvement Agreement and Improvement Plans are on file with the City Engineer and are available for review upon request.

The Developer has requested that the public parkway and median landscaping improvements be excluded as part of the work described in the OIA, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the improvement plans for the parkway and median irrigation and landscaping improvements. The work related to parkway and median irrigation and landscaping improvements will be added through an amendment to the OIA at a later date. After completion of the irrigation and landscaping plans, the Developer will sign an agreement to amend the OIA and submit the required improvement security. Improvement plans for the parkway irrigation and landscaping improvements is anticipated to be completed in four to five weeks.

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 plan checking, engineering inspection, and processing the agreement.

#### STRATEGIC PLAN

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

#### RECOMMENDATION

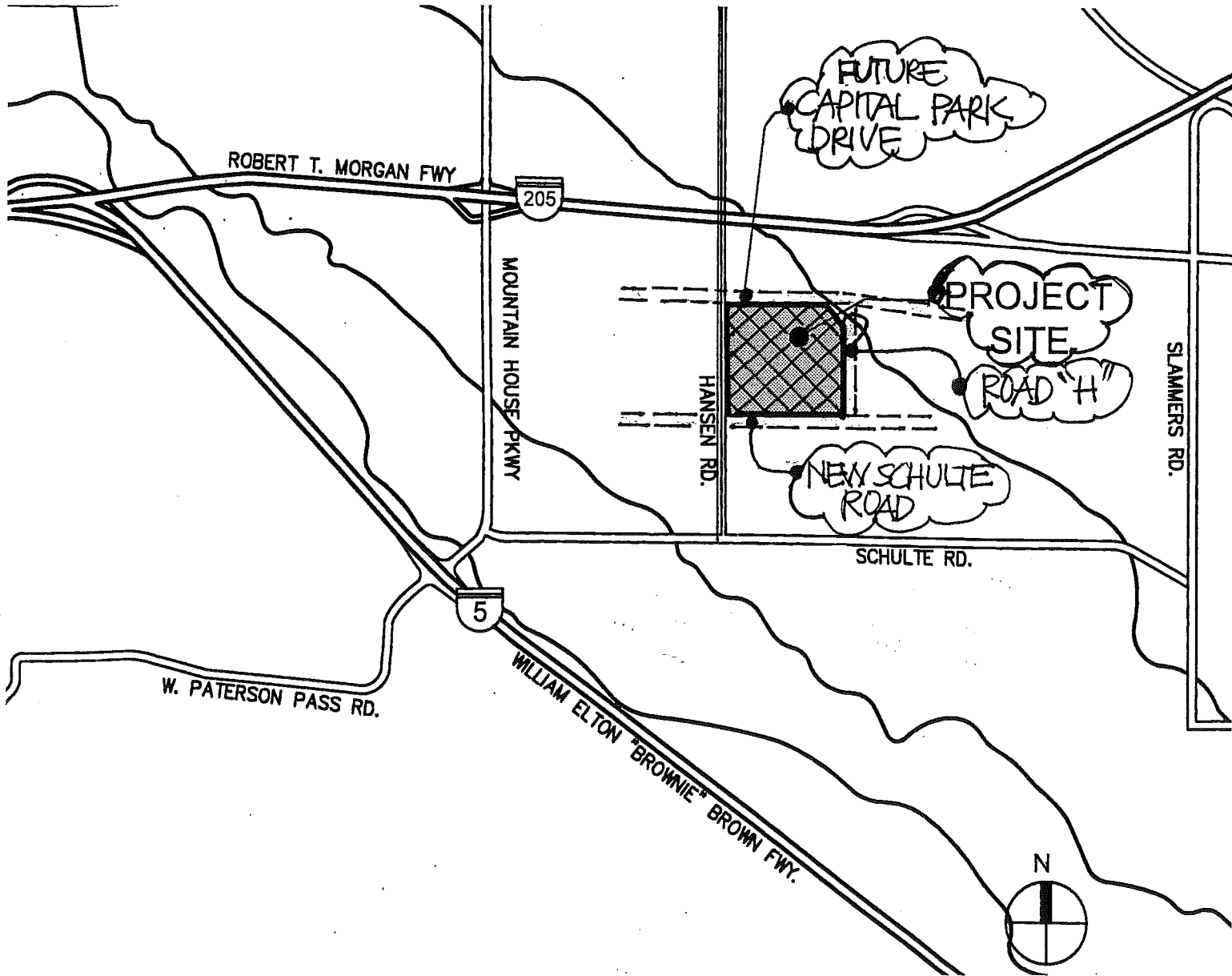
That City Council, by resolution, approve the Offsite Improvement Agreement for the Cordes Ranch Phase 1B Non-Program Roadway Improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H" and other improvements to serve the Medline Industrial Building, and authorize the Mayor to execute the Offsite Improvement Agreement.

Prepared by: Criseldo Mina, Senior Civil Engineer  
Reviewed by: Robert Armijo, City Engineer  
William Dean, Interim Development Services Director  
Andrew Malik, Interim Assistant City Manager  
Approved by: Troy Brown, City Manager

#### ATTACHMENTS

Attachment A – Location Map  
Attachment B – Offsite Improvement Agreement for the Cordes Ranch - Phase 1B Non-Program Roadway Improvements

CORDES RANCH PHASE 1B NON-PROGRAM  
ROADWAY IMPROVEMENTS FOR MEDICINE INDUSTRIAL  
BUILDING AND FEDERAL EXPRESS GROUND FACILITY



LOCATION MAP  
NTS

CITY OF TRACY  
OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING

This OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING (“**Agreement**”) is made and entered into by and between the CITY OF TRACY, a municipal corporation (“**City**”) and PROLOGIS, L. P., a Delaware limited partnership (referred to as “**Developer**”).

RECITALS

- A. Developer is the legal owner of approximately one thousand two hundred and forty two acres of real property, as shown and more particularly described in attached Exhibit A (“**Property**”).
- B. The Property is within the Cordes Ranch Specific Plan Area, which consists of approximately one thousand seven hundred and eighty acres (“**Specific Plan Area**”). The Cordes Ranch Specific Plan (“**Specific Plan**”) is intended to create a state-of-the-art commerce and business park within the Specific Plan Area by establishing land use, zoning and development standards and regulations to provide for the phased development of approximately thirty one million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, as described more fully therein (“**Project**”).
- C. On September 3, 2013, the Tracy City Council (“**City Council**”) adopted the Specific Plan and approved related land use entitlements to enable the Project to proceed. In connection therewith, the City Council approved that certain *Development Agreement By and Between the City of Tracy and Prologis, L.P.* (the indirect parent of Developer) (“**Development Agreement**”).
- D. The Development Review Application (D14-0016) for the construction of an industrial distribution and office building along with associated parking and landscape improvements at the northeast corner of Hansen Road and New Schulte Road (“**Medline**”), as approved by the Development Services Director on October 23, 2014, is on file with the Office of the City Engineer, and is incorporated herein by reference. The approval of the Development Review Application, D14-0016 was subject to specific conditions of approval (hereinafter “**Conditions of Approval**”), attached hereto as Exhibit “B,” and incorporated herein by reference.
- E. In accordance with the Development Agreement, the Specific Plan, Conditions of Approval, and the Citywide Water System Master Plan (“**Master Plan**”), Developer has submitted, and City has approved, those certain improvement plans and specifications relating to the construction of streets and utilities improvements on Hansen Road and New Schulte Road, and all associated improvements (collectively, “**Phase 1B Non-Program Roadway Improvements**” or “**Work**”). The Work is described more fully in the ninety-four sheets of improvement plans entitled “International Park of Commerce – Phase 1B Street

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 2 of 9**

Improvement Plans for Hansen Road, New Schulte Road, Road "H" ; and Capital Park Drive, WDID#5539C370860" prepared by Kier & Wright Engineers of Livermore, California (excluding irrigation land landscaping plans described as Sheets I1 through I10 and L1 through L9 prepared by David Babcock & Associates of Lafayette, California) ("**Plans and Specifications**"). The Plans and Specifications are on file with the City Engineer, and are incorporated herein by reference.

F. The Plans and Specifications have been prepared on behalf of Developer and City, and approved by the City Engineer, which describe in more detail the Work required in this Agreement.

G. Since the Work, as described above and in the Plans and Specifications, has not been completed, Developer has requested to execute this Agreement as authorized by Government Code Section 66462.

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

1. SCOPE OF WORK. Developer shall perform, or cause to be performed, the Work, to the satisfaction of the City Engineer, pursuant to Section 4 of the Development Agreement. The Work shall be performed, and all materials and labor shall be provided, at Developer's expense, in the manner described in the Plans and Specifications, subject to fee reconciliation provisions set forth in Section 6 of the Development Agreement. No material change shall be made to the scope of Work unless authorized in writing by the City Engineer, such approval not to be unreasonably withheld. Developer may submit a written request to the City Engineer for a change in the scope of Work, as required by Tracy Municipal Code Section 12.36.060(f). Any portion(s) of the Work that are within City's right(s)-of-way and/or easement(s) are to be performed by the Developer in accordance with the requirements of the State prevailing wage laws, in the event and to the extent applicable.
  - 1.1. Developer shall complete the design and preparation of improvement plans, specifications, and cost estimates for the irrigation and landscaping improvements within the median, if applicable, and the area between the curb and property line on along Medline's frontage on Hansen Road, New Schulte Road, and portions of Capital Park Drive and Road "H" (Additional Work) within thirty calendar days from the date of City Council's approval of this Agreement. Prior to construction of the Additional Work, the Developer shall enter into an amendment to this Agreement including the Additional Work, as approved by the City Engineer, in substantially the form set forth in Exhibit C to this Agreement (First Amendment to the Agreement) and post improvement security for the Additional Work.
2. DEVELOPER'S AUTHORIZED REPRESENTATIVE. At all times during the progress of the Work, Developer shall have a competent foreman or superintendent ("**Authorized Representative**") on site with authority to act on Developer's behalf.



**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 3 of 9**

Developer shall, at all times, keep the City Engineer reasonably informed in writing of the name and telephone number of the Authorized Representative. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work. Exhibit D attached hereto includes the initial contact information referenced herein.

3. LOCATION OF PERFORMANCE. Developer shall perform the Work at the locations and grades shown on the Plans and Specifications or as otherwise approved by the City Engineer. Subject to Section 3.8 of the Development Agreement, in the event and to the extent required for the Work, Developer shall acquire all easements and/or rights-of-way necessary for the performance of the Work, at Developer's expense, subject to fee reconciliation provisions set forth in Section 6 of the Development Agreement.

The Developer shall offer for dedication to the City, all rights-of-way and/or permanent easement(s), prior to starting the Work.

4. IMPROVEMENT SECURITY. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amounts:

Non-Program Improvements – Hansen Road, New Schulte Road, and portions of Capital Park Drive and Road "H"

- 4.1 Faithful Performance security in the amount of **\$3,876,912.22** to secure faithful performance of this Agreement (until the date when the City Council accepts the Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
  - 4.2 Labor and Material security in the amount of **\$3,876,912.22** to secure payment by Developer to laborers and materialmen (until the date when any and all claims in connection with the Work are required to be made by laborers and materialmen in accordance with applicable laws) pursuant to Government Code Sections 66499.2, 66499.3, 66499.4, and 66499.7(b).
  - 4.3 Warranty security in the amount of **\$387,691.22** to secure faithful performance of this Agreement (from the date when the City Council accepts the Work as complete until one (1) year thereafter) pursuant to Government Code Section 66499.1, 66499.4, and 66499.9.
5. INSURANCE. Concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall furnish evidence to City that all of the following insurance requirements have been satisfied by the Developer or its general contractor responsible for the Work.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 4 of 9**

- 5.1. General. Developer shall, throughout the duration of this Agreement, maintain or cause to be maintained insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services for the Work covered by this Agreement at the minimum levels set forth herein.
- 5.2. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than Three Million Dollars (\$3,000,000) general aggregate and One Million Dollars (\$1,000,000) per occurrence for general liability, bodily injury, personal injury, and property damage.
- 5.3. Automobile Liability (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto”) coverage shall be maintained in an amount not less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- 5.4. Workers’ Compensation coverage shall be maintained as required by the State of California.
- 5.5. Endorsements. Developer shall ensure the automobile and commercial general liability provide the following provisions:
  - 5.5.1. City (including its elected and appointed officials, officers, employees, and agents) shall be named as an additional “insured.”
  - 5.5.2. For any claims related to this Agreement, Developer’s coverage shall be primary insurance with respect to City. Any insurance maintained by City shall be excess of Developer’s insurance and shall not contribute with it.
- 5.6. Notice of Cancellation. Developer shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days’ prior written notice to City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 5.7. Authorized Insurers. All insurance companies providing coverage to Developer shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 5.8. Insurance Certificate. Developer shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form reasonably satisfactory to the City Attorney.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 5 of 9**

- 5.9. Substitute Certificates. No later than five calendar days prior to the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.
- 5.10. Developer's Obligation. Maintenance of insurance by Developer as specified in this Agreement shall in no way be interpreted as relieving Developer of any of its obligations hereunder (including indemnity obligations under this Agreement), and Developer may carry, at its own expense, such additional insurance as it deems necessary or desirable.
6. PERMITS, LICENSES AND COMPLIANCE WITH LAW. Developer shall, at its expense, obtain and maintain all necessary permits, approvals and licenses for performance of the Work, subject to City's cooperation pursuant to Sections 3.4 and 3.5 of the Development Agreement. In its performance of the Work, Developer shall comply with all applicable local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
7. TIME OF PERFORMANCE. Time is of the essence in the performance of the Work, and Developer shall with diligence and in good faith adhere to the timing requirements set forth herein unless otherwise modified in writing in accordance with this Agreement. Developer shall submit all requests for extensions of time to City, in writing, no later than ten days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.
- 7.1. Commencement of Work. No later than fifteen days prior to the commencement of the Work, Developer shall provide written notice to the City Engineer of the date on which Developer intends to commence the Work. Developer shall not commence the Work until after the notice required by this Section 7.1 is provided, and Developer shall not commence Work prior to the date specified in said written notice.
- 7.2. Schedule of Work. Concurrently with the written notice of commencement of Work, Developer shall provide City with a written estimated schedule of Work, which shall be updated in writing as necessary to accurately reflect Developer's prosecution of the Work.
- 7.3. Completion of Work. Developer shall complete all Work prior to the issuance of building certificate of occupancy of the Federal Express Ground Facility Project or no later than three hundred sixty-five calendar days after Developer's submittal of its notice of commencement of work pursuant to Section 7.1 above, whichever occurs first, and subject to extension for force majeure.
8. INSPECTION BY CITY. In order to permit City to inspect the Work, Developer shall, at all times, provide to City reasonable and safe access to the Work site, and all

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 6 of 9**

portions of the Work, and to all shops wherein portions of the Work are in preparation. City inspections of the Work shall be conducted in accordance with Section 4 of the Development Agreement.

9. INSPECTION, OTHER FEES AND PROGRAM FEE CREDITS. All fees due to City in connection with the Work shall be paid in accordance with the Development Agreement. Accordingly, concurrently with the execution of this Agreement, and prior to the commencement of any Work, Developer shall pay City the applicable Program Soft Costs (as that term is defined in the Development Agreement) in accordance with Section 5.1(b) of the Development Agreement.
10. DEFAULT.
  - 10.1. Notice of Default. Subject to compliance with Sections 4.4(a) and (b) of the Development Agreement, in the event that Developer is in default of this Agreement, as defined in this Section 10, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.
  - 10.2. Material Breach. Developer shall be in default of this Agreement if Developer fails to perform one or more material requirements of this Agreement, and fails to cure any such non-performance pursuant to Section 10.3, below.
  - 10.3. Cure of Default. In the event that Developer fails, within thirty calendar days after receipt of written notice, to either cure the default or provide adequate written assurance to the reasonable satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:
    - 10.3.1. Cure the default in accordance with Section 4.4(b) of the Development Agreement.
    - 10.3.2. Demand that Developer complete performance of the Work.
    - 10.3.3. Demand that Developer's surety (if any) complete performance of the Work.
11. REPAIR OF ANY DAMAGE. In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other property owners, then Developer shall promptly take all reasonable steps to repair or replace (as necessary) such property to remedy the damage caused thereto.
12. ACCEPTANCE OF WORK. Prior to acceptance of the Work by the City Council, Developer shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Work site.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING**

**Page 7 of 9**

13. WARRANTY PERIOD. Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one (1) year after acceptance of the Work by the City Council. In the event that (during said one-year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default and shall cure such default as required hereunder.
14. INDEPENDENT CONTRACTOR STATUS. Developer is an independent contractor, and the parties agree that City shall have no responsibility for any acts of Developer's employees, agents, representatives, contractors or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of City as an agent, or to bind City to any obligation whatsoever, unless City provides prior written authorization to Developer.
15. OWNERSHIP OF WORK. All original documents prepared by Developer for this Agreement shall be given to City upon City's acceptance of the Work; provided, however, ownership of said documents shall be determined in accordance with applicable laws.
16. ATTORNEY'S FEES. In the event any legal action or proceeding is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
17. INDEMNIFICATION. Consistent with the security provisions contained herein, Developer shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting in the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors, or employees until such time as the City Council accepts the Work, and the City becomes responsible for the maintenance, operation and repair of the Work, at which time the indemnification obligations under this Section 17 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, this termination shall not affect Developer's warranty obligations set forth in Section 13, above.
18. ASSIGNMENT AND DELEGATION. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of Developer's duties be delegated, without the written consent of City, which shall not be unreasonably withheld, delayed or denied. Any attempt to assign or delegate this Agreement without City's written consent shall be void and of no force and effect. Consent by City to one assignment shall not be deemed to be consent to any subsequent assignment.

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 8 of 9**

19. NOTICES.

20.1. Notice in Writing. All notices, demands, or other communications that this Agreement contemplates, authorizes or requires shall be in writing and shall be personally delivered or mailed to the respective party as follows:

City: City of Tracy  
Attn: City Engineer  
333 Civic Center Plaza  
Tracy, CA 95376

Copy to: City Attorney's Office  
Attn: City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

Prologis: Prologis L.P.  
Attn: Dan Letter  
Pier 1, Bay 1  
San Francisco, CA 94111  
Tel: (415) 733-9973  
Fax: (415) 733-2171

Copy to: Miller Starr Regalia  
Attn: Nadia Costa  
1331 North California Blvd., 5<sup>th</sup> Floor  
Walnut Creek, CA 94596  
Tel: 925.935.9400  
Fax: 925.933.4126

Copy to: Prologis L.P.  
Attn: General Counsel  
4545 Airport Way  
Denver, CO 80239  
Tel: 303.567.5000  
Fax: 303.567.5903

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

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

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

**CITY OF TRACY - OFFSITE IMPROVEMENT AGREEMENT  
CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR  
MEDLINE INDUSTRIAL AND OFFICE BUILDING  
Page 9 of 9**

23. SEVERABILITY. In the event a court of competent jurisdiction holds any term of this Agreement invalid, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
24. JURISDICTION AND VENUE. The interpretation, validity and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
25. ENTIRE AGREEMENT. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the Work. This Agreement supersedes all prior negotiations, representations or agreements as such may relate to performance of the Work.
26. SIGNATURES. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of Developer and City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

CITY OF TRACY, a municipal corporation

\_\_\_\_\_  
Michael Maciel  
MAYOR  
Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Nora Pimentel  
CITY CLERK  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Dan Sodergren  
CITY ATTORNEY  
Date: \_\_\_\_\_

PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., a Maryland corporation,  
its General Partner

\_\_\_\_\_  
Scott Swenson  
Its: Vice President

Date: 7-15-15

04-021315cm

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

APPROVING AN OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS AND OTHER ASSOCIATED IMPROVEMENTS ON HANSEN ROAD, NEW SCHULTE ROAD, CAPITAL PARK DRIVE, AND ROAD "H" FOR THE MEDLINE INDUSTRIAL BUILDING, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, On October 23, 2014, the Development Services Director approved the Development Review application for the construction of an industrial distribution facility now called Medline Industrial Building which includes a 1,005,480 square foot industrial building, parking, and associated improvements such as landscaping, and storm water treatment facilities, and

WHEREAS, Approval of the Medline Industrial Building project was required to complete the construction of frontage roadway improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H", prior to occupying the building, and

WHEREAS, The Developer has completed the design of the frontage roadway improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H" 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 frontage roadway improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H, and

WHEREAS, The Developer has requested that the public parkway and median landscaping improvements be excluded as part of the work described in the OIA, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and

WHEREAS, The work related to parkway and median irrigation and landscaping improvements will be added through an amendment to the OIA at a later date, and

WHEREAS, After completion of the irrigation and landscaping plans, the Developer will sign an agreement to amend the OIA and submit the required improvement security, and

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

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

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the Offsite Improvement Agreement for the Cordes Ranch Phase 1B Non-Program Roadway Improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H" and other improvements to serve the Medline Industrial Building, 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 21<sup>st</sup> day of July, 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

**DISCUSSION AND DIRECTION REGARDING DEVELOPMENT POLICY AND ZONING  
ALONG THE I-205 CORRIDOR**

EXECUTIVE SUMMARY

This agenda item is an opportunity to renew discussions regarding development policy, zoning, and design guidelines along the I-205 Corridor. This agenda item allows for wide-ranging discussion outside of the context of any specific development application.

DISCUSSION

Development policy, zoning, and design guidelines throughout the City are the foundation for outcomes we see in the built environment, and are established by City Council. Such policy, zoning, and standards are powerful expressions of City values, which change over time. Development policy is largely established in the General Plan, and in area Specific Plans (such as Ellis, I-205 Corridor, Northeast Industrial Areas, Tracy Hills, Cordes Ranch, etc.) which are adopted after extensive public hearings, in some cases across many years. Zoning, by contrast, is typically more specific in that it contains very specific development regulations (setbacks, height limitations, allowable land uses, etc.). Design guidelines, by further contrast, are typically limited in breadth in that they principally address aesthetic, architectural, and landscape issues. There are overlaps between these three foundational aspects; for example, Specific Plans can contain zoning and design standards, which is the case for several of Tracy's Specific Plans and is common in many California cities and across the country.

The process to obtain discretionary permits is established in either the Specific Plan and/or the zoning district, or is otherwise established in the zoning ordinance of the Municipal Code. Such processes include staff-level development permit approvals, Planning Commission-level approvals, and City Council-level approvals.

Properties along the I-205 Corridor are regulated under a variety of General Plan policies, several different Specific Plans, multiple different zoning districts, and have all three levels of approval depending on the regulations.

Over time, the community, Planning Commission, and City Council sentiment changes resulting in updates, amendments, and adjustments to all three levels of development policy, and in the levels of review required in order to obtain permits. Such determinants of land use policy and development process are highly complex involving real estate economics, environmental considerations, community intent, economic development, property rights, and many other considerations.

Over the years, the I-205 corridor has been discussed by City Council, sometimes leading to direction to staff to make changes. Attached to the staff report are the agenda materials and minutes from a relatively recent (July, 2012), comprehensive discussion

about the I-205 corridor (Attachments A and B). That discussion was prompted by earlier discussions regarding the Cordes Ranch Specific Plan (which abuts a portion of the I-205 Corridor), when it was before City Council at public meetings for discussion prior to its approval by City Council. Also attached is a map identifying vacant parcels along I-205 and the current zoning (Attachment C).

City Council can provide specific direction on any zoning and development policy-related matter. This staff report is intended to be the initial step in those discussions. Any such direction involving changes to General Plan policy, Specific Plan policy, or zoning will, of course, have to be implemented through the State law mandated public hearing process, following appropriate environmental review.

### STRATEGIC PLAN

This agenda item is not directly related to any specific City Council Strategic Plan.

### FISCAL IMPACT

This agenda item will have no fiscal impact as it is solely a discussion.

### RECOMMENDATION

Staff recommends that the City Council discuss zoning and development policy along the I-205 Corridor and provide direction to staff.

Prepared by: Bill Dean, Interim Development Services Director

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

### ATTACHMENTS

A— July 17, 2012 City Council staff report and power point presentation (agenda item No.8)

B— Minutes from 7/17/2012 City Council agenda item No.8

C—Map identifying vacant parcels along I-205 and current zoning

July 17, 2012

## AGENDA ITEM 8

REQUEST**COUNCIL DISCUSSION REGARDING ECONOMIC DEVELOPMENT AND ZONING  
ALONG THE I-205 CORRIDOR THROUGH THE CITY OF TRACY**EXECUTIVE SUMMARY

This agenda item is a discussion item requested by Council Member Rickman related to zoning districts along the I-205 corridor through the City of Tracy. Capitalizing on regional economic development opportunities along transportation corridors has long been a part of Tracy's growth patterns. This is evident by the amount of retail / commercial development along Eleventh Street, which developed at a time when Eleventh Street was the main Highway or gateway to the Central Valley from the Bay Area. We also see evidence of this retail commercial trend occurring when the I-205 was first constructed in the early 1970's. In fact, the I-205 Specific Plan, adopted in 1990, was a strategic and successful response to capturing regional sales tax for the City of Tracy. In order to assist the City to develop and implement these growth strategies, the City hired nationally recognized economists Claude and Nina Gruen, principals of Gruen Gruen and Associates. The Gruen Gruen and Associates report has been instrumental at evaluating and forecasting market conditions to help the City provide an overall balanced growth pattern responsive to market conditions and public / private investment from within the City's infill areas and along the I-205 corridor.

BACKGROUNDSummary of Land Use and Zoning History

Tracy's inception occurred at the confluence of two Central Pacific railroad lines and grew with the expansion of the railroad servicing headquarters in the late 19<sup>th</sup> Century. Tracy's geographic center and economic focus, regarding employment and commerce, were located in the area we now call the Bowtie and Downtown.

Major employment through the first half of the 20<sup>th</sup> Century remained focused on service to the railroads and agriculture, such as the opening of the Holly Sugar plant north of Tracy in 1917. By the middle 20<sup>th</sup> Century, larger employers had been added in and around Tracy such as Laura Scudders on Valpico Road, Heinz on Eleventh Street, Owens Illinois on Schulte Road, and the military Defense Depot on Chrisman Road. Some residential enclaves, away from town were also established, such as the Larch-Clover neighborhood, now on the Tracy's northern border between Tracy Boulevard and Corral Hollow Road.

While residential neighborhoods and some retail businesses were developed south of the Bowtie, Tracy's primary growth occurred north of the railroad tracks.

During the housing boom following the Second World War, expansion to the north continued, with residential neighborhoods replacing orchards and other farms as far north as Grant Line Road by the 1950's.

When the I-205 Freeway was constructed in the early 1970's, some dairy farms and alfalfa fields still existed between Grant Line Road and I-205 in what is now City limits. As recently as 1990, an agriculture products trucking yard operated on what is now the Mi Pueblo shopping center at Tracy Boulevard and Clover Road.

With construction of I-205, the City gained an immediate and relatively easy connection to the San Francisco Bay Area to the west and Central Valley cities to the north and south. Like the railroads a century earlier, the freeway would later play a pivotal role in the City's growth.

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

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

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

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

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

Those negotiations with General Growth and a broad based effort with property owners resulted in the City-Council adoption of the I-205 Corridor Specific Plan in 1990. The I-205 Specific Plan includes approximately 600 acres in the Grant Line Road vicinity and

approximately 100 acres at the MacArthur Drive interchange. The most recent addition to the I-205 Specific Plan is the 43-acre, Filios/Dobler Annexation from earlier this year.

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

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

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

## DISCUSSION

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

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

### Changing Market Conditions and Economic Development Opportunities

#### *Retail*

While it is important to provide an economic forecast as part of the City's General Plan process / implementation, it is equally important to recognize changes in the market and

to adjust to meet those new demands. For example, the retail environment has changed dramatically over the past 5+ years particularly as it relates to the ever increasing market share of online shopping, among other factors. Many shoppers today have smart phone applications ("apps") providing price comparisons among competing retailers. Additionally, there has been a shift in consumer behavior as it relates to spending. The effects of the economic downturn and slow recovery has forced consumers to become increasingly cost conscious, so much so that retailers have had to respond with lower-price alternative products in order to maintain market share. Couple these competitive factors with a protracted global recession and it is easy to understand why some seemingly strong national retailers simply no longer exist. Those that do exist today have had to close underperforming stores (i.e. Best Buy closures throughout the region) and or negotiate for smaller space/cheaper rents. Retailers are now rethinking the way they do business, specifically as it relates to their expansion plans and product offerings.

In order to respond to the dramatic change in the retail environment, staff has had to focus considerable attention on business retention efforts (Grow Tracy Fund and Enterprise Zone), while filling vacant space. As identified in the State of the City address presented earlier this year, the City and developer partners have been successful in filling many of the retail vacancies in the community. Staff expects to see continued success in filling vacant retail space as the City strengthens relationships with local retail developers, such as Rouse Properties (the new owners of the West Valley Mall), Tracy Outlet Centers and others.

The retail challenge moving forward will be to strike a balance between the needs and success of the existing retail areas and those of new development. More specifically, the 89 acres of new retail construction / demand by 2020 recommended by Gruen Gruen & Associates in 2007 will likely need to be scaled back to better reflect current market realities.

#### *Office*

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

There are signs that the residential market may be improving locally, which could provide an opportunity to capture additional office demand for the Finance, Insurance and Real Estate sector in the near future. There may also be additional office demand as the Cordes Ranch project comes on-line with larger employers, which may drive demand for additional retail, office and residential development. It's important to understand that all of these different types of developments influence each other.

#### *Light Industrial*

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

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

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

#### Economic Development – Site Selection Criteria

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

While the City and local developer partners have been successful in attracting certain retailers to the community, there are some retailers that require much more stringent site location criteria. According to the International Council of Shopping Centers (ICSC) article, "Inside Site Selection: Retailers search for strategic business locations", there are two fundamental site selection indicators: 1) Median household income, and 2) Number of households and / or people within a given market area. The article also indicates that specialized retailers may rely on additional indicators such as number of college graduates, ethnic composition of the market, housing prices etc. There is also selection criteria related to how successful the existing market is performing in terms of sales per square foot. In fact, in many cases, this is the starting point for retailers to determine whether or not to proceed with due diligence on a particular location. This is



why it is critical to make sure our existing retail areas are as successful as possible in order to expand, and upgrade our future retail offerings.

*Here are a few examples of preliminary site selection criteria for certain retail tenants:*

<p><b>Cheesecake Factory:</b></p> <ul style="list-style-type: none"> <li>- 250,000 population w/in 5-mile radius</li> <li>- Average Household Income \$50 – 75k</li> <li>- Restaurant Sales of \$8 – 10M annually</li> </ul>	<p><b>City of Tracy:</b></p> <ul style="list-style-type: none"> <li>- 94,000 population w/in 5-mile radius</li> <li>- Average Household Income \$86,000</li> <li>- I-205 Avg. Restaurant Sales \$3.6M</li> </ul>
<p><b>Dave and Busters:</b></p> <ul style="list-style-type: none"> <li>- 100,000 daytime population w/in 3-mile radius</li> <li>- 500,000 total population w/in 10-mile radius</li> </ul>	<p><b>City of Tracy:</b></p> <ul style="list-style-type: none"> <li>- &lt;25,000 daytime population w/in 3-mile radius</li> <li>- 112,000 total population w/in 10-mile radius</li> </ul>
<p><b>Trader Joe's:</b></p> <ul style="list-style-type: none"> <li>- 40,000 households w/in 3-mile radius</li> <li>- 55% of residents w/some college education</li> <li>- Average Household Size 2.5</li> </ul>	<p><b>City of Tracy:</b></p> <ul style="list-style-type: none"> <li>- &lt;20,000 households w/in 3-mile radius</li> <li>- &lt;30% of residents w/some college education</li> <li>- Average Household Size 3.34</li> </ul>

*Incentives*

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

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

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

#### *Current Economic Development Efforts and Metrics*

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

Business attraction is also an important part of the Economic Development Strategy. City staff participates in tradeshow throughout the year in an effort to market Tracy to companies from a variety of industries. Tradeshow are a powerful marketing tool because they bring together thousands of prospective businesses and developers into one location. City representatives typically attend industrial and office industry tradeshow in conjunction with the San Joaquin Partnership, the countywide Economic Development Corporation. This provides a discounted cost for attendance while still gaining exposure for Tracy. The International Council of Shopping Centers retail tradeshow in Monterey has proven to be a successful event in regards to retail recruitment. Staff has a booth at the one-day event each year and continues to collect viable retail leads. This event is also a great way for staff to connect with local commercial brokers representing Tracy shopping centers.

Although tradeshow are an effective means of attracting new businesses, they are not the only focus. Recently the City enlisted the services of the The Natelson Dale Group to complete an industry cluster analysis. This study helped narrow the list of target industries that best match the skill sets of Tracy's employed residents. With this type of information we have developed a marketing and outreach program tailored to specific

target industries. Using traditional marketing avenues as well as various social media outlets, staff is able to connect with specific companies that match our targeted industry criteria.

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

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

#### STRATEGIC PLAN

This agenda specifically relates to the Economic Development Strategic Plan adopted by City Council.

#### FISCAL IMPACT

This is an information item. There is no fiscal impact to the General Fund with this item. If in the future there are certain incentives approved for prospective tenants, there may be impacts to the General Fund, which would be identified and discussed as part of the City's Incentive Program.

#### RECOMMENDATION

This is an information item. Staff recommends that Council discuss and accept the I-205 zoning and economic development report.

Prepared by: Andrew Malik, Development Services Director  
Alan Bell, Senior Planner  
Amie Mendes, Economic Development Management Analyst

Approved by: Leon Churchill Jr., City Manager

Attachment A: Gruen Gruen & Associates Principal Profiles  
Attachment B: Gruen Gruen & Associates 2007 Council Presentation  
Attachment C: General Plan Land Use & Economic Development Policies  
Attachment D: Economic Development Strategic Plan



GRUEN GRUEN + ASSOCIATES

## Principals' Profiles



**Claude Gruen, Ph.D.**  
Principal Economist

Dr. Claude Gruen is an urban economist who specializes in the evaluation and implementation of real estate development and public policy opportunities and trade offs.

Since the early 1970's, Dr. Gruen's work has provided the economic foundation and real estate development programs for successful shopping, entertainment, housing, industrial and mixed-use projects sponsored by public and private entities. Projects completed by Dr. Gruen's clients include major office buildings, industrial parks, housing projects, shopping centers and mixed-use projects in California, Ohio, Illinois, Washington, Oregon, Arizona, Colorado, New Mexico and Nevada. Examples of projects include Settlers' Landing in Cleveland, OH, the San Francisco Centre (Westfield Mall on Market Street), Santa Maria Town Center in Santa Maria, CA, the consolidation and expansion of Fashion Square Shopping Center in Downtown Scottsdale, AZ, and Hacienda Business Park in Pleasanton, CA. Two of the properties developed and sold for the State of California include an 87-acre former developmental center in San Jose that was redeveloped as the headquarters of Cisco Systems, and the 360-acre former Agnews Developmental Center in Santa Clara that consists of the award-winning mixed use Rivermark residential community, Rivermark Village Shopping Center, the Oracle R&D buildings (originally developed as headquarters of Sun Microsystems) and a 16-acre Citation Homes project. The State of California has received approximately \$500 million for the sale of these lands to builders and users.

Working as Special Master for the United States District Court since 1999, Dr. Gruen and Nina J. Gruen remediated the 84.5-acre former Pacific States Steel Corporation property in Union City, California, redeveloping the land for 545 residences, a business park and public infrastructure. Remediation costing \$20 million was accomplished with no public subsidies. Real estate developed on the now cleaned land is on the tax roles for in excess of \$245 million, and all first tier creditors have been paid to date. Over \$84 million has been obtained to date from the sale of land on the remediated property.

Fiscal policies, policy assessments and strategic development programs formulated by Dr. Gruen have been implemented by local governments, including Scottsdale, AZ, Lawrence, KS, and the California communities of Hawthorne, Mountain View, Palo Alto, Tracy, Stockton, Daly City, Oakland, Brentwood, Antioch, Lodi; and many school districts and other institutions. Land use marketability and implementation assessments prepared by GG+A teams working under Dr. Gruen's direction have identified programs for many successful projects and, of equal or greater importance, eliminated from consideration proposed projects unlikely to be profitable or sustainable.

Dr. Gruen has served as a founding director of RREEF America I and RREEF America III, real estate investment trusts managed by RREEF, a subsidiary of Deutsche Bank.

Dr. Gruen has conducted a wide variety of real estate valuation, highest and best use, and feasibility studies on matters that were under litigation, and then testified in support of his findings in California, Nevada, and

Illinois courts. He holds a Ph.D. in Economics from the University of Cincinnati and has served on the faculties of Xavier University in Cincinnati and the University of California at Berkeley. He is a member of the Western Regional Science Association, Lambda Alpha Honorary Land Economics Society and the American Economic Association. Since 1990, he has written a "Trends" column for the Institutional Real Estate Letter, a publication that serves the country's pension fund real estate investors. He is the author of *New Urban Development: Looking Back to See Forward*, published by Rutgers University Press in 2010. In 1972, Dr. Gruen and Nina J. Gruen co-authored *Low and Moderate Income Housing in the Suburbs*, published by Praeger.

---

**GRUEN GRUEN + ASSOCIATES**

---

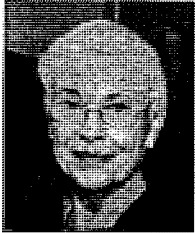
Content Copyright © 2012 GRUEN GRUEN + ASSOCIATES. All Rights Reserved.

{ site map }



GRUEN GRUEN + ASSOCIATES

## Principals' Profiles



**Nina J. Gruen**  
Executive Vice President  
Principal Sociologist

Nina J. Gruen has been the Principal Sociologist in charge of market research and analysis at Gruen Gruen + Associates (GG+A) since co-founding the firm in 1970. Ms. Gruen applies the analytical techniques of the social sciences to estimating the demand for real estate and to understanding the behavior of the groups who determine the success of development, planning, and public policy decisions. She is a pioneer in synthesizing the results of behavioral research with quantitative time-series data to forecast market reactions. Market evaluations and programming studies led by Nina Gruen have resulted in the development and redevelopment of many retail, office, industrial, visitor, and residential projects, varying in scale from a single building to large single- and mixed-use projects.

Her work has led municipal clients to adopt public policies and infrastructure programs that revitalized areas of California, Arizona, Oregon, Washington, Colorado, New Mexico, Florida, Illinois, and Ohio. She has worked with private groups to successfully develop home-grown projects like The Flats - transforming a once-abandoned industrial area into a crowded arts, entertainment, and retail district on Cleveland's waterfront. Large development entities, like The Irvine Company, Catellus, Upland Industries, PG&E, and The Prudential Insurance Company of America, as well as many public entities have often used her market studies to decide between alternative product, scale, and timing options for the development of large land holdings. Since 1993, Ms. Gruen has worked with the Asset Planning and Enhancement Brand of the State of California Department of General Services to provide marketing and strategic action planning that has resulted in the disposal of major State properties in Silicon Valley. Since 1999, she has served as Special Master with her husband, Dr. Claude Gruen, for the United States District Court, Northern District of California, for the remediation, enhancement and redevelopment of a major Superfund site in Union City.

Ms. Gruen has lectured at major universities and published over 60 articles. Her seminal works include "Sociological and Cultural Variables in Housing Theory," published in the July 1984 issue of The Annals of Regional Science. Her publications on real estate market conditions and the use of demographic analysis to make profitable development and location decisions include: "Store Location and Customer Behavior" (co-author); "Demographic Changes and Their Effects on Real Estate Markets in the 1980s" (co-author); "What is Special About Specialty Shopping Centers?," and "Public/Private Projects: A Better Way For Downtowns," all published by the Urban Land Institute. She is the co-author with Dr. Claude Gruen, of a highly-respected book, Low- and Moderate-Income Housing in the Suburbs. In March of 2001, "Urban Divide" was published in Urban Land. This article discusses how the U.S. will be divided into gateway and non-gateway communities based on America's changing demographic paradigm. "Born to Shop ... Elsewhere" (February 2004) and "The Wal-Mart Effect: Déjà vu All Over Again" (April 2005) were both published by The Institutional Real Estate Letter. "Consumer Preferences (October 2007) and "Replanning Small-City Downtowns", co-authored with son Aaron Gruen, were both published by Urban Land. In May of 2011, she co-authored "Boomers, Echo's and X's: Generational and other Structural Shifts and Their Impacts on Future Demand for Real Estate in the Coming Decade" with Alan Billingsley, Director, Head Americas Research, RREEF/DB Real Estate.

In 1982, Ms. Gruen became the first woman elected to the Urban Land Institute's Board of Trustees. She served on the Board of Trustees until 1997. In 1997, Ms. Gruen was designated an honorary member of ULI. For five years, she was co-chairman of the ULI's Low- and Moderate-Income Housing Task Force. In addition to influencing national and local policy, the Task Force sponsored research on the impact of growth management and organized community panels to help resolve local housing, economic development, and neighborhood revitalization issues.

Ms. Gruen was Chair of the State of California Transportation Commission Airspace Advisory Committee from January, 2002 through May, 2005. The AAC made recommendations to the California Transportation Commission concerning the use of Caltrans property not required for transportation or other departmental needs. During her 15-year tenure on this Committee, she was instrumental in encouraging the Division of Right-of-Way to prepare a 5-year Airspace Business Plan with built-in criteria to measure success. This was a first for the State of California Department of Transportation. In September, 2005 she was appointed to the CTC Real Estate Advisory Panel for a four-year term.

Ms. Gruen served on the Policy Advisory Board of the Roy P. Drachman Institute for Land and Regional Development Studies at the University of Arizona, Tucson. Ms. Gruen has served on the faculties of the University of Cincinnati and the University of Kentucky at Covington. She has lectured on retail demand analysis, the use of survey research for real estate market analysis, and the development entitlement process at the University of California at Berkeley Graduate School of Business and School of Architecture. Ms. Gruen is a member of and past president (1984) of the Western Regional Science Association.

Ms. Gruen is past president (1995-1996) of Womens' Forum West, the Bay Region affiliate of the International Womens' Forum. The forum fosters association among preeminent women leaders throughout the world. She is also a member of Lambda Alpha, an honorary land economics society, and Commercial Real Estate Women (CREW). Ms. Gruen is a frequent speaker at real estate groups and is cited in the January 1993 cover story of the national real estate publication Forum as one of the country's 30 leading women in commercial real estate.

Ms. Gruen received her B.A. with high honors at the University of Cincinnati, where she was elected to Phi Beta Kappa. She also earned an M.A. degree, awarded jointly by the Departments of Psychology and Sociology at the University of Cincinnati, and has attended the University of California at Berkeley for post-graduate studies.

---

## GRUEN GRUEN + ASSOCIATES

---

Content Copyright © 2012 GRUEN GRUEN + ASSOCIATES. All Rights Reserved.

{ site map }

FORECAST OF DEMAND FOR RETAIL,  
OFFICE, AND INDUSTRIAL SPACE IN THE CITY OF  
TRACY AND STRATEGIC POLICY ACTION  
RECOMMENDATIONS

A Presentation to

The City of Tracy

November 20, 2007





## PURPOSE

- Forecast the demand for retail, office and industrial space
- Forecast the demand for land by type of land use
- Identify conclusions and recommendations to enhance Tracy's retail base, Downtown, and economic base



# GGHA's 1988 REPORT

	<u>Forecast 2010</u>	<u>Actual 2007</u>
Population	87,000	80,500
Population	Forecast 2000 56,000	Actual 2000 56,929
Additional Retail Space (# Square Feet)	3.05 million	2.4 million + 500,000 in pipeline
	<u>Forecast 2005</u>	<u>Actual 2005</u>
Private Employment	27,300	15,000



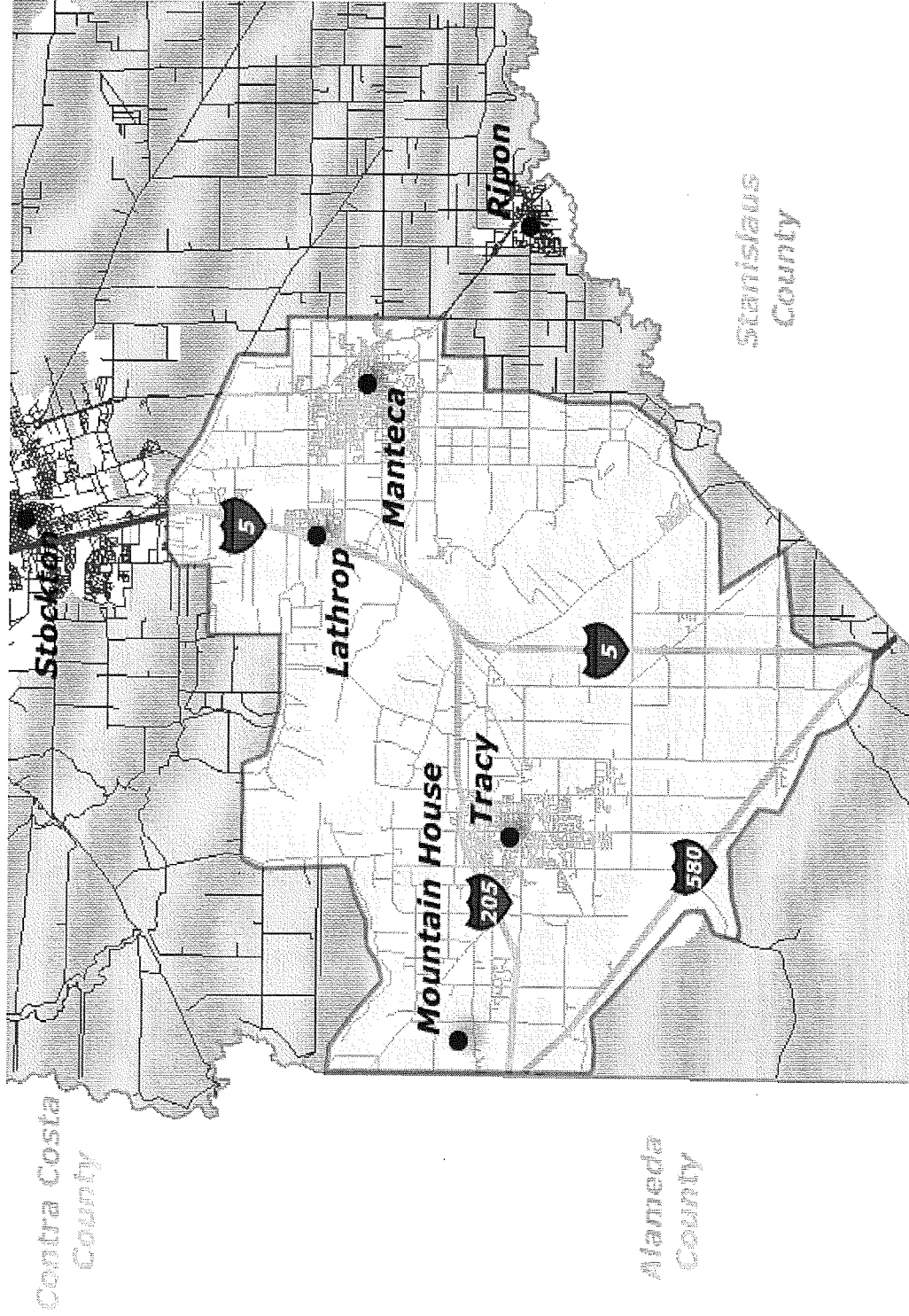
# ESTIMATED RETAIL SALES SURPLUS

	<u>2000</u>	<u>2006</u>
<b>Estimated Relationship Between Retail Demand and Retail Sales Within the City of Tracy (Real Dollars)</b>		
Total Retail Sales (including automotive)	\$542,714,000	\$1,116,947,000
Total Households	18,087	24,976
Average Household Income	\$70,000	\$84,600
Total Household Purchasing Power	\$1,266,090,000	\$2,112,967,000
Estimated Retail Expenditures @ 36% of Household Income (including automotive)	\$455,792,000	\$760,688,000
<b>Retail Sales Surplus</b>	<b>\$86,922,000</b>	<b>\$356,279,000</b>

Sources: California Board of Equalization; Bureau of Labor Statistics; Claritas; City of Tracy; Gruen Gruen + Associates.



# PRIMARY RETAIL TRADE AREA



PRIMARY RETAIL TRADE AREA FORECAST POPULATION

	City of Tracy's Share of Forecast Population Growth Within Primary Retail Trade Area					
	2007		2012		2022	
	#	%	#	%	#	%
Tracy	82,000	43.4	83,607	36.5	102,788	31.4
Lathrop	16,479	8.7	30,727	13.4	59,223	18.1
Manteca	65,076	34.4	78,440	34.2	106,653	32.6
Mountain House	6,050	3.2	17,050	7.4	39,050	11.9
Unincorporated	19,340	10.2	19,340	8.4	19,340	5.9
TOTAL	188,945	100.0	229,165	100.0	327,054	100.0

Sources: City of Tracy; City of Manteca; City of Lathrop; California Department of Finance; United States Census Bureau;  
San Joaquin County Community Development Department; Gruen Gruen + Associates.

ESTIMATE OF RETAIL DEMAND AND SUPPORTABLE  
 AMOUNT OF RETAIL SPACE WITHIN THE PRIMARY TRADE AREA

	<u>2007</u>	<u>2012</u>	<u>2022</u>
Retail Expenditure Potential	\$1,103,100,000	\$1,417,800,000	\$2,257,000,000
Supportable Square Feet of Retail Space @ Sales of \$350 Per Square Foot	3,152,000	4,051,000	6,449,000

Source: Gruen Gruen + Associates



RELATIONSHIP BETWEEN ESTIMATED RETAIL SUPPLY  
AND DEMAND WITHIN THE PRIMARY TRADE AREA

	2007	2012	2022
	<u># Square Feet</u>	<u># Square Feet</u>	<u># Square Feet</u>
Estimated Retail Demand	3,151,736	4,050,891	6,448,918
Estimated Retail Supply <sup>1</sup>	2,861,000	5,313,500	5,313,500
<b>Excess Demand / (Space Surplus)</b>	<b>291,000</b>	<b>(1,262,500)</b>	<b>1,135,500</b>

Source: Gruen Gruen + Associates



## FORECAST OBTAINABLE RETAIL SPACE DEMAND

- Tracy can capture an additional 977,000 square feet of retail space by 2022, or 30 percent of the forecast increase in demand for retail space between 2007 and 2022





# FORECAST OF RETAIL LAND NEEDED

2007 - 2022

Estimated Amount of Land Required to Site  
Future Retail Space Demand @ FAR of 0.25

89 acres

Estimated Amount of Land Potentially  
Available for Potential Retail Development

793 acres

Proportion of Available Land Necessary to  
Accommodate 977,000 Square Feet of Space

11%

Sources: City of Tracy; Gruen Gruen + Associates.



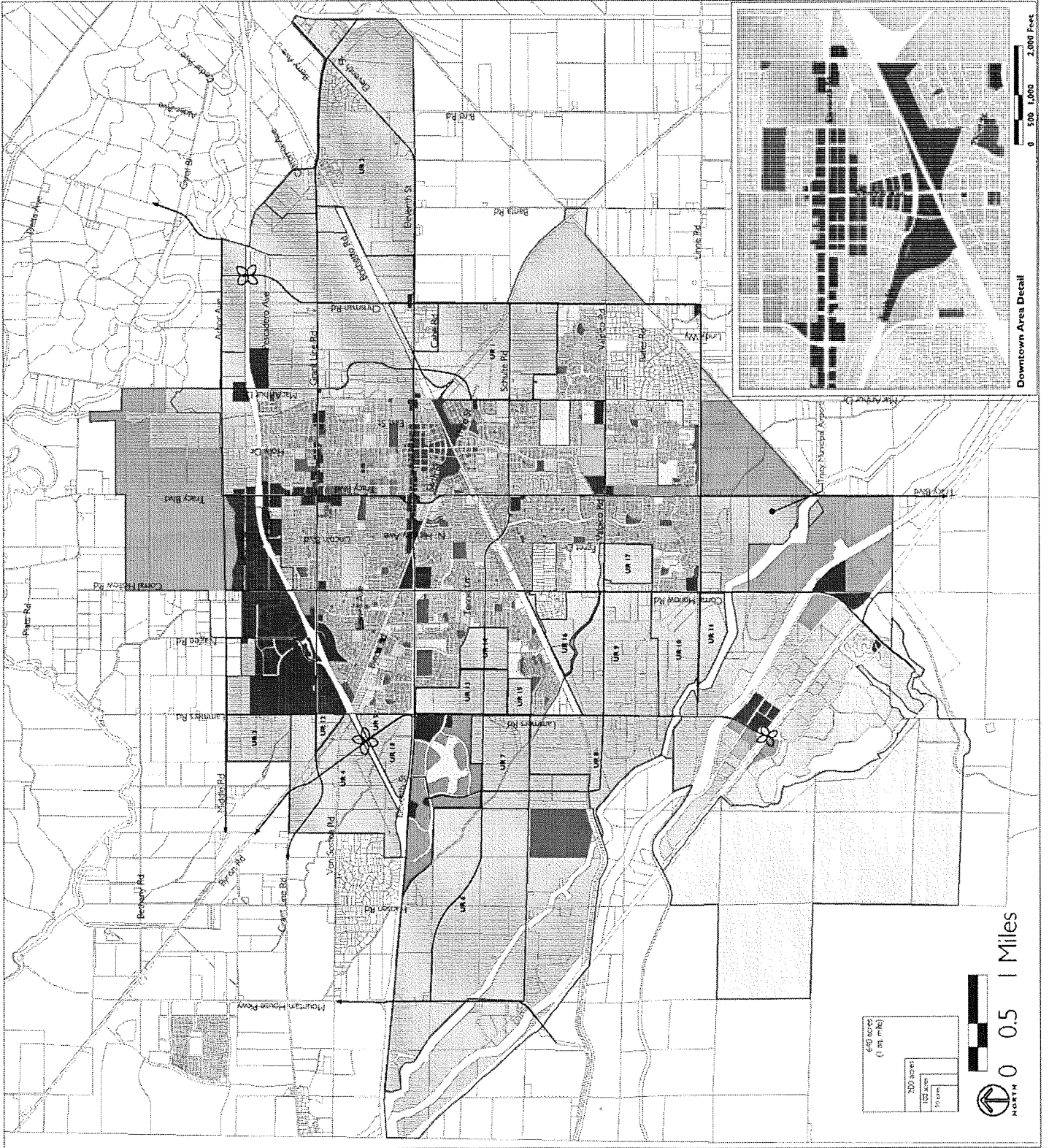
# RETAIL LAND DEVELOPMENT OPPORTUNITY SITES

Name / Location	Available Land # Acres	Potential Retail Space Accommodated Assuming FAR of 0.25 to 0.35 # Square Feet
Toste Property / Grant Line & Joe Pombo Pkwy	20.24	220,414 – 308,579
Tracy Outlets Phase II / MacArthur & I-205 <sup>1</sup>	18.03	196,347 – 274,885
General Growth / West Valley Mall Property 1	8.79	95,723 – 134,012
General Growth / West Valley Mall Property 2	5.93	64,577 – 90,409
Corral Hollow and Linne Rd.	10.97	119,463 – 167,249
Gateway Property / 11 <sup>th</sup> & Lammers	59	642,510 – 899,514
Tracy Hills / Lammer & I-580	90	980,100 – 1,372,140
<b>Within City Limits</b>	<b>212.96</b>	<b>2,319,134 – 3,246,788</b>
Urban Reserve 2	75	816,750 – 1,143,450
Urban Reserve 3	75	816,750 – 1,143,450
Urban Reserve 4	80	871,200 – 1,219,680
Urban Reserve 5	44	479,160 – 670,824
Urban Reserve 6 (Cordes Ranch)	100	1,089,000 – 1,524,600
Urban Reserve 12 (Filios/AKF Development.)	33	359,370 – 503,118
Chatel Property / Grant Line & Lammers	172.83	1,882,119 – 2,634,966
<b>Within Sphere of Influence</b>	<b>579.83</b>	<b>6,314,348 – 8,840,088</b>
<b>Total</b>	<b>792.79</b>	<b>8,633,483 – 12,086,876</b>

Sources: City of Tracy; Gruen Gruen + Associates.

**GENERAL PLAN  
LAND USE DESIGNATIONS**

- Residential Very Low
- Residential Low
- Residential Medium
- Residential High
- Commercial
- Office
- Industrial
- Downtown
- Village Center
- Public Facilities
- Park
- Open Space
- Agriculture
- Aggregate
- Urban Reserve
- City Limits
- Sphere of Influence
- Major Arterial/Expressway/Boulevard



## RETAIL CONCLUSIONS & RECOMMENDATIONS

- Do not attempt to impose theoretical balance of supply and demand by eliminating land options
- Encourage development of the 468,700 square feet of future planned supply of community- and regional-serving retail space (Tracy Outlets expansion, Wal-Mart expansion, Red Maple Village, Winco Food expansion)
- Tracy will need to attract approximately 200,000 square feet of unique tenancies not located elsewhere within the trade area
- West Valley Mall should enhance its magnetism, especially with high-end fashion forward stores unavailable elsewhere in the Central Valley
- Target retailers such as Kohl's Lowe's and Trader Joe's to expand the selection and tenant mix within Tracy
- Encourage additional restaurants with visibility and accessibility to I-205 and the West Valley Mall area



## DOWNTOWN

- Population shifts toward Western Tracy and development of alternative retail and commercial centers have contributed to declining share of retail and office demand Downtown can capture
- Lacks a high level of accessibility
- Lacks a concentration of office space and market rate housing units
- Lacks a critical mass of attractions to induce multi-purpose trips/frequent visitation
- Presence of social services act as disamenities
- Limitation on housing development constrains potential to create sufficient housing to change image of Downtown and create demand for commercial activities



## MARKET NICHE

- More restaurant/entertainment venues
- Attract younger adults from within the region and capture more dollars Tracy residents spend on eating, drinking and entertainment establishments
- Build upon Great Plate and Bar and Grand Theatre with complementary uses such as a jazz brew pub or comedy club



## CONCLUSIONS & RECOMMENDATIONS FOR DOWNTOWN

- Stream-line the review and approval process for restaurant and entertainment oriented uses
- Reduce fees imposed on the redevelopment or remodeling of building space and occupancy or use of the space by eating and drinking places and entertainment activities
- Increase Downtown event programming
- Improve way-finding signage for those unfamiliar with where Downtown Tracy is located
- Encourage similar uses such as restaurants, music and comedy clubs and other eating drinking and entertainment establishments to locate close to each other
- Discourage negative externalities like social service agencies locating (or expanding) in prime Downtown locations
- Exempt market rate housing in or near the Downtown from the current housing cap



# EMPLOYMENT FORECAST FOR THE CITY OF TRACY

Industry Sector	Actual 2005 #	Forecast 2012 #	Forecast 2017 #	Forecast 2022 #	Forecast Annual Growth Rate 2005- 2022 %	Total Change in Number of Jobs #
Construction	1,098	1,227	1,328	1,438	1.6	340
Manufacturing	1,818	1,855	1,882	1,910	0.3	92
Wholesale Trade	767	1,231	1,727	2,423	7.0	1,656
Retail Trade	2,629	3,293	3,649	4,183	2.8	1,554
Transportation, Warehousing, & Utilities	3,053	4,296	5,483	6,998	5.0	3,945
Information	107	236	381	647	11.2	540
Finance, Insurance and Real Estate	630	1,079	1,586	2,331	8.0	1,701
Professional/Business Services	1,382	2,927	4,587	7,562	10.5	6,180
Educational & Health Services	1,504	2,221	3,249	4,478	6.6	2,974
Leisure & Hospitality	1,646	2,179	2,572	3,098	3.8	1,452
Other/Personal Services	350	287	250	217	-2.8	-133
<b>Total Private Non-Farm Employment</b>	<b>14,984</b>	<b>20,831</b>	<b>26,694</b>	<b>35,285</b>	<b>5.2</b>	<b>20,301</b>

Sources: California Department of Employment Development; California Department of Transportation; Gruen Gruen + Associates.





## THE MARKET FOR OFFICE SPACE

- The primary geographic market area within which Tracy typically competes for office space users includes Tracy, Lathrop, Mountain House, and to a lesser extent Livermore and Stockton
- Most office space users will originate from within San Joaquin County
- In long run, some engineering, technical service and other firms will be attracted from the Tri-Valley
- Types of office space users attracted to Tracy are local serving and tend to be concentrated in:
  - finance, insurance and real estate
  - medical/healthcare
  - sales
  - Business, professional, technical, and other service sectors



## THE MARKET FOR OFFICE SPACE

### Advantages

- Excellent accessibility to I-205, I-5 and I-580
- Closest location in Central Valley to Bay Area via Altamont Pass

### Disadvantages

- Tracy has not yet established an image or critical mass of buildings and amenities geared to the large-scale corporate, high technology or professional service users that export their services
- Until constrained by the adoption of Measure A restricting additions to the housing supply, a rapidly growing base of households (comprising sources of demand for service and retail firms as well as a labor pool for office space using businesses) represented a comparative advantage.



# THE MARKET FOR OFFICE SPACE

Multi-Tenant Office Space Inventory in Tracy						
Location	Year Built	Total Space # Square Feet	Vacant Space # Square Feet	Vacant Space %	Net Rent Rates \$ Per Square Foot	
Klemm Building 2180 West Grant Line Road <sup>1</sup>	2001	16,000	16,000	100	2.50	
West Park Professional Center, 652 W. 11 <sup>th</sup> Street	Phase I 2002 Phase II Under Construction	35,000	4,978	14.2	2.10	
Edgewood Corporate Center 4600 South Tracy Blvd.	2002 -2007	80,200	11,000	13.8	1.75	
Orchard Pkwy. Executive Plaza 2316 Orchard Parkway	2005	14,000	1,607	11.5	2.30	
Triad Professional Building 2169 West Grant Line Road	2006	40,000	4,000	10.0	2.35	
Lowell Professional Plaza Lowell and Tracy Blvd.	2007	6,000	6,000	100	3.00	
<b>Total</b>		<b>191,200</b>	<b>43,585</b>	<b>22.8</b>	<b>1.75 - 3.00</b>	
<sup>1</sup> The firm occupying the space is closing the office so that all of the space is available for lease.						
Sources: CB Richard Ellis; Colliers International; Faith Realty Development; Souza Realty & Development; City of Tracy; Gruen Gruen + Associates.						



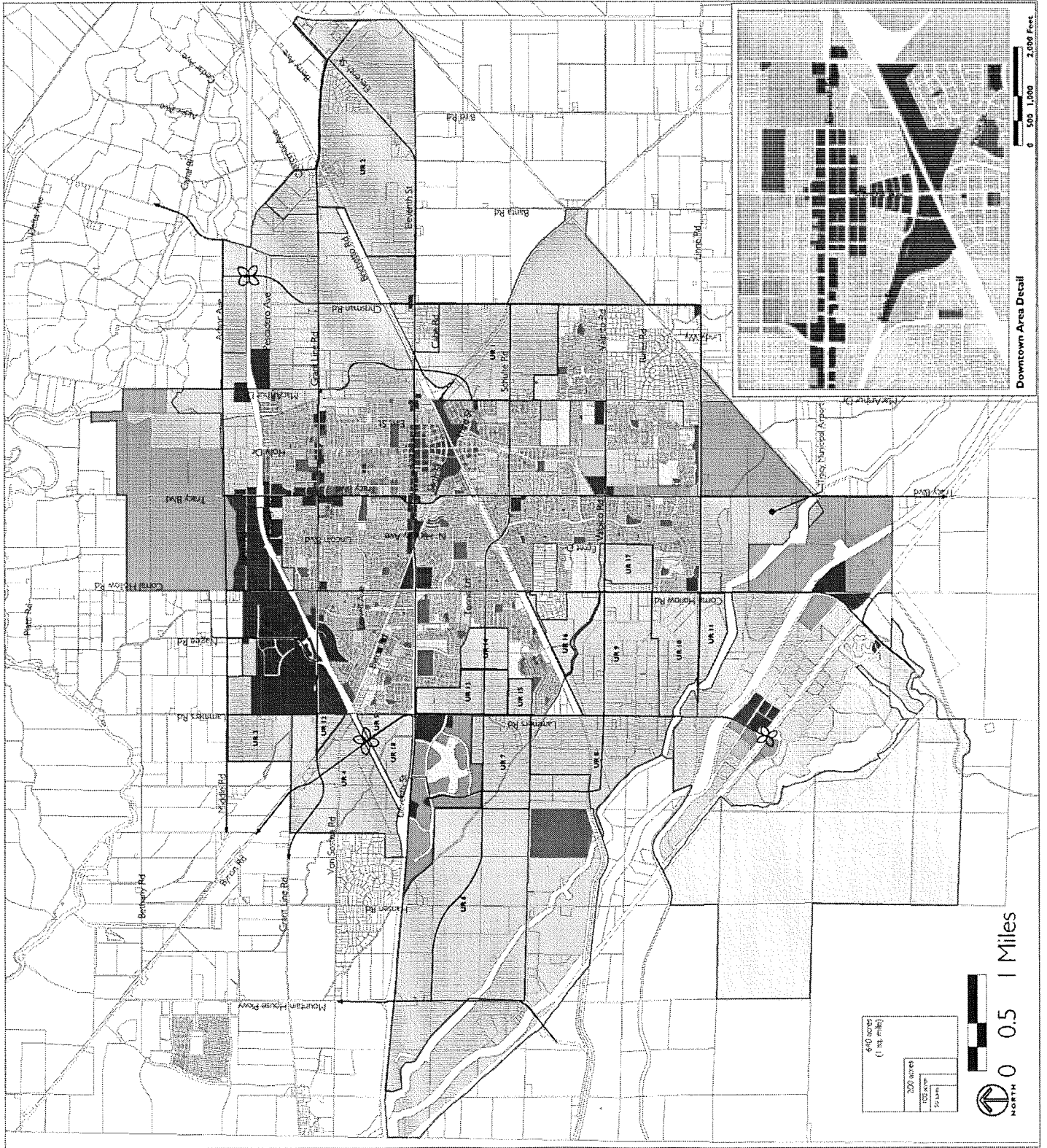
# THE MARKET FOR OFFICE SPACE

Estimated Land and Building Space Capacity for Office Uses in Tracy		
Location	Land Area # Acres	Office Building Space # Square Feet
Triad Professional Building West Grant Line Road	5.3	100,000
Corral Hollow Professional Plaza Grant Line and Corral Hollow Road	2.1	42,800
Nylen Properties South Tracy Blvd. and Whispering Wind Drive	11.81	121,000
Fowzer (I-205 area)	2.5	43,047
Schack (I-205 area)	1.5	21,339
<b>Subtotal Land in Entitlement Process</b>	<b>23.21</b>	<b>328,186</b>
<b>Office Opportunity Sites<sup>1</sup> Within City Limits</b>	<b>394.34</b> (Gateway = 263)	<b>7,802,410</b> (Gateway = 5,800,000)
<b>Office Opportunity Sites<sup>1</sup> Within Sphere of Influence</b>	<b>575</b> (Urb. Reserve 6 = 400)	<b>8,766,450</b> (Urb. Res. 6 = 6,100,000)
<b>Total</b>	<b>992.55</b>	<b>16,917,046</b>
<sup>1</sup> The estimate of building space reflects an assumption of a floor area ratio of 0.35.		
Sources: City of Tracy; Gruen Gruen + Associates.		



**GENERAL PLAN  
LAND USE DESIGNATIONS**

- Residential Very Low
- Residential Low
- Residential Medium
- Residential High
- Commercial
- Office
- Industrial
- Downtown
- Village Center
- Public Facilities
- Park
- Open Space
- Agriculture
- Aggregate
- Urban Reserve
- City Limits
- Sphere of Influence
- Major Arterial/Expressway/Boulevard



# FORECAST OFFICE SPACE DEMAND

## Projected Net Additional Workforce and Office Space Demand for Tracy: 2005-2022<sup>1</sup>

	<u>2005-2012</u>	<u>2012-2017</u>	<u>2017-2022</u>	<u>2005-2022</u>
Total Added Office Workers	892	940	1,321	3,153
Total Space Demand <sup>2</sup> (# Square Feet)	187,000	197,500	277,500	662,000
Annual Space Demand (# Square Feet)	27,000	39,500	55,500	38,900

<sup>1</sup> Space demanded has been increased by five percent to reflect frictional vacancy in the market. Figures are rounded.

<sup>2</sup> Office Employment Density = 200 square feet per employee.

Source: Gruen Gruen + Associates

FORECAST OFFICE SPACE DEMAND

# Forecast of Land Needed and Capacity to Accommodate Office Space Demand

2007 - 2022

43 acres

993 acres

950 acres

Land Demand for Office Uses

Land Supply for Office Uses

Estimate of Amount of  
Land in Excess of Land Demanded

Sources: City of Tracy; Gruen Gruen + Associates.

## OFFICE CONCLUSIONS & POLICY RECOMMENDATIONS

- Four times the amount of land forecast to be demanded, or 172 acres, should be made available for potential development of office uses





## OFFICE CONCLUSIONS & POLICY RECOMMENDATIONS

- Include land in west side of Tracy with appropriate design and use covenants with built-in flexibility to permit market responsiveness and ability to serve variety of potential users
- The long-term potential for attracting businesses from the Tri-Valley would increase if restrictions on housing development were removed – larger labor force, lower-cost housing/salary requirements, shorter commutes
- Limited demand exists for multi-story, large floor plate space. Encourage smaller-scale office product.



## THE MARKET FOR INDUSTRIAL SPACE

- Primary market area for industrial space
  - San Joaquin Valley
  - Manteca
  - Lathrop
  - Stockton
- Lesser Extent:
  - Modesto/Patterson
  - Sacramento
  - Woodland
  - Livermore
- Geographic origins of industrial users
  - Internal expansion (e.g., Costco, Crate and Barrel)
  - San Joaquin Valley
  - East Bay / 880 Corridor



## THE MARKET FOR INDUSTRIAL SPACE

- Types of industrial space users attracted to Tracy include:
  - Retail and food-related processors/distributors
  - Consumer product companies
  - Makers/distributors of building materials/components
  - Logistics users
  - Manufacturers



## THE MARKET FOR INDUSTRIAL SPACE

### Advantages

- Proximity to Port of Oakland
- Closest access point to Bay Area via Altamont Pass
- Central location from which to serve San Joaquin Valley and Bay Area with wide commute shed for skilled labor
- More abundant supply of land and lower space costs than many Bay Area locations



## THE MARKET FOR INDUSTRIAL SPACE

### Disadvantages

- Shortage of “ready to go” land, therefore increasing land prices
- Infrastructure capacity constraints
- High fees
- Development process and sign policies not business friendly



# THE MARKET FOR INDUSTRIAL SPACE

Estimated Amount of Currently Developed Industrial Space and Land in Tracy's Major Business Parks							
Business Park	Year(s) Built	Total Acres	Undeveloped Acres <sup>1</sup>	Estimated Amount of Built Space # Square Feet	Available Space # Square Ft.	Vacancy Rate %	Average Monthly Rent \$ Per Sq. Foot
Patterson Pass	1988 - 2007	660	0	4,300,000	479,000	11	0.33 - 0.40
Stonebridge Park	1997 - 2007	205	16	5,000,000	511,000	10	0.29-0.70
Northeast Industrial Area (phase 1)	2005 - 2007	250	152	1,882,000	286,000	15	0.35
Eastgate Business Park	1999 - 2007	62	16	690,000	95,000	14	0.35 - 0.55
South Tracy Business Park	2003 - 2007	40	36	85,000	0	0	
<b>Total</b>		<b>1,217</b>	<b>220</b>	<b>11,957,000 +</b>			

<sup>1</sup> Includes land that has already received entitlements or is planned for future development/under construction.

Sources: City of Tracy; San Joaquin Assessor; San Joaquin Partnership; Loopnet; Colliers Parrish; Lee & Associates; Mark III Development; Prologis; Gruen Gruen + Associates.



# THE MARKET FOR INDUSTRIAL SPACE

Industrial Land Currently Under Development or Entitlement			
Name	Amount of Land # of Acres	Planned Building Space # Square Feet	Status/Notes
Northeast Industrial Phase I	30	533,000	Under Construction
Northeast Industrial Phase I	74	1,357,000	Approved
Northeast Industrial Phase II	168	3,300,000	Approved
South Tracy Business Park	N/A	110,000	Approved
Eastgate Business Park	13	180,000	Planned
<b>Total</b>	<b>285</b>	<b>5,480,000</b>	

Sources: City of Tracy; ProLogis; Colliers International; Gruen Gruen + Associates.



# THE MARKET FOR INDUSTRIAL SPACE

## Industrial Opportunity Sites (Land Available For Future Development)



















Name / Location	Available Land # of Acres	Potential Industrial Space Accommodated Assuming FAR of 0.45 # Square Feet
Gandy Dancer SISP (Tracy Blvd. & Valpico)	36.30	711,553
Northeast Industrial Area Phase I (Grant Line & Chrisman)	47.83	937,564
Northeast Industrial Area Phase II (Grant Line & Chrisman)	88.48	1,734,385
Northeast Industrial Area Phase III (Grant Line & Chrisman)	273.56	5,362,323
Stonebridge Industrial (Grant Line & MacArthur)	15.66	306,967
North of I-205 & MacArthur	94.72	1,856,701
Tracy Hills	380	7,448,760
<b>Within City Limits</b>	<b>936.55</b>	<b>18,358,253</b>
Urban Reserve 2 - Banta	100	1,960,200
Urban Reserve 4	415	8,134,830
Urban Reserve 6- Cordes Ranch	1,200	23,522,400
Urban Reserve 8	150	2,940,300
Urban Reserve 11	120	2,352,240
<b>Within Sphere of Influence</b>	<b>1,985</b>	<b>38,909,970</b>
<b>TOTAL</b>	<b>2,921.55</b>	<b>57,268,223</b>

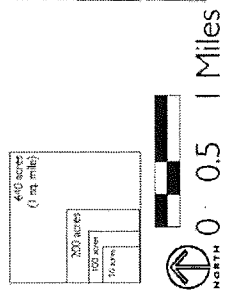
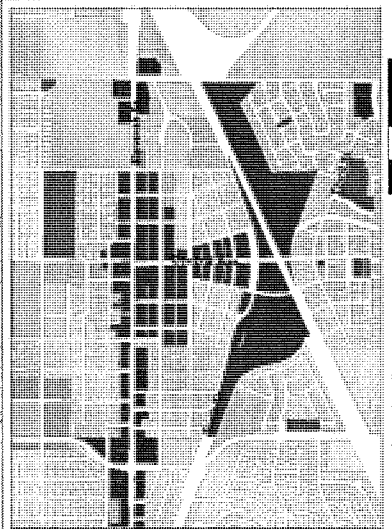
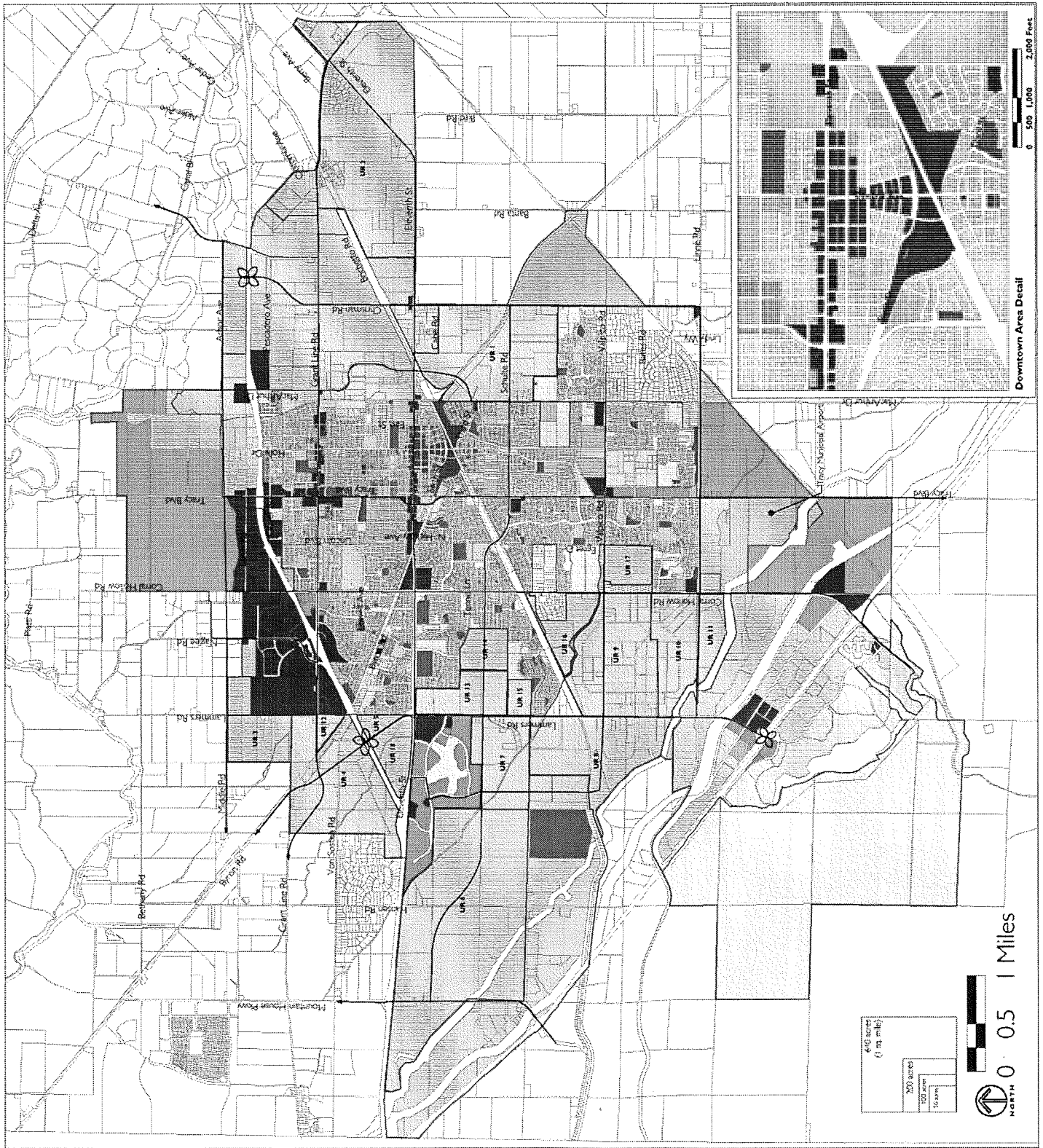
Sources: City of Tracy; Gruen Gruen + Associates.





**GENERAL PLAN  
LAND USE DESIGNATIONS**

-  Residential Very Low
-  Residential Low
-  Residential Medium
-  Residential High
-  Commercial
-  Office
-  Industrial
-  Downtown
-  Village Center
-  Public Facilities
-  Park
-  Open Space
-  Agriculture
-  Aggregate
-  Urban Reserve
-  City Limits
-  Sphere of Influence
-  Major Arterial/Expressway/Boulevard



# FORECAST INDUSTRIAL SPACE DEMAND

## Estimate of Total Industrial Space Demand in Tracy

2005-2022  
# Square Feet

Average Annual Manufacturing Space Demand 105,200

Average Annual Distribution Space Demand<sup>1</sup> 382,250

**Subtotal 487,450**

Demand from Other Sources of Goods Movement and Replacement Demand @ 40 Percent of Subtotal Demand 195,000

**Total Average Annual Demand From All Sources 682,450**

**Total Forecast Demand: 2005 – 2022 11,601,650**

<sup>1</sup> Based on average of employment-driven and Port of Oakland container volume –driven demand estimates.

Source: Gruen Gruen + Associates



FORECAST INDUSTRIAL SPACE DEMAND

Forecast of Land Needed and Capacity  
to Accommodate Industrial Space Demand

2005 - 2022

592 acres

Land Demand for Industrial Uses

3,427 acres

Land Supply for Industrial Uses

Estimate of Amount of Land in Excess  
of Land Demanded

2,835 acres

Sources: City of Tracy; Gruen Gruen + Associates.

## INDUSTRIAL CONCLUSIONS AND RECOMMENDATIONS

- In order to insure Tracy contains an adequate land supply to respond to industrial space demand without producing the disincentives to businesses of higher land costs and insufficient facilities, more land is needed to be available for industrial space than the 592 acres of land forecast as demanded between 2005 and 2022
- Providing more land than forecast would decrease pressures for land price increases and maximize long-run flexibility and ability to finance needed infrastructure.



INDUSTRIAL CONCLUSIONS  
AND POLICY RECOMMENDATIONS

- To take advantage of the even closer proximity of the west side of Tracy to the Port of Oakland, at least another 239 acres of land should be planned and made available for potential industrial development on the west side of Tracy in addition to the already established Northeast Industrial Area and the I-205 Specific Plan



## General Plan Land Use & Economic Development Policies Related to I-205

---

**Objective LU-1.1:** Establish a clearly defined urban form and city structure.

**Policy 1:** New development and redevelopment in existing areas shall be organized as a series of residential Neighborhoods, Employment Areas, Corridors, Village Centers, the Downtown and the I-205 Regional Commercial Area.

---

**Objective LU-2.2:** Expand the City's retail base.

**Policy 1:** Regional-scale development, such as shopping malls, big-box retail and auto sales, shall be primarily located in the I-205 Regional Commercial Area.

---

**Objective LU-2.3:** Expand the City's industrial base.

**Policy 3:** Consistent with goals in the Economic Development Element, office-flex uses or higher-quality space should be located in areas at entryways to the city such as in Tracy Gateway, Cordes Ranch, and the Tracy Hills Specific Plan area along I-205 and I-580. The Cordes Ranch area should also contain commercial uses and services to meet the daily needs of workers and high-density housing suitable for the workforces in these areas.

---

**Objective ED-5.3:** Support I-205/I-580/I-5 infrastructure as key to economic growth in the area.

**Policy 2:** The City shall support regional efforts to expand business opportunities along I-205 and I-580 to the west and south of Tracy.

---

**Objective ED-6.7:** Develop higher-end office and office-flex uses, particularly along entryways to the City along I-205 and I-580.

**Policy 2:** The City shall support attraction efforts for Class A Office and certain flex-tech development tenants seeking a high amenities workplace, particularly along entryways to the City along I-205 and I-580.



**ECONOMIC DEVELOPMENT STRATEGY**  
**TRACY**  
**FY 11/13 BUSINESS PLAN**

**Purpose: Proactively engage business community to strategically position Tracy for emerging opportunities**

Goal	Objective	Action/Tasks	Lead Staff	Due Date	Status	Comments
1. Create jobs reflective of the "Target Industry Analysis" and those that best match the skill sets of Tracy employed residents	1a. Focus business recruitment efforts on new Target Industries to include: <i>Medical Equipment &amp; Supplies, Food Processing, Renewable Resources &amp; Technology, Manufacturing, Backroom Office &amp; Information Technology</i>	1ai. Develop a short-list of companies within target industries for attraction efforts	Amie Mendes	5/1/2012		Compiled a list of the top 100 targeted Bay Area companies. Working with development community to pin-point key businesses for outreach efforts.
		1aii. Develop and implement a Marketing and Outreach Program tailored to target industries and a short-list of target companies. Match marketing and site selection data to target industries	Andrew Malik	5/1/2012		Working with NAPPIC to develop a targeted social media campaign. A quarterly newsletter is being developed which will be emailed to top 100 targeted companies. A full Marketing & Outreach Plan has also been drafted.
		1aiii. Attend 4 industry tradeshow annually focused on outreach and recruitment within target industries	Andrew Malik	6/1/2013		City participated in six (6) industrial tradeshow since Feb. 2011. All industrial contacts / clients have been added to ED prospecting list.
		1aiv. Continue to work with the San Joaquin Partnership to leverage regional economic development efforts (i.e. tradeshow, CCC meetings, recruitment efforts, etc.)	Amie Mendes	Ongoing		Attended six (6) tradeshow in conjunction with San Joaquin Partnership (SJP) and Team California. Attend monthly 'Business Team San Joaquin' meetings with SJP, SJ County EDD, SBDC, etc. Continue to work in partnership with SJP on all business recruitment activity.

Goal	Objective	Action/Tasks	Lead Staff	Due Date	Status	Comments
1. Create jobs reflective of the "Target Industry Analysis" and those that best match the skill sets of Tracy employed residents (continued from previous page)	1b. Maintain health and growth of existing target clusters and other existing firms that support the overall upgrade of employment opportunities	1bi. Develop a Business Retention and Expansion Program (BRE) and conduct 75 BRE visits (includes Grow Tracy Fund, Enterprise Zone and WorkNet visits)	Scott Claar	6/1/2013		25+ business retention visits completed for FY11-12. Working on developing BRE program/protocol.
		1bii. Conduct 2 (1 annually) Business Forums with the Chamber of Commerce	Amie Mendes	6/1/2013		Held Business Forum on April 4, 2012. Andrew Malik provided an ED update and Economist John Mitchell was the keynote speaker. Event attended by 60+ business people.
		1biii. Continue to work with the Chamber of Commerce and SJ WorkNet to adapt job training and/or hiring programs to local business needs	Amie Mendes	Ongoing		Coordinating an Employment Training Panel (ETP) workshop with select business owners to educate them on benefits available through ETP. Estimated Summer 2012.
1c. Position Tracy as a preferred location for start-up companies		1ci. Continue to work with San Joaquin Angel Network (VC) to identify and grow start-up companies	Andrew Malik	Ongoing		Attended recent SJ Angel Network event. Working with a few applicants on potential space needs in Tracy
		1cii. Explore and analyze options to locate a Technology Shop and/or Business Incubator in the community (potential i-Hub or SJ Angel partners)	Andrew Malik	7/1/2012		Tracy continues to be partner in Livermore i-gate incubator program. Draft "White Paper" on Tracy Incubator complete. Working with potential consultant on scope of work for feasibility analysis.
		1ciii. Conduct 4 Venture Capitalist (VC) visits in the Bay Area as part of marketing outreach and attraction efforts to start-ups	Andrew Malik	6/1/2013		Will coordinate VC visits with information from the incubator feasibility study.



Goal	Objective	Action/Tasks	Lead Staff	Due Date	Status	Comments
2. Implement Downtown Revitalization in accordance with the Downtown Specific Plan (DSP) and National Main Street Program	2a. Enhance the drawing power of the retail core	Zai. Utilize Tracy's strong family demographics to generate a list of potential retailers	Amie Mendes	4/1/2012		A list of potential regional retailers is being finalized based on ESRI demographic information. Staff will work with TCCA District Manager to draft a marketing & outreach plan.
		Zaii. Market the Grow Tracy Fund as a source of financing for tenants	Amie Mendes	Ongoing		Staff continues to market the Grow Tracy Fund through email solicitation and targeted business mailings. In addition 25+ business visits have been conducted this FY in an effort to market the program.
		Zaiiii. Secure successful restaurant for Westside Market space	Andrew Malik	7/1/2012		Staff is currently negotiating with the owners of Ruth McGowan Brewpub. National Development Council is conducting a 3rd party review of the their financials. An architectural has been chosen for A & E services, pending City Council appropriation of funding.
		Zaiv. Coordinate with Tracy City Center Association (TCCA) to market opportunity sites with list of potential retailers generated under task Zai	Amie Mendes/ TCCA	Ongoing		Tracy City Center Association (TCCA) recently completed an inventory of downtown tenant mix. Staff will work with TCCA District Manager to draft a marketing and outreach plan.
2b. Make Downtown look and feel like the "Heart of the City"	2bi. Adopt the DSP		Scott Claar	8/31/2012		Currently completing the Planning Commission Study Sessions on the DSP. Changes to the DRAFT DSP may be necessary based on input from the PC Study Sessions.
		Zbii. Construct the Downtown plaza	Binh Nguyen	3/1/2012		Plaza construction complete, Council acceptance expected in June 2012.
		Zbiii. Assist TCCA to install landmark sign	Ana Reynoso	6/1/2012		Funding denied by CDBG - no other source of funding identified.
		Zbiv. Secure CDBG funding from FY 12-13 allocation to fund installation of kiosks	Khoder Baydoun	1/1/2012		A downtown kiosk will be funded through the Downtown Plaza CIP. Installation of the kiosk is anticipated in Fall 2012.

Goal	Objective	Action/Tasks	Lead Staff	Due Date	Status	Comments
<b>2. Implement Downtown Revitalization in accordance with the Downtown Specific Plan (DSP) and National Main Street Program (continued)</b>	2c. Continue to support and collaborate with the Tracy City Center Association	2ci. Increase number of and diversify scope of special events (seasonal)  2cii. Establish an educational series that provides resources to the businesses and property owners	Kim Scarlata  Amie Mendes/ TCCA	6/1/2013  7/1/2012		Numerous events have been planned with TCCA throughout the summer and fall (Girls Night Out Events, Car Show Event, Downtown Block Party Series, etc.).  Working with District Manager of TCCA to schedule speakers/consultants.

Goal	Objective	Action/Tasks	Lead Staff	Due Date	Status	Comments
3. Focus efforts on projects that will result in an increase to the sales tax and the transient occupancy tax (TOT) revenues	3a. Retail Recruitment	3ai. Retain consulting firm to establish and implement a recruitment strategy focused on specific unique retailers	Amie Mendes	12/1/2011		Funding shortfall. Currently working with West Valley Mall & other retail developers to possibly share cost of consultant. Continue to work with West Valley Mall management and other retail developers on retail attraction efforts.
		3aii. Utilize ESRI Business Analyst software to match targeted retailers site criteria to sites that meet those criteria	Barbara Harb	Ongoing		Continuing to utilize ESRI Business Analyst Online in marketing & outreach efforts - particularly with brokers representing vacant retail properties.
		3aiii. Attend International Council of Shopping Centers (ICSC) events to network with retail real estate contacts (minimum of 4 events)	Andrew Malik	6/1/2013		Attended ICSC Monterey in March 2012 with a tradeshow booth resulting in several retail leads. Upcoming Western U.S. Conference in San Diego, September 2012.
	3b. Increase demand for hospitality, dining & shopping amenities	3bi. Increase the number of proposals submitted to win bids for large scale sports tournaments (minimum of 4 bids)	Rod Buchanan.	6/1/2013		Proposals have been submitted for two youth softball tournaments. There has also been increased rental demand as a result of staff contacting additional tournament directors.
		3bii. Negotiate with private developers to develop recreational uses on Holly Sugar site	Bill Dean	6/1/2013		Recently extended ENRA with private developer for Holly Sugar property recreational uses.
		3biii. Collaborate with Grand Theatre to capitalize on partnerships between dining and lodging establishments	Jolene Jauregui	Ongoing		Ongoing collaboration with the Grand Theatre and Special Events to partner with downtown businesses for dining and shopping (i.e. Girl's Night, Downtown Block Parties & Taste of Tracy). A continued effort will be made to partner with the Grand Theatre to develop partnerships with various establishments.

On schedule and within Budget

Behind schedule or exceeding Budget

Stopped - No Progress

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

Mayor Ives thanked staff for the report.

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

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

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

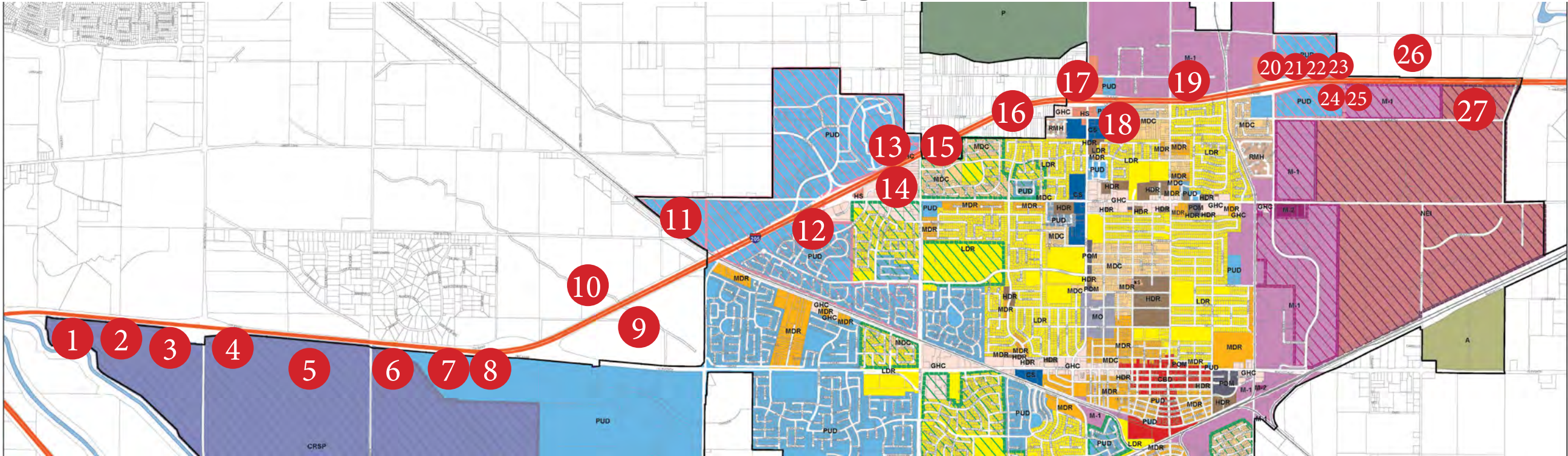
Staff will monitor the changes over the course of the year and will make minor adjustments to the service as necessary to make the best use of the funds. Staff held a public hearing on June 14<sup>th</sup> at the Tracy Transit Station and received input from those who attended. In addition, staff presented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

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

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

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

# Undeveloped Sites Along the I-205 Corridor



## Zoning/General Plan Designations

### Cordes Ranch Specific Plan

1. BPI/I-205 Overlay
2. BPI/I-205 Overlay
3. General Commercial
4. General Commercial
5. BPI/I-205 Overlay
6. General Office

### Gateway PUD

7. Office/Research & Development
8. Commercial

### I-205 Corridor Specific Plan

11. High Density Residential\*
12. Residential High, Commercial\*
13. Commercial Center/General Commercial
22. Light Industrial
23. Light Industrial
24. General Commercial

### Industrial Area Specific Plan

25. Light Industrial

### Other (non-specific plan)

9. Urban Reserve 4 (Commercial, Office, Residential High, Park)
10. Urban Reserve 3 (Industrial, Commercial, Office, Public, Residential Very Low)
14. Office
15. Residential Medium/High

### NEI Specific Plan

27. Light Industrial

16. Larch/Clover Commercial\*
17. Highway Service
18. PUD (Commercial)
19. Light Industrial
20. Highway Service
21. Highway Service
26. Industrial

AGENDA ITEM 4

REQUEST

**PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT; (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2015/2016; and (3) AUTHORIZING THE BUDGET OFFICER TO MAKE NECESSARY ADJUSTMENTS TO THE CITY BUDGET**

EXECUTIVE SUMMARY

On July 7, 2015, Council approved the Tracy Consolidated Landscape Maintenance District (LMD) preliminary Engineer's Report, and declared its intention to levy annual assessments for the maintenance of landscaping and related appurtenances in the LMD. Tonight, after considering public comments, it is recommended that City Council approve the final LMD Engineer's Report, and authorize the levy and collection of assessments for Fiscal Year 2015/2016 in amounts not to exceed the maximum rates previously approved by the zones' property owners<sup>1</sup>. The assessments pay for improvements within the public right-of-way such as median landscaping, small parks, and streetscape aligned with neighborhoods.

The LMD is a critical component in helping the Tracy community present itself in a well-maintained and physically attractive manner.

Both revenue and expenditures for Fiscal Year 2015/2016 are estimated to be \$3,599,383. Revenue from the levying of assessments will be \$2,649,946; \$115,000 from the Drainage Fund to cover the costs of channel way/bike path landscape improvements; \$200,000 from Gas Tax for zones that have arterial, median and right-of-way landscaping; \$185,000 from General Fund<sup>2</sup> for improvements and maintenance that are largely of general benefit, and \$449,437 from Zone Capital Reserves<sup>3</sup>.

There are areas within zones that are not part of the LMD therefore paid by general fund such as 11th St. medians, Grant Line medians, and Valpico. As a result, it is appropriate for the General fund to cover all the expenses related to the General Fund areas not in the LMD zones. There are also areas that provide a general benefit to the entire community (major arterials) that the zone(s) cannot financially support and is not

---

<sup>1</sup> The recommended rates also include an annual inflationary increase to the maximum rates approved by property owners, whom also approved the methodology for the annual inflationary increases during District formation.

<sup>2</sup> The Storm Drainage Enterprise Fund appropriations have been reduced by 112% since 2010 (\$144,000 to \$115,000); General Fund appropriations have been reduced by 11% (\$261,000 to \$235,000); and Gas Tax appropriations have been increased by 3% (\$195,000 to \$200,000).

<sup>3</sup> A portion of assessments is set aside each year as "Capital Reserves" for planned cyclical maintenance and CIPs such as park renovation, streetscape revitalization, and tree pruning since the cost of these services cannot reasonably be collected in a single year. Capital Reserves may also be used to fund shortfalls within Zones—for instance, when the cost for services exceeds the maximum rates of levied assessments, or due to increased utility costs.

unreasonable to request that the General Fund cover the expenses for those areas. As stated in the Engineers Report, over time as development occurs, it is not unusual for streets that originally provided only a specific benefit, to evolve into a general benefit. For example, as development that began as noncontiguous eventually becomes contiguous streets may evolve into major arterials. It is therefore recommended that analyses be performed over time to reassess the benefit designation. Such an analysis will be performed in FY 15/16. The general fund contribution for FY 14/15 was \$235,000 which is \$50,000 more than requested for FY 15/16.

## DISCUSSION

Since the formation of the LMD, Council has annually reviewed and approved assessments based on the Engineer's Annual Levy Reports. Most recently, the City Council approved the annual assessments proposed in the preliminary Engineer's Report that were presented to Council on July 7, 2015.

The purpose of this agenda item is to allow the City Council to: (1) hear and consider public comments pertaining to the annual Engineer's Report; (2) approve the final Engineer's Report as presented to, or modified by, Council; and (3) order the levy and collection of assessments within the LMD for Fiscal Year 2015/2016.

## ASSESSMENT LEVIES

Maximum assessment rates were previously approved by the LMD property owners. Although maximum rates were approved, the assessments levied for the 39 assessable zones are based upon *whether the needs of each zone warrant the levying of the maximum approved rates or a lesser rate.*

Based upon the estimated costs to maintain the long and short-term landscaping and appurtenant improvements within the LMD (as more particularly described in the Engineer's Report), staff recommends approval of the assigned assessment rates found in Section IV, Appendix A (Budget Fiscal Year 2015/2016) of the Engineer's Report for Fiscal Year 2015/2016. For the fiscal year 2015/16, thirty-nine assessable zones, twenty zones will be assessed the maximum assessment rates allowed just as they were in the fiscal year 2014/15. This is primarily due to the zones having insufficient funding to cover all of their maintenance costs; ten zones will be assessed at a level below their maximum rate due to lower operating costs; and nine zones will not be assessed due to a Home Owners Association providing maintenance, adequate reserves, no improvements, or the zone providing a general benefit to the City of Tracy (such as Zone 38, Eleventh Street) which is funded by the General Fund.

This year's assessments were performed in the same as in previous years. The LMD zones are assessed pursuant to the 1972 Act and the provisions of the California Constitution. Each year, the cost per zone is analyzed and determined if an increase in the levy is needed based on the expenses for each zone which include annual maintenance, operation and servicing of landscape improvements, long-term maintenance and rehabilitation programs such as tree maintenance programs, streetscape revitalization and rehabilitation, and park rehabilitation and renovation

program. There is a maximum levy amount per parcel that is calculated when the zone is annexed into the LMD. The annual assessments cannot exceed the maximum assessment rate previously approved by property owners without balloting to increase the assessments for the zone. In FY 14/15 there was an increase to 24 zones and in FY 15/16 it is proposed to increase assessments in 21 zones.

Because the proposed assessment rates for Fiscal Year 2015/2016 are less than or equal to the maximum rates previously approved by voters, no ballot proceedings are required.

It is recognized that the cost of maintaining the improvements increases slightly each year as a result of inflation. Therefore, in order to offset inflationary increases that affect service costs to the District, District assessments include a formula for increasing the *maximum* assessment rates for each future fiscal year<sup>4</sup>. These annual increases (three cents per dollar in Fiscal Year 2015/2016 is proposed) have not been sufficient to keep up with the cost of services. Per Attachment "B", approximately 35% of the zones have not increased their maximum rates in almost 30 years. On average, for the entire District, it has been almost 20 years since rates have been increased beyond the annual inflationary rate increases. To increase the rate beyond the maximum rate, excluding inflationary increases, requires a vote of the property owners within each zone per Proposition 218.

The aforementioned formula allows the *maximum* rates to be increased annually by three percent or the percentage increase of the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose Area Region<sup>5</sup>, whichever is less. The District's assessment formula complies with Government Code Section 54954.6 (a) and was approved by the City Council and the original District Property Owners.

The percentage difference for the CPI applicable for the period of June 2013 to June 2014 was 3%. Therefore, the maximum assessment rates allowed for Fiscal Year 2015/2016 will be adjusted by 3% over the prior year's maximum assessment rates (or by approximately 3 cents per dollar). Although inflationary rates may be applied to the *maximum* voter-approved rates, *only the assessment amount needed for maintenance will be levied*.

## STRATEGIC PLAN

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

## FISCAL IMPACT

---

<sup>4</sup> This does not necessarily mean that the inflated rate will be levied. The assessments levied will be based upon the estimated costs of maintenance.

<sup>5</sup> California Consumer Price Indexes consist of the aforementioned Index, San Diego, Los Angeles-Orange County, and Western Region Indexes. A vote of the LMD property owners is necessary to change the Index to another index.

If the City Council approves the Engineer's Report, and orders the levy and collection of assessments, revenue for maintenance of the LMD will be from the following sources:

Assessments	\$2,649,946
Drainage Fund	\$ 115,000
Gas Tax	\$ 200,000
General Fund	\$ 185,000
Zone Capital Reserves	<u>\$ 449,437</u>
Total	\$3,599,383 <sup>6</sup>

The total expenditures for the LMD for Fiscal Year 2015/2016 are estimated to be \$3,599,383.

### RECOMMENDATION

At the close of the Public Hearing, it is recommended that Council approve by resolution the final Engineer's Report, order the levy and collection of assessments for Fiscal Year 2015/2016, and authorize the Budget Officer to make necessary changes to the City budget.

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

Reviewed by: David Ferguson, Public Works Director  
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

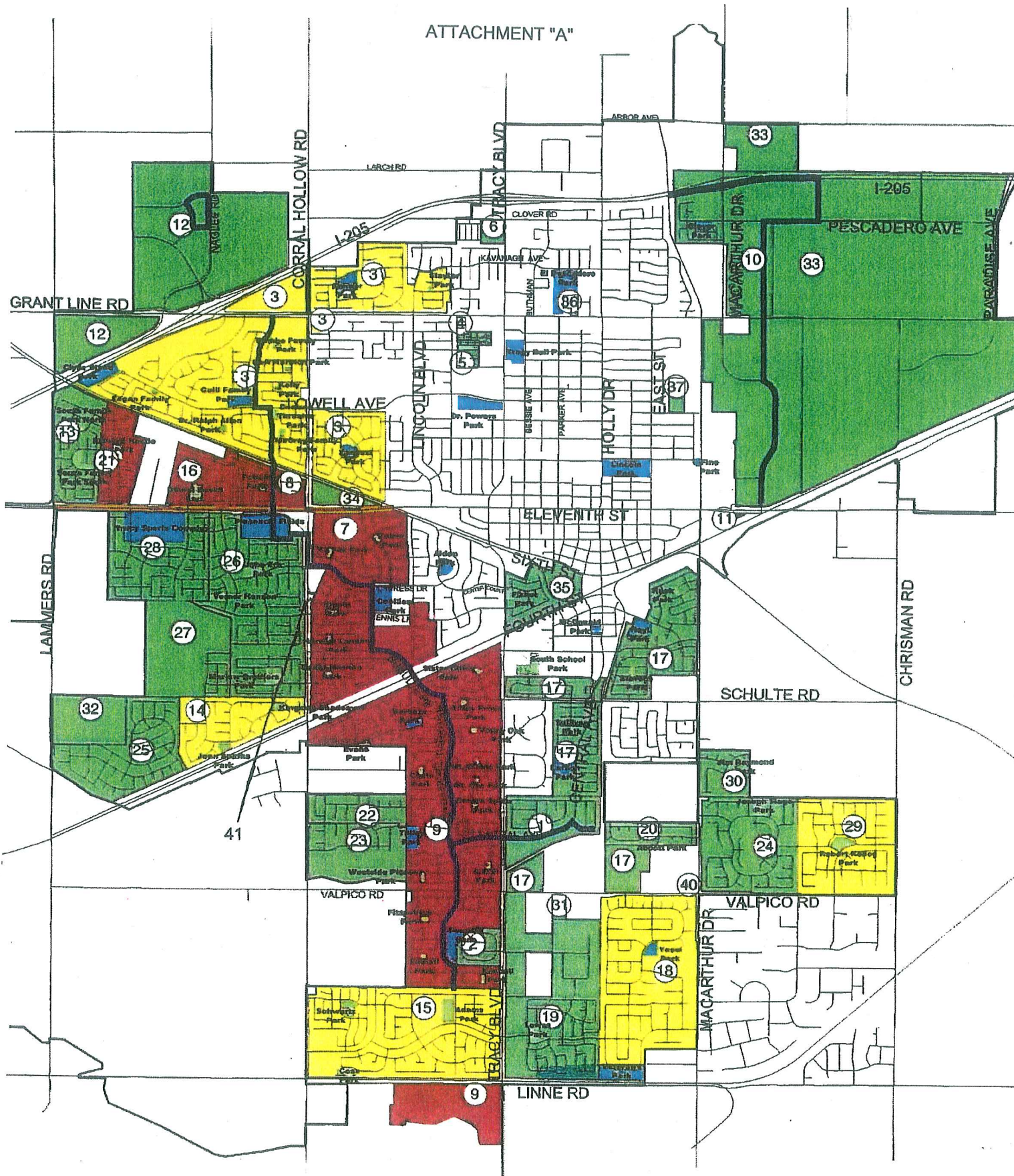
### ATTACHMENTS

Attachment "A" - Map of Landscape Maintenance District  
Attachment "B" - Assessment Rate Increase Analysis  
Attachment - Engineer's Report<sup>7</sup>

---

<sup>6</sup> \$3,599,383 represents both revenues and expenditures for those zones levied assessments and Zones 38 (11<sup>th</sup> Street) and 39 (Channel Way conveyance system) which are General Benefit only. Only zones that are levied assessments are included in the Engineer's Report.

<sup>7</sup> The Tax Roll for the Engineer's Report is available for review in the Administrative Services Department.



**CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT**



ATTACHMENT "B"

TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT					
Zone	LMD	The Year the Maximum Rate was Established by Property Owners	The Year the Maximum Rate Increased by Vote of Property Owners	Years Since Last Maximum Rate Increase (Other than Annual Inflationary Increase)	Ability to Meet Cyclical Maintenance Needs (Pruning, Park Renovation, Streetscape Renovation)
1	LMD 8501	1985	2003	12	
41	TCLMD	2010		5	
40	TCLMD	2007		8	
17	LMD 9802	1999	2006	9	
30	LMD 9802	2000	2006	9	
18	LMD 9802	1999	2003	12	
26	LMD 9802	1999	2003	12	
34	LMD 9802	1999	2003	12	Yes
23	LMD 9802	2000		15	
27	LMD 9802	2000		15	Yes
28	LMD 9802	2000		15	Yes
29	LMD 9802	2000		15	
31	LMD 9802	2000		15	Yes
35	LMD 9802	2000		15	
14	LMD 9802	1999		16	
15	LMD 9802	1999		16	
16	LMD 9802	1999		16	
19	LMD 9802	1999		16	
20	LMD 9802	1999		16	
21	LMD 9802	1999		16	
22	LMD 9802	1999		16	
24	LMD 9802	1999		16	
25	LMD 9802	1999		16	
32	LMD 9802	1999		16	
33	LMD 9802	1999		16	Yes
3	LMD 8801	1987		28	
4	LMD 8801	1987		28	Yes
5	LMD 8801	1987		28	Yes
6	LMD 8801	1987		28	Yes
7	LMD 8801	1987		28	
8	LMD 8801	1987		28	
9	LMD 8801	1987		28	
10	LMD 8801	1987		28	
11	LMD 8801	1987		28	Yes
12	LMD 8801	1987		28	Yes
13	LMD 8801	1987		28	
36	LMD 8801	1987		28	Yes
37	LMD 8801	1987		28	Yes
2	LMD 8501	1985		30	

Average: 19 31%



"Think Inside the Triangle"

## City of Tracy

# Tracy Consolidated Landscape Maintenance District

2015/2016 ENGINEER'S REPORT

Intent Meeting: July 7, 2015  
Public Hearing: July 21, 2015

27368 Via Industria  
Suite 200  
Temecula, CA 92590  
T 951.587.3500 | 800.755.6864  
F 951.587.3510

[www.willdan.com/financial](http://www.willdan.com/financial)



**ANNUAL ENGINEER'S REPORT AFFIDAVIT**

**Tracy Consolidated Landscape Maintenance District**

**City of Tracy**

**San Joaquin County, State of California**

This Report describes the Consolidated District and all relevant zones therein including the improvements, budgets, parcels and proposed assessments to be levied for fiscal year 2015/2016, as they existed at the time of the passage of the Resolution of Intention. Reference is hereby made to the San Joaquin County Assessor's maps for a detailed description of the lines and dimensions of parcels within the District. The undersigned respectfully submits the enclosed Report as directed by the City Council.

Dated this 7th day of July, 2015

Willdan Financial Services  
Assessment Engineer  
On Behalf of the City of Tracy

By: \_\_\_\_\_  
Zaskia Ruiz-Jones, Project Manager

By: \_\_\_\_\_  
Richard Kopecky  
R. C. E. # 16742

# TABLE OF CONTENTS

<i>I. OVERVIEW</i> .....	1
A. INTRODUCTION .....	1
B. HISTORICAL BACKGROUND.....	3
<i>II. DESCRIPTION OF THE DISTRICT AND SERVICES</i> .....	5
<i>III. METHOD OF APPORTIONMENT</i> .....	9
A. GENERAL .....	9
B. ASSESSMENT METHODOLOGY .....	9
C. LAND USE CLASSIFICATIONS .....	10
D. ASSESSMENT ADJUSTMENT FORMULA TO OFFSET INFLATION .....	13
<i>IV. DISTRICT BUDGET</i> .....	14
A. DESCRIPTION OF BUDGET ITEMS .....	14
<i>APPENDIX A – BUDGET FISCAL YEAR 2015/2016</i> .....	16
<i>APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS</i> .....	54
<i>APPENDIX D – 2014/2015 ASSESSMENT ROLL</i> .....	56

## I. OVERVIEW

---

### A. Introduction

Since 1985 the City of Tracy (hereafter referred to as “City”), under the provisions of the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code* (hereafter referred to as the “1972 Act”) has annually conducted a public hearing and levied assessments on the County tax roll for the maintenance and operation of specific landscape improvements that benefit the properties assessed.

This Engineer’s Report for the ***Tracy Consolidated Landscape Maintenance District*** (hereafter referred to as “District”) has been prepared pursuant to *Section 22622, in accordance with Article 4 (commencing with Section 22565) of Chapter 1* of the 1972 Act. This report provides a description of the District, any proposed annexations or modifications to the District, any substantial changes to the improvements, and the proposed budgets and assessments for the period of July 1, 2015 through June 30, 2016. The District is currently divided into thirty-nine (39) benefit zones (hereafter referred to as “Zones”). The costs of providing the improvements within each Zone are budgeted separately and the properties within each Zone are annually assessed for their proportional special benefit.

Prior to fiscal year 2003/2004, the City levied annual assessments for landscape improvements through three separate districts identified as:

- ◇ *Tracy Landscape and Lighting Assessment District 8501* formed in 1985;
- ◇ *Tracy Landscape and Lighting Assessment District 8801* formed in 1988; and,
- ◇ *Tracy Landscape and Lighting Assessment District 9802* formed in 1998.

Each of these original districts was formed with various Zones to identify specific areas of improvements and properties benefiting from those improvements. By fiscal year 2002/2003, the three original districts included thirty (30) different Zones. Each Zone incorporated specific improvements that were established as part of developing the properties within the Zones or were installed for the benefit of those properties.

In fiscal year 2003/2004 the City consolidated the three existing districts into a single district pursuant to Section 22605 (d) of the 1972 Act and established the Tracy Consolidated Landscape Maintenance District. As part of the consolidation, the improvements associated with various Zones were closely evaluated and it was determined that in some areas, the special benefits to properties could be more refined by expanding the existing thirty (30) Zones to thirty-seven (37) Zones. This Zone restructuring involved splitting three large Zones into two or more smaller Zones. Neither the reorganization of the Zone structure nor the consolidation process changed the method of apportionment or the maximum assessment rates previously approved by the property owners.

In fiscal year 2007/2008, the City approved the annexation of The Rite-Aid Retail Store Project into the District as Zone No. 40. The annual assessments for each lot, parcel

and subdivision of land within this Zone will be calculated utilizing the method of apportionment previously established for the District and are made pursuant to the 1972 Act and the substantive and procedural provisions of the California Constitution.

In fiscal year 2010/2011, the City approved the annexation of The Islamic Center into the District as Zone No. 41. The annual assessments for each lot, parcel and subdivision of land within this Zone will be calculated utilizing the method of apportionment previously established for the District and are made pursuant to the 1972 Act and the substantive and procedural provisions of the California Constitution.

The proposed assessments described in this Report are based on the estimated costs associated with the regular annual maintenance, operation and servicing of landscape improvements within each Zone. The total cost of these improvements are proportionately spread to only the properties within each respective Zone based on a method of apportionment that reflects the direct and proportional special benefits to each property. In addition to the regular annual maintenance of the landscape improvements, various Zone budgets include the collection of funds associated with specific long-term maintenance and rehabilitation programs identified as: Tree Maintenance Programs; Streetscape Revitalization and Rehabilitation Program; and Park Rehabilitation and Renovation Program. The funds collected for these programs are proportionally collected from only those Zones for which these programs are provided.

The word “parcel”, for the purposes of this Report, refers to an individual property assigned its own Assessment Parcel Number by the San Joaquin County Assessor’s Office. The San Joaquin County Auditor/Controller uses Assessment Parcel Numbers and specific Fund Numbers to identify, on the tax roll, properties assessed for special district benefit assessments.

At a noticed annual public hearing, the City Council will consider all public comments and written protests regarding the District. The City Council will review the Engineer’s Annual Report and may order amendments to the Report or confirm the Report as submitted. Following final approval of the Report and confirmation of the assessments, the Council will order the levy and collection of assessments for fiscal year 2015/2016 pursuant to the Act. In such case, the assessment information will be submitted to the County Auditor/Controller for inclusion on the property tax roll for each parcel in fiscal year 2015/2016. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate approved by the City Council.

## B. Historical Background

The District and the Zones therein have been established pursuant to the 1972 Act and the City Council annually conducts a public hearing to accept property owner and public comments and testimony, to review the Engineer's Report and approve the annual assessments to be levied on the County tax roll for that fiscal year. All assessments approved by the City Council have been prepared in accordance with the 1972 Act and in compliance with the provisions of the *California Constitution Article XIII D* (hereafter referred to as the "Constitution"), which was enacted with the passage of Proposition 218 in 1996.

In fiscal year 1997/1998 the special benefit assessments necessary to maintain the improvements within district 8501 and district 8801 were presented to the property owners within these districts for approval pursuant to Article 4 of the Constitution. Upon conclusion of the public hearing on July 1, 1997, all returned property owner protest ballots were tabulated and it was determined that majority protest did not exist. The assessment approved by the property owners established an initial maximum assessment rate for each Zone and included the assessment range formula currently applied to all District Zones.

In fiscal year 1998/1999, the City initiated proceedings and conducted the required public hearing for the formation of district 9802 and concurrently balloted property owners for the proposed assessments in accordance with the Constitution. The tabulation of the ballots indicated that a majority protest did not exist and the property owners approved the imposition of the special benefit assessments (including an inflationary adjustment). The assessments approved by the property owners were confirmed and adopted by the City Council on February 3, 1998.

In fiscal year 2000/2001, the City again initiated proceedings and conducted the required public hearings and property owner protest ballot proceedings for the formation and concurrent annexation of specific territories to district 9802 (identified in this report as Zones 29, 30 and 31). The City Council confirmed and adopted the property owner approved assessments and inflationary formula on October 5, 1999. In similar but separate proceedings, additional Zones were annexed to district 9802 (identified as Zones 23, 27, 28, 32, 33 and 34). The assessments and inflationary formula approved by the property owners were confirmed by the City Council on August 1, 2000.

In fiscal year 2001/2002 the City once again initiated proceedings and conducted the required public hearing and property owner protest ballot proceedings for the establishment of a new Zone within district 9802, known as Ryland Junction (identified in this report as Zone 35). The proposed assessments and inflationary adjustment approved by the property owner balloting were confirmed by the City Council on February 6, 2001.

In fiscal year 2003/2004 the City approved the consolidation of the three previously existing districts (8501, 8801 and 9802) into the existing single consolidated District (Tracy Consolidated Landscape Maintenance District). This consolidation proceeding did not change the previously approved property owner assessments and inflationary formula, but as part of the consolidation proceedings, some existing Zones were divided into more than one zone (re-engineered) to better reflect the special benefits

each parcel receives from the District improvements and services (Thirty Zones were redefined to establish thirty-seven Zones).

In conjunction with the consolidation and re-engineering proceedings, the City also initiated and conducted a property owner protest ballot proceeding for a proposed assessment increase in nineteen Zones (Designated as Zones 1, 2, 3, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 21, 22, 26, 29, 34 and 35). Majority protest existed in all but four of the Zones. Based on the ballot tabulations the City Council approved the proposed assessment increase for Zones 1, 18, 26 and 34 that had been approved by the property owners.

In fiscal year 2006/2007, the City initiated and conducted a property owner protest ballot proceeding for a proposed assessment increase in Zones 17 and 30. No protest existed. The proposed assessments and inflationary adjustment approved by the property owner balloting for these two zones were confirmed by the City Council on August 15, 2006.

In fiscal year 2007/2008, the City approved the annexation of the Rite-Aid Retail Store Project into the District as Zone No. 40.

In fiscal year 2007/2008, the City initiated and conducted a property owner protest ballot proceeding for a proposed assessment increase in Zone 9. The proposed assessment increase was not approved by property owners; therefore, the maximum assessment rate for Zone 9 remained the same as previously approved, adjusted annually for inflation.

In fiscal year 2010/2011, the City approved the annexation of the Islamic Center into the District as Zone No. 41. The District is now comprised of thirty-nine Zones.

Although the District is currently comprised of thirty-nine (39) Zones, not all Zones are levied an assessment each year, there are some cases where the improvements for a Zone are maintained by an association (as is the case with the Redbridge development, Zone 25) or, the improvements have not been installed or dedicated to the City for maintenance. Likewise, not all the costs associated with maintaining District improvements are assessed to properties as special benefit assessments. In some Zones, portions of the improvements are considered general benefit and are funded by City General Fund contributions. Some of the landscape improvements within various zones, such as channel ways, are maintained in conjunction with other City activities. The maintenance and improvements for these channel ways are funded in part by specific revenue sources available to the City such as the City Drainage Fund. However, the City Drainage Fund is used primarily to support the drainage function of these facilities. The landscape improvements may be funded in part by the City Drainage Fund and Zone Assessments.

Overtime, as development occurs, it is not unusual for streets that provided only a specific benefit to evolve into a general benefit. For example, as development that began as noncontiguous eventually becomes contiguous streets may evolve into major arterials. It is therefore recommended that analyses be performed over time to reassess the benefit designation. Such an analysis will be performed in FY 2015/2016.



## ***II. DESCRIPTION OF THE DISTRICT AND SERVICES***

---

The District and assessments provide for the continued maintenance, servicing, administration and operation of specific landscaped areas and associated appurtenances for each of the thirty-nine (39) Zones in the District. It has been determined that the assessed parcels within each Zone receive special benefits from various landscape improvements that may include, but are not limited to: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, recreational equipment, hardscapes and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space areas within each Zone. Services provided include the necessary operations, administration, and maintenance required to keep the improvements in a healthy, vigorous, and satisfactory condition or is necessary or convenient for the maintenance of the improvements. The continued maintenance of these improvements shall be budgeted and reviewed each fiscal year and fully or partially funded through the annual assessments. A listing of the improvement areas associated with each Zone is shown in Appendix B.

All assessable parcels identified as being within each Zone share in both the cost and the benefits of the improvements. The costs and expenses associated with the improvements in each Zone are equitably spread among all benefiting parcels within that Zone and only parcels that receive special benefit from the improvements are assessed in proportion to benefit received. The funds collected from the assessments are dispersed and used for the services and operation provided within the District. Properties receive the following special benefits from the District landscape improvements:

- Enhanced desirability of properties through association with the improvements and the aesthetic value of green space within the area.
- Improved aesthetic appeal of properties providing a positive representation of the area.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space and landscaping.
- Environmental enhancement through improved erosion resistance, dust and debris control and reduced noise and air pollution.
- Increased sense of pride in ownership of property resulting from well-maintained improvements associated with the properties.
- Reduced vandalism and criminal activity resulting from well-maintained surroundings and amenities.
- The special enhancements of the properties that results from the above benefits.

The proposed budgets and maintenance costs for various Zones may include long-term cyclical maintenance programs referred to as:

- Tree Maintenance Programs (Arterial and Parkway Street Tree Maintenance);
- Streetscape Revitalization and Rehabilitation Program; and,

- Park Rehabilitation and Renovation Program.

The total amount to provide these programs in each Zone where these services apply is greater than can be conveniently raised from a single annual assessment and the estimated costs of these programs for each Zone shall be raised and collected in installments as part of the annual assessments.

The City developed these programs to fund periodic and programmed maintenance, renovation, rehabilitation, replacement and revitalization of the District improvements. The City has carefully reviewed each of the associated program costs and the corresponding collection of funds has been proportionately spread to each parcel based on special benefits received from the services to be rendered within their Zone over an extended period.

### **Tree Maintenance Programs**

The Tree Maintenance program may include both routine and emergency maintenance for the District street-trees. In The Zones assessed for this program the following may apply:

1. Parkway street-tree maintenance, targets the trees associated with individual properties within the District installed by the City or developer that are located in the public right-of-way or City easement which the District is responsible for maintaining. This program addresses two specific maintenance issues:
  - Regular trimming and pruning of the street-trees. This program is designed to trim and prune all street-trees within the applicable Zones on a five-year rotation or as needed to ensure the health and growth of the trees.
  - Removal and replacement of the street-trees. The program provides for the removal and replacement of damaged or diseased trees as needed, or removal of trees whose growth has or will potentially cause damage to existing structures such as fences or sidewalks. This program may also include the replacement or repair of surrounding improvements as needed.
2. Arterial-tree maintenance, targets the trees associated with the parkways and medians on the arterial streets adjacent to or surrounding the Zones. Similar to the parkway street-tree program, this program addresses two specific maintenance issues:
  - Regular trimming and pruning of the arterial-trees, which includes trimming and pruning of the arterial-trees as needed to ensure the health and growth of the trees.
  - Removal and replacement of the arterial-trees, including the removal or replacement of damaged or diseased trees as needed, or removal of trees whose growth has or will potentially cause damage to existing landscape improvements, sidewalks or curbs. This program may include the replacement or repair of surrounding improvements as needed.

Assessments for the tree maintenance program shall be collected from only those parcels and Zones identified as receiving special benefit from each of the specific services provided. Each parcel within the District that benefits from the various tree maintenance

services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with the tree maintenance, which is planned every five years.

### **Streetscape Revitalization and Rehabilitation Program**

The Streetscape Revitalization and Rehabilitation program includes, but is not limited to the following and may include routine or emergency maintenance.

1. Removal and replacement of existing dead/dying plant materials within the medians and parkway landscaped areas.
2. Removal of existing plant materials and replacement with new plant material or non-plant materials within the medians and parkway landscaped areas.
3. Upgrades or renovation to the irrigation or drainage systems, electrical systems or metering systems, hardscape improvements associated with the landscaping such as fencing, sidewalks and curbs, stamped concrete or soil.

Assessments for the streetscape program shall be collected from only those parcels and Zones identified as receiving special benefit from parkway and median landscaped areas. Each parcel within the District that benefits from the streetscape revitalization and rehabilitation services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with the program, which is planned every ten years. This program is designed to ensure the long-term maintenance of all streetscape landscaping within the District.

### **Park Rehabilitation and Renovation Program**

Clearly, there are specific costs associated the annual and regular maintenance of park improvements and facilities which are included in the annual maintenance expenses of those Zones that benefit from the parks associated with the Zone. However, the cost of periodically repairing, replacing and upgrading the landscaping and facilities within these parks cannot be reasonably collected in a single annual assessment. Therefore, the City has established a long-term park rehabilitation and renovation program that includes the design repair and reconstruction of parks within the District. The program anticipates revitalization design in the 13th year of a park's life, with the revitalization occurring in the 15th year. Each parcel within the District that benefits from the park rehabilitation and renovation services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with the program, which is planned every fifteen years.

The costs of providing for the annual and regular maintenance of the landscape improvements as well as the long-term maintenance programs for the District have been identified as a special benefit to properties within the District. Although the location of the improvements may be visible to properties outside the District or to the public at large, the improvements have been installed and are maintained for the benefit of properties within the District and there is no quantifiable general benefit from the improvements except for portions of the costs associated with the maintenance of the Channel-ways and the landscaped areas on Eleventh Street generally between Lammers Road and the Railroad Tracks east of Corral Hollow Road. These specific improvement areas benefit both properties within the adjacent Zones as well as properties that are not within the District

and it has been determined that the City will contribute funds to the District for the maintenance of these areas.

The assessments and method of apportionment described in this Report utilizes commonly accepted assessment engineering practices and have been established pursuant to the 1972 Act and the provisions of the Constitution. The amount of the assessments for each Zone is based only on the services and improvements associated with that Zone. All assessments are based upon a special benefit to property within each Zone and are over and above any general benefit conferred on the public at large. Any new or increased assessments will be subject to the substantive and procedural requirements of the Constitution. Property owner ballot proceedings are not required if the proposed annual assessment rate is less than or equal to the maximum assessment rate previously approved for each of the Zones.

In any given fiscal year, if the assessment revenue will not allow for full maintenance service in a particular Zone, City staff will determine the scope of work for each Zone as assessment revenues allow, and any necessary reductions in the scope of work will likely include, but not be limited to, the reduction or elimination of the long-term renovation and rehabilitation programs and some or all of the following:

#### Turf Areas

- Reduced frequency of mowing and edging turf areas. Full scope includes mowing and edging turf areas weekly.
- No fertilization. Full scope includes fertilization twice a year.
- Limited/elimination of weed control.
- Limited/elimination of aeration.

#### Ground cover/shrub areas

- Limited/elimination of emergent weed control
- No fertilization.
- Limited/elimination of mowing during winter months (for hypericum and euonymus)
- Limited/no removal of perennial flower stalks and dead leaves.
- Limited/elimination of vine trimming.

#### General Landscaping

- Limited/elimination of removal of tree stakes and ties.
- Limited/elimination of trash pick-up in landscaping areas.
- Limited/elimination of weed and litter control for gutters, curbs, parking lots and walks adjacent to contract areas.

### **III. METHOD OF APPORTIONMENT**

---

#### **A. General**

Pursuant to the Act, the costs of the District may be apportioned by any formula or method that fairly distributes the net amount to be assessed, among all assessable parcels in proportion to the estimated benefits to be received by each such parcel from the improvements. The benefit formula used should reflect the composition of the parcels, and the improvements and services provided, to fairly proportion the costs based on special benefit to each parcel.

The costs of maintaining District improvements are estimated based on current City development guidelines for landscaping. The estimated annual cost to provide and maintain the improvements within each of the District Zones are budgeted separately and have been allocated to each property in proportion to special benefits received utilizing the method of apportionment described in this section. The funds collected shall be dispersed and used for only the improvements and services provided by the District.

All the assessed parcels receive direct and special benefits from the improvements and activities to be funded through the District assessments. The improvements include all necessary activities, services, operation, administration, and maintenance required to keep the improvements in satisfactory condition.

#### **B. Assessment Methodology**

Each parcel is assigned a weighting factor known as an Equivalent Dwelling Unit (EDU) to identify the parcel's proportionate special benefit from the improvements. Each parcel's EDU is calculated based on the parcel's land use, development status and/or size as compared to other parcels that are associated with the improvements. All single-family residential properties are assigned an EDU of 1.00, and all other property types are assigned an EDU proportionate to the special benefits they receive as compared to this single-family residential property. The total EDU's in a Zone is divided into the total amount to be assessed (Balance to Levy) to establish the Levy per EDU (Rate). This Rate is then multiplied by the parcel's individual EDU to establish the parcel's levy amount.

The following formulas are used to calculate each property's assessment:

***Total Balance to Levy / Total EDUs = Levy per EDU (Rate)***

***Parcel EDU x Levy per EDU = Parcel Levy Amount***

The formula used for each Zone reflects the composition of the parcels and properties, and the services provided, to accurately proportion the costs based on estimated special benefit to each parcel. The total Levy per EDU will vary between Zones due to the different costs to maintain the improvements within each Zone and the number of EDU within the Zone.

### **C. Land Use Classifications**

Every parcel within the District is assigned a land use classification based on available parcel information obtained from the County Assessor's Office and City records. To assess benefits equitably, it is necessary to relate the different type of parcel improvements to each other. The Equivalent Dwelling Unit method of assessment apportionment uses the single-family home site as the basic unit of assessment. A single-family home site equals one Equivalent Dwelling Unit (EDU). Every other land use is converted to EDU's based on an assessment formula that equates the property's specific development status, type of development (land use), and size of the property, as compared to a single-family home site.

The EDU method of apportioning benefit is typically seen as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act, as the benefit to each parcel from the improvements are apportioned as a function of land use type, size and development.

**Single-Family Residential Subdivided Lot** — This land use is defined as a fully subdivided residential home site with or without a structure. This land use is assessed 1.00 EDU per lot or parcel. This is the base value that all other land use types are compared and weighted against.

**Planned-Residential Subdivision** — This land use is defined as any property not fully subdivided, but has a specific number of proposed residential lots to be developed on the parcel (approved tract map). This land use type is assessed at 1.00 EDU per planned (proposed) residential lot.

**Vacant, Undeveloped Private Property** — This land use is defined as vacant property (undeveloped) that is not a fully subdivided residential lot or planned residential subdivision. This land use is assessed at 4.00 EDU per acre. Parcels less than 0.25 acres are assigned a minimum of 1.00 EDU. In Zones 10, 11, 36 and 37 this land use is assessed at 5.0 EDU per acre. Parcels less than 0.20 acres are assigned a minimum of 1.00 EDU.

**Developed Non-Residential** — This land use is defined as property developed for non-residential use, including, but not limited to, commercial and industrial properties, offices, churches and not-for-profit institutions and private schools. This land use type is assessed at 5.00 EDU per gross acre. Parcels less than 0.20 acres are assigned a minimum of 1.00 EDU.

**Developed Multiple Residential Units** — This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property. This land use is assessed 1.00 EDU per unit for properties that the number of units can be identified. For properties that the number of units cannot be identified the property is assessed as Developed Commercial/Industrial property at 5.00 EDU per gross acre, but a minimum of 1.00 EDU similar.

**Undeveloped, Public Property** — This land use identifies properties that are exempt and are assigned 0.00 EDU. This land use classification may include, but is not limited to lots or parcels identified as:

- Public streets and other roadways (typically not assigned an APN by the County);
- Dedicated public easements such as utility right-of-ways, detention basins, channel ways, greenbelts, parkways, parks and open space areas;
- Privately owned property that cannot be developed or is associated with another property such as common areas, sliver parcels and bifurcated lots or properties that have little or no land value;

These types of parcels are considered to receive little or no benefit from the improvements and are therefore exempted from assessment. Government-owned properties commonly identified as non-taxable properties by the County Assessor's Office are not exempt from District assessments unless:

- The property has restricted development or limited land use potential and the improvements clearly provide no benefit to the property; or
- The property provides additional or substantially similar improvements being provided by the District (such is the case with parks, open space areas and common areas).

**Developed Public Property** — This land use is defined as developed property owned by a public agency such as City buildings or facilities owned by the utility companies. This land use type is assessed at 0.30 EDU per gross acre.

**Developed Regional Commercial** — This land use is defined as property that has been designated for regional commercial development (i.e. Shopping mall). This land use type is assessed at 0.36 EDU per gross acre.

**Restricted/Special Land Use** — This land use classification identifies properties that benefit from the improvements, but cannot be fairly categorized by one of the other land use designations. This land use classification may include, but is not limited to:

- Developed Commercial/Industrial properties that only a small portion of the parcel has been developed;
- Properties identified as planned residential subdivisions, but currently have development restrictions; or
- Vacant properties with development limitations or development plans that identify large portions of the property as open space areas, parklands or similar exempt land uses.

The following shows the EDU factors for each property type in the District:

Property Type	Factor	Basis
Single-Family Residential Subdivided Lot	1.00	Parcel
Planned-Residential Subdivision	1.00	Planned Lot
Vacant, Undeveloped Private Property <sup>1</sup>	4.00	Acre
Vacant, Undeveloped Private Property (Zones 10,11, 36 and 37) <sup>1</sup>	5.00	Acre
Developed, Non-Residential Property	5.00	Acre
Developed Multiple Residential Units	1.00	Unit
Undeveloped, Public Property <sup>2</sup>	0.00	Acre
Developed, Public <sup>3</sup>	0.30	Acre
Developed, Regional Commercial <sup>4</sup>	0.36	Acre

Notes

1. *The Undeveloped Private property factor for Zones, 10, 11, 36 and 37 (5.00 EDU/Acre) reflects the more intense use of property within these Zones when the properties are developed as compared to property development in other Zones of the District, which are assigned a weighting factor of 4.00 EDU/Acre. It is important to note that the factors shown above are used to apportion the assessment within each specific Zone, not across the entire District and therefore this distinction is an appropriate reflection of these parcels' benefit compared to other property types within the respective Zones.*
2. *It has been determined that undeveloped public properties generally do not benefit from the improvements and services provided by the District and are not assessed. These types of properties generally include easements, detention basins, parks or properties that have little or no development potential and therefore receive no special benefits from the District improvements.*
3. *Developed Public properties typically receive comparatively less benefit from the improvements and services provided by the District, since the use and enhancement of these properties has little direct benefit from aesthetics of the local environment. The factor shown was originally established based on typical proportionate cost of service and hours of use for this land use type.*
4. *Regional Commercial properties have been assigned a reduced benefit because of their size and their more distant proximity to the District improvements. Additionally, due to the nature and hours of use, the benefit received by such properties from the improvements and services is substantially less than other developed properties. The factor shown was originally established based on a calculation of the proportionate cost of service, average floor area ratios, and hours of use.*



## D. Assessment Adjustment Formula to Offset Inflation

It is recognized that the cost of maintaining the improvements increases slightly every year as a result of inflation.

New or increased assessments require certain noticing, meeting, and balloting requirements. However, Government Code Section 54954.6(a) provides that a “*new or increased assessment*” does not include “*an assessment which does not exceed an assessment formula or range of assessments...previously adopted by the agency or approved by the voters in the area where the assessment is imposed.*” This definition of an increased assessment was later confirmed by Senate Bill 919 (The Implementing Legislation for Proposition 218).

The District assessments include a formula for increasing assessments for each future fiscal year to offset increases in costs due to inflation. This assessment adjustment formula complies with the above-referenced Government Code section and was approved by the City Council and the original District property owners:

The maximum assessment amount allowed for each fiscal year shall be increased in an amount equal to the lesser of: (1) three percent (3.0%), or (2) the annual percentage increase of the Local Consumer Price Index (CPI) for “All Urban Consumers” for the San Francisco-Oakland-San Jose Area.

Each fiscal year, the City shall identify the percentage difference between the CPI for June and the CPI for the previous June (or similar time period). This percentage difference shall then establish the range of increased assessments allowed based on CPI. Should the Bureau of Labor Statistics revise such index or discontinue the preparation of such index, the City shall use the revised index or comparable system as approved by the City Council for determining fluctuations in the cost of living.

In the event that the City Council determines that an inflation adjustment is not required for a given fiscal year or a given Zone, the City Council may authorize the assessment without applying the adjustment formula to the amount levied. If the budget and assessments for a given Zone require an increase greater than the adjustment set forth in the formula, then the proposed increase would be subject to approval by the Zone’s property owners. Each fiscal year, the maximum assessment rate shall increase at the maximum amount allowable regardless if the increase is levied to the parcels within the Zone.

The percentage difference for the CPI for the San Francisco-Oakland-San Jose Area June 2013 to June 2014 was 3.0%. Therefore, the maximum assessment rates allowed for fiscal year 2015/2016 have been adjusted by 3.0% over the prior year’s maximum assessment rates.

## IV. DISTRICT BUDGET

---

### A. Description of Budget Items

**Special Assessments** -- This is the total amount to be levied and collected through assessments for the current fiscal year. It represents the sum of Total Expenses and Other Revenues subtracting the General Fund Support and the Drainage Fund Support.

**Other Revenue**— Represents revenue from other sources such as reserve fund contributions and homeowner association dues.

**General Fund Support** – Represents the City's contribution to the Zones for any general benefit that the improvements within the Zones may have impact on other properties or the public at large.

**Gas Tax Support** – Represents proceeds allocated to the City per Proposition K, Special Transportation Tax that can be utilized for maintenance expenses in zones where the City maintains the arterial, median and right-of-way landscaping.

**Field & Supervisory Personnel** – The cost associated to the staff of the City for providing non-scheduled repairs, graffiti removal and other services, operations and maintenance of the improvements within the Zones.

**Maintenance Contract Costs** -- Includes all regularly scheduled labor, material, e.g. fertilizer, insecticides, etc., and equipment required to properly maintain and ensure the satisfactory condition of all landscaping, irrigation and drainage systems, and appurtenant facilities.

**Utilities** – The cost of water, sewer and electrical utilities necessary to maintain improvements within the Zones.

**Engineer** -- The costs of contracting with professionals to provide services specific to the levy administration, including preparation of the Engineer's Report, resolutions, and levy submittal to the County. These fees can also include any additional administrative, legal, or engineering services specific to the District such as the cost to prepare and mail notices of the public meeting and hearing.

**Other Program Costs** – Cost of maintenance, services and incidentals not included above.

**County Administration Charge** — The actual cost to the Consolidated District for the County to collect the assessments on the property tax bills.

**Other Landscaping** — Other tree maintenance and waste disposal cost.

**City Indirect Costs** — Incidental costs and expenses of the City associated with the operation and administration of the District.

**Equipment Purchases** – This is for the purchase and replacement of improvement facilities and/or equipment used by City personnel for the maintenance and administration of the improvements. (e.g. City maintenance trucks)

**Streetscape Revitalization & Rehabilitation** – This represents the zone’s annual installment for participation in the Streetscape Revitalization and Rehabilitation program.

**Arterial Street Tree Maintenance** – This represents the zone’s annual installment for participation in the Arterial Street Tree Maintenance program.

**Street Tree Maintenance** – This represents the zone’s annual installment for participation in the Street Tree Maintenance program.

**Park Rehabilitation & Renovation** – This represents the zone’s annual installment for participation in the Park Rehabilitation and Renovation program.

**Total Parcels Levied** – The total number of parcels within the Zones that will receive the special benefits during the current fiscal year.

**Total EDUs** – The total Equivalent Dwelling Units within the Zones applied to the parcels described above.

**Levy per EDU** – This amount represents the rate being applied to each parcel’s individual EDU. The Levy per EDU is the result of dividing the “Special Assessment to Levy” by the Total EDUs of the Zones for the fiscal year. This rate is rounded to the nearest even pennies.

**Maximum Levy per EDU** – This is the rate per EDU approved by property owners within the Zone, in accordance with Proposition 218, adjusted for inflation as described in the Method of Apportionment. This rate is rounded to the nearest pennies.

A variance may be seen between the Levy per EDU and the Maximum Levy per EDU. The variance occurs because the Special Assessments required to meet expenses for the current fiscal year are below the maximum level. The Maximum Levy per EDU is based upon the total expenses for all improvements both existing and those planned for the future.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 1	Zone 2	Zone 3
Special Assessments	\$26,420.83	\$10,474.83	\$326,825.26
Zone Reserves	\$10,000.00	\$3,031.00	\$33,780.00
Gas Tax Support	\$292.07	\$973.15	\$39,154.80
General Fund Support	\$71.63	\$238.68	\$9,603.46
Drainage Fund Support	\$6,555.45	\$0.00	\$18,433.26
<b>Total Revenue</b>	<b>\$43,339.98</b>	<b>\$14,717.67</b>	<b>\$427,796.78</b>
<b>Expenses</b>			
Personnel	\$10,286.98	\$2,846.22	\$80,662.04
Grounds Maintenance Contract	\$4,800.00	\$1,596.00	\$54,156.00
Tree Maintenance Contract	\$10,000.00	\$3,000.00	\$33,930.00
Utilities, Water & Sewer	\$1,338.29	\$1,537.85	\$74,538.06
Utilities, Gas & Electric	\$426.99	\$123.35	\$5,874.22
Utilities, Waste	\$2.01	\$0.64	\$2,851.25
Supplies	\$743.22	\$205.81	\$14,897.55
Radio/Computer/Controllers	\$361.17	\$99.93	\$2,832.01
Equipment/Vehicles	\$757.57	\$209.61	\$5,940.27
Training/Licenses	\$33.38	\$9.24	\$261.76
LMD Administration	\$747.54	\$239.31	\$7,118.53
Internal Service Charges	\$689.95	\$190.90	\$5,409.99
Indirect Costs	\$949.30	\$262.65	\$7,443.64
IF Reimbursements	\$445.15	\$123.16	\$3,490.46
<b>Sub-Total (1)</b>	<b>\$31,581.55</b>	<b>\$10,444.67</b>	<b>\$299,405.77</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$11,758.43</b>	<b>\$4,273.00</b>	<b>\$128,391.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$43,339.98</b>	<b>\$14,717.67</b>	<b>\$427,796.78</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$60,914.65</b>	<b>\$5,786.66</b>	<b>\$317,550.62</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$26,420.83	\$10,474.83	\$326,825.26
Total Parcels Levied	\$294.00	\$125.00	\$2,292.00
Total EDUs Levied	\$485.00	\$125.00	\$2,623.84
Total EDUs	\$485.00	\$125.00	\$2,623.84
Levy Per EDU	\$54.48	\$83.80	\$124.56
Max Rate Per EDU (3.00% Increase)	\$56.16	\$83.82	\$124.57
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$70,914.65	\$8,817.66	\$351,330.62
FY15/16 Utilized Reserves	(10,000.00)	(3,031.00)	(33,780.00)
<b>June 30, 2016 Estimated Balance</b>	<b>\$60,914.65</b>	<b>\$5,786.66</b>	<b>\$317,550.62</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate Per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 4	Zone 5	Zone 6
Special Assessments	\$0.00	\$0.00	\$0.00
Zone Reserves	\$1,171.41	\$1,721.52	\$1,192.42
Gas Tax Support	\$34.30	\$0.00	\$0.00
General Fund Support	\$8.41	\$0.00	\$0.00
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$1,214.12</b>	<b>\$1,721.52</b>	<b>\$1,192.42</b>
<b>Expenses</b>			
Personnel	\$198.61	\$744.35	\$446.74
Grounds Maintenance Contract	\$0.00	\$0.00	\$0.00
Tree Maintenance Contract	\$300.00	\$500.00	\$500.00
Utilities, Water & Sewer	\$25.99	\$0.00	\$0.00
Utilities, Gas & Electric	\$5.57	\$55.53	\$18.51
Utilities, Waste	\$0.04	\$0.16	\$0.10
Supplies	\$16.75	\$55.14	\$31.91
Radio/Computer/Controllers	\$6.97	\$26.13	\$15.68
Equipment/Vehicles	\$14.63	\$54.82	\$32.90
Training/Licenses	\$0.64	\$2.42	\$1.45
LMD Administration	\$66.67	\$132.16	\$54.61
Internal Service Charges	\$13.32	\$49.92	\$29.96
Indirect Costs	\$18.33	\$68.69	\$41.23
IF Reimbursements	\$8.59	\$32.21	\$19.33
<b>Sub-Total (1)</b>	<b>\$676.12</b>	<b>\$1,721.52</b>	<b>\$1,192.42</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$538.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$1,214.12</b>	<b>\$1,721.52</b>	<b>\$1,192.42</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$6,966.90</b>	<b>\$11,187.83</b>	<b>\$2,754.05</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$0.00	\$0.00	\$0.00
Total Parcels Levied	\$0.00	\$0.00	\$0.00
Total EDUs Levied	\$0.00	\$0.00	\$0.00
Total EDUs	\$144.00	\$69.00	\$44.85
Levy Per EDU	\$0.00	\$0.00	\$0.00
Max Rate Per EDU (3.00% Increase)	\$124.57	\$124.57	\$124.57
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$8,138.31	\$12,909.35	\$3,946.47
FY15/16 Utilized Reserves	(1,171.41)	(1,721.52)	(1,192.42)
<b>June 30, 2016 Estimated Balance</b>	<b>\$6,966.90</b>	<b>\$11,187.83</b>	<b>\$2,754.05</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate Per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 7	Zone 8	Zone 9
Special Assessments	\$197,513.67	\$33,997.47	\$339,793.51
Zone Reserves	\$30,100.00	\$10,526.00	\$25,000.00
Gas Tax Support	\$30,869.50	\$4,524.76	\$37,722.10
General Fund Support	\$7,571.33	\$1,109.78	\$9,252.06
Drainage Fund Support	\$15,740.22	\$0.00	\$69,734.17
<b>Total Revenue</b>	<b>\$281,794.72</b>	<b>\$50,158.02</b>	<b>\$481,501.85</b>

### Expenses

Personnel	\$56,215.37	\$13,564.47	\$98,639.03
Grounds Maintenance Contract	\$39,864.00	\$15,240.00	\$75,660.00
Tree Maintenance Contract	\$30,570.00	\$0.00	\$25,000.00
Utilities, Water & Sewer	\$54,646.47	\$12,899.55	\$96,854.59
Utilities, Gas & Electric	\$4,300.43	\$1,020.25	\$7,633.18
Utilities, Waste	\$1,482.30	\$625.94	\$3,438.21
Supplies	\$5,139.22	\$1,456.33	\$12,839.28
Radio/Computer/Controllers	\$1,973.70	\$476.24	\$3,463.17
Equipment/Vehicles	\$4,139.92	\$998.94	\$7,264.16
Training/Licenses	\$182.43	\$44.02	\$320.10
LMD Administration	\$4,228.46	\$1,083.78	\$8,131.10
Internal Service Charges	\$3,770.35	\$909.77	\$6,615.70
Indirect Costs	\$5,187.66	\$1,251.75	\$9,102.60
IF Reimbursements	\$2,432.59	\$586.97	\$4,268.38
<b>Sub-Total (1)</b>	<b>\$214,132.89</b>	<b>\$50,158.02</b>	<b>\$359,229.48</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$67,661.84</b>	<b>\$0.00</b>	<b>\$122,272.37</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$281,794.72</b>	<b>\$50,158.02</b>	<b>\$481,501.85</b>

### Assessment Reserves for Cyclical Maintenance and CIPS

	\$71,928.53	\$23,092.33	\$188,103.52
--	-------------	-------------	--------------

### Levy Information

Special Assessment to Levy	\$197,513.67	\$33,997.47	\$339,793.51
Total Parcels Levied	\$1,171.00	\$219.00	\$2,368.00
Total EDUs Levied	\$1,272.34	\$219.00	\$2,441.03
Total EDUs	\$1,272.34	\$219.00	\$2,441.03
Levy Per EDU	\$155.24	\$155.24	\$139.20
Max Rate Per EDU (3.00% Increase)	\$155.24	\$155.24	\$139.20

### Assessment Reserves for Cyclical Maintenance and CIPS:

June 30, 2015 Estimated Balance	\$102,028.53	\$33,618.33	\$213,103.52
FY15/16 Utilized Reserves	(30,100.00)	(10,526.00)	(25,000.00)
<b>June 30, 2016 Estimated Balance</b>	<b>\$71,928.53</b>	<b>\$23,092.33</b>	<b>\$188,103.52</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 10	Zone 11	Zone 12
Special Assessments	\$138,316.61	\$1,503.99	\$0.00
Zone Reserves	\$26,100.00	\$6.40	\$38,643.36
Gas Tax Support	\$14,087.61	\$0.00	\$7,581.38
General Fund Support	\$3,455.25	\$0.00	\$1,859.48
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$181,959.48</b>	<b>\$1,510.39</b>	<b>\$48,084.22</b>
<b>Expenses</b>			
Personnel	\$43,274.21	\$397.14	\$11,535.40
Grounds Maintenance Contract	\$58,980.00	\$0.00	\$13,260.00
Tree Maintenance Contract	\$26,000.00	\$500.00	\$7,672.00
Utilities, Water & Sewer	\$29,651.12	\$0.00	\$9,032.95
Utilities, Gas & Electric	\$2,230.45	\$0.00	\$720.81
Utilities, Waste	\$9.44	\$0.09	\$2.56
Supplies	\$4,648.77	\$36.10	\$864.85
Radio/Computer/Controllers	\$1,519.34	\$13.94	\$405.00
Equipment/Vehicles	\$3,186.88	\$29.25	\$849.51
Training/Licenses	\$140.43	\$1.29	\$37.43
LMD Administration	\$3,550.43	\$27.98	\$1,366.34
Internal Service Charges	\$2,902.39	\$26.64	\$773.68
Indirect Costs	\$3,993.43	\$36.65	\$1,064.51
IF Reimbursements	\$1,872.59	\$17.19	\$499.17
<b>Sub-Total (1)</b>	<b>\$181,959.48</b>	<b>\$1,086.25</b>	<b>\$48,084.22</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$0.00</b>	<b>\$424.14</b>	<b>\$0.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$181,959.48</b>	<b>\$1,510.39</b>	<b>\$48,084.22</b>

### Assessment Reserves for Cyclical Maintenance and CIPS

	\$245,709.73	\$265.66	\$86,372.39
--	--------------	----------	-------------

### Levy Information

Special Assessment to Levy	\$138,316.61	\$1,503.99	\$0.00
Total Parcels Levied	\$258.00	\$1.00	\$0.00
Total EDUs Levied	\$2,146.43	\$18.15	\$0.00
Total EDUs	\$2,146.43	\$18.15	\$939.42
Levy Per EDU	\$64.44	\$82.86	\$0.00
Max Rate Per EDU (3.00% Increase)	\$82.87	\$82.87	\$120.41

### Assessment Reserves for Cyclical Maintenance and CIPS:

June 30, 2015 Estimated Balance	\$271,809.73	\$272.06	\$125,015.75
FY15/16 Utilized Reserves	(26,100.00)	(6.40)	(38,643.36)
<b>June 30, 2016 Estimated Balance</b>	<b>\$245,709.73</b>	<b>\$265.66</b>	<b>\$86,372.39</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 13	Zone 14	Zone 15
Special Assessments	\$99,408.17	\$54,062.45	\$206,338.65
Zone Reserves	\$30,322.00	\$13,681.00	\$45,825.00
Gas Tax Support	\$1,834.29	\$1,350.18	\$10,007.86
General Fund Support	\$449.89	\$331.16	\$2,454.62
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$132,014.35</b>	<b>\$69,424.78</b>	<b>\$264,626.13</b>
<b>Expenses</b>			
Personnel	\$40,192.07	\$24,066.25	\$83,303.76
Grounds Maintenance Contract	\$16,932.00	\$11,220.00	\$34,800.00
Tree Maintenance Contract	\$30,000.00	\$5,000.00	\$45,000.00
Utilities, Water & Sewer	\$15,358.40	\$13,067.80	\$43,943.84
Utilities, Gas & Electric	\$1,232.72	\$1,047.08	\$3,521.38
Utilities, Waste	\$1,970.77	\$2,255.28	\$5,067.78
Supplies	\$4,424.15	\$3,505.98	\$9,952.75
Radio/Computer/Controllers	\$1,411.13	\$844.96	\$2,924.76
Equipment/Vehicles	\$2,959.90	\$1,772.33	\$6,134.81
Training/Licenses	\$130.43	\$78.10	\$270.33
LMD Administration	\$2,408.90	\$1,690.60	\$5,061.34
Internal Service Charges	\$2,695.67	\$1,614.12	\$5,587.17
Indirect Costs	\$3,709.00	\$2,220.88	\$7,687.43
IF Reimbursements	\$1,739.22	\$1,041.41	\$3,604.78
<b>Sub-Total (1)</b>	<b>\$125,164.35</b>	<b>\$69,424.78</b>	<b>\$256,860.12</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$6,850.00</b>	<b>\$0.00</b>	<b>\$7,766.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$132,014.35</b>	<b>\$69,424.78</b>	<b>\$264,626.13</b>

### Assessment Reserves for Cyclical Maintenance and CIPS

	\$176,974.02	\$18,283.43	\$8,268.48
--	--------------	-------------	------------

### Levy Information

Special Assessment to Levy	\$99,408.17	\$54,062.45	\$206,338.65
Total Parcels Levied	\$358.00	\$369.00	\$1,187.00
Total EDUs Levied	\$374.28	\$371.00	\$1,415.98
Total EDUs	\$374.28	\$371.00	\$1,415.98
Levy Per EDU	\$265.60	\$145.72	\$145.72
Max Rate Per EDU (3.00% Increase)	\$265.61	\$145.72	\$145.72

### Assessment Reserves for Cyclical Maintenance and CIPS:

June 30, 2015 Estimated Balance	\$207,296.02	\$31,964.43	\$54,093.48
FY15/16 Utilized Reserves	(30,322.00)	(13,681.00)	(45,825.00)
<b>June 30, 2016 Estimated Balance</b>	<b>\$176,974.02</b>	<b>\$18,283.43</b>	<b>\$8,268.48</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.



## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 16	Zone 17	Zone 18
Special Assessments	\$45,173.66	\$281,097.41	\$101,442.02
Zone Reserves	\$12,734.00	\$27,545.00	\$1,432.50
Gas Tax Support	\$0.00	\$10,858.00	\$9,248.76
General Fund Support	\$0.00	\$2,663.13	\$2,268.43
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$57,907.67</b>	<b>\$322,163.54</b>	<b>\$114,391.72</b>
<b>Expenses</b>			
Personnel	\$20,382.80	\$45,773.48	\$20,037.57
Grounds Maintenance Contract	\$5,340.00	\$25,212.00	\$10,728.00
Tree Maintenance Contract	\$11,637.14	\$30,000.00	\$9,000.00
Utilities, Water & Sewer	\$8,109.34	\$33,590.61	\$24,823.31
Utilities, Gas & Electric	\$649.94	\$2,701.48	\$2,000.98
Utilities, Waste	\$1,585.57	\$943.52	\$4.36
Supplies	\$2,707.68	\$3,995.24	\$1,444.95
Radio/Computer/Controllers	\$715.63	\$1,607.09	\$703.51
Equipment/Vehicles	\$1,501.07	\$3,370.94	\$1,475.64
Training/Licenses	\$66.14	\$148.54	\$65.02
LMD Administration	\$1,082.29	\$3,206.56	\$1,877.34
Internal Service Charges	\$1,367.07	\$3,070.02	\$1,343.92
Indirect Costs	\$1,880.96	\$4,224.06	\$1,849.10
IF Reimbursements	\$882.02	\$1,980.74	\$867.08
<b>Sub-Total (1)</b>	<b>\$57,907.67</b>	<b>\$159,824.28</b>	<b>\$76,220.79</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$0.00</b>	<b>\$162,339.26</b>	<b>\$38,170.94</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$57,907.67</b>	<b>\$322,163.54</b>	<b>\$114,391.73</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$71,920.41</b>	<b>\$91,152.62</b>	<b>\$49,590.39</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$45,173.66	\$281,097.41	\$101,442.02
Total Parcels Levied	\$310.00	\$1,136.00	\$968.00
Total EDUs Levied	\$310.00	\$1,673.15	\$977.65
Total EDUs	\$310.00	\$1,673.15	\$977.65
Levy Per EDU	\$145.72	\$168.00	\$103.76
Max Rate Per EDU (3.00% Increase)	\$145.72	\$168.01	\$103.76
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$84,654.41	\$118,697.62	\$51,022.89
FY15/16 Utilized Reserves	(12,734.00)	(27,545.00)	(1,432.50)
<b>June 30, 2016 Estimated Balance</b>	<b>\$71,920.41</b>	<b>\$91,152.62</b>	<b>\$49,590.39</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 19	Zone 20	Zone 21
Special Assessments	\$133,781.09	\$33,247.25	\$56,539.03
Zone Reserves	\$10,475.00	\$5,000.00	\$3,501.00
Gas Tax Support	\$4,730.64	\$781.50	\$526.03
General Fund Support	\$1,160.28	\$191.68	\$129.02
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$150,147.01</b>	<b>\$39,220.42</b>	<b>\$60,695.08</b>
<b>Expenses</b>			
Personnel	\$29,661.32	\$8,233.56	\$21,596.64
Grounds Maintenance Contract	\$23,040.00	\$3,324.00	\$7,368.00
Tree Maintenance Contract	\$10,000.00	\$5,000.00	\$3,500.00
Utilities, Water & Sewer	\$24,776.26	\$3,987.17	\$13,403.89
Utilities, Gas & Electric	\$1,991.65	\$320.85	\$1,074.49
Utilities, Waste	\$1,231.82	\$372.72	\$2,168.34
Supplies	\$3,094.00	\$1,196.81	\$3,335.10
Radio/Computer/Controllers	\$1,041.40	\$289.08	\$758.25
Equipment/Vehicles	\$2,184.37	\$606.35	\$1,590.46
Training/Licenses	\$96.25	\$26.72	\$70.08
LMD Administration	\$2,416.83	\$749.84	\$1,453.83
Internal Service Charges	\$1,989.38	\$552.22	\$1,448.48
Indirect Costs	\$2,737.20	\$759.81	\$1,992.98
IF Reimbursements	\$1,283.53	\$356.29	\$934.54
<b>Sub-Total (1)</b>	<b>\$105,544.01</b>	<b>\$25,775.42</b>	<b>\$60,695.08</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$44,603.00</b>	<b>\$13,445.00</b>	<b>\$0.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$150,147.01</b>	<b>\$39,220.42</b>	<b>\$60,695.08</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>			
	\$303,102.38	\$100,476.40	\$42,307.07
<b>Levy Information</b>			
Special Assessment to Levy	\$133,781.09	\$33,247.25	\$56,539.03
Total Parcels Levied	\$429.00	\$168.00	\$388.00
Total EDUs Levied	\$702.43	\$174.56	\$388.00
Total EDUs	\$702.43	\$174.56	\$388.00
Levy Per EDU	\$190.46	\$190.46	\$145.72
Max Rate Per EDU (3.00% Increase)	\$190.48	\$190.48	\$145.72
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$313,577.38	\$105,476.40	\$45,808.07
FY15/16 Utilized Reserves	(10,475.00)	(5,000.00)	(3,501.00)
<b>June 30, 2016 Estimated Balance</b>	<b>\$303,102.38</b>	<b>\$100,476.40</b>	<b>\$42,307.07</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 22	Zone 23	Zone 24
Special Assessments	\$26,376.61	\$3,792.44	\$87,150.46
Zone Reserves	\$5,000.00	\$10,000.00	\$2,570.00
Gas Tax Support	\$1,958.06	\$1,734.74	\$0.00
General Fund Support	\$480.25	\$425.48	\$0.00
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$33,814.92</b>	<b>\$15,952.66</b>	<b>\$89,720.46</b>
<b>Expenses</b>			
Personnel	\$6,148.59	\$4,500.15	\$21,262.89
Grounds Maintenance Contract	\$3,612.00	\$2,856.00	\$12,240.00
Tree Maintenance Contract	\$5,000.00	\$3,000.00	\$2,500.00
Utilities, Water & Sewer	\$7,254.06	\$3,099.28	\$7,986.06
Utilities, Gas & Electric	\$578.11	\$249.05	\$634.36
Utilities, Waste	\$1.36	\$0.99	\$2,472.73
Supplies	\$1,944.28	\$379.41	\$3,507.02
Radio/Computer/Controllers	\$215.87	\$158.00	\$746.53
Equipment/Vehicles	\$452.81	\$331.41	\$1,565.88
Training/Licenses	\$19.95	\$14.60	\$69.00
LMD Administration	\$593.27	\$451.92	\$1,524.61
Internal Service Charges	\$412.38	\$301.82	\$1,426.10
Indirect Costs	\$567.40	\$415.28	\$1,962.18
IF Reimbursements	\$266.07	\$194.73	\$920.10
<b>Sub-Total (1)</b>	<b>\$27,066.17</b>	<b>\$15,952.66</b>	<b>\$58,817.46</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$6,748.75</b>	<b>\$0.00</b>	<b>\$30,903.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$33,814.92</b>	<b>\$15,952.66</b>	<b>\$89,720.46</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$35,176.89</b>	<b>\$9,543.79</b>	<b>\$218,209.75</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$26,376.61	\$3,792.44	\$87,150.46
Total Parcels Levied	\$214.00	\$113.00	\$591.00
Total EDUs Levied	\$214.00	\$347.85	\$598.24
Total EDUs	\$214.00	\$347.85	\$598.24
Levy Per EDU	\$123.26	\$10.90	\$145.68
Max Rate Per EDU (3.00% Increase)	\$145.72	\$145.72	\$145.69
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$40,176.89	\$19,543.79	\$220,779.75
FY15/16 Utilized Reserves	(5,000.00)	(10,000.00)	(2,570.00)
<b>June 30, 2016 Estimated Balance</b>	<b>\$35,176.89</b>	<b>\$9,543.79</b>	<b>\$218,209.75</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 25	Zone 26	Zone 27
Special Assessments	\$0.00	\$206,044.30	\$7,112.02
Zone Reserves	\$0.00	\$42,587.00	\$701.35
Gas Tax Support	\$0.00	\$6,266.17	\$1,147.78
General Fund Support	\$0.00	\$1,536.90	\$281.51
Drainage Fund Support	\$0.00	\$4,536.89	\$0.00
<b>Total Revenue</b>	<b>\$0.00</b>	<b>\$260,971.26</b>	<b>\$9,242.66</b>
<b>Expenses</b>			
Personnel	\$0.00	\$83,307.88	\$1,560.61
Grounds Maintenance Contract	\$0.00	\$53,388.00	\$2,040.00
Tree Maintenance Contract	\$0.00	\$29,950.00	\$1,000.00
Utilities, Water & Sewer	\$0.00	\$43,701.59	\$1,334.83
Utilities, Gas & Electric	\$0.00	\$3,479.66	\$106.46
Utilities, Waste	\$0.00	\$5,641.18	\$0.36
Supplies	\$0.00	\$10,350.66	\$708.43
Radio/Computer/Controllers	\$0.00	\$2,924.90	\$54.79
Equipment/Vehicles	\$0.00	\$6,135.12	\$114.93
Training/Licenses	\$0.00	\$270.34	\$5.06
LMD Administration	\$0.00	\$4,941.73	\$142.74
Internal Service Charges	\$0.00	\$5,587.44	\$104.67
Indirect Costs	\$0.00	\$7,687.81	\$144.02
IF Reimbursements	\$0.00	\$3,604.96	\$67.53
<b>Sub-Total (1)</b>	<b>\$0.00</b>	<b>\$260,971.26</b>	<b>\$7,384.43</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$1,858.24</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$0.00</b>	<b>\$260,971.26</b>	<b>\$9,242.66</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$0.00</b>	<b>\$257,797.33</b>	<b>\$22,784.97</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$0.00	\$206,044.30	\$7,112.02
Total Parcels Levied	\$0.00	\$1,081.00	\$75.00
Total EDUs Levied	\$0.00	\$1,098.76	\$520.56
Total EDUs	\$459.84	\$1,098.76	\$520.56
Levy Per EDU	\$0.00	\$187.52	\$13.66
Max Rate Per EDU (3.00% Increase)	\$0.00	\$187.53	\$145.72
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$0.00	\$300,384.33	\$23,486.32
FY15/16 Utilized Reserves	0.00	(42,587.00)	(701.35)
<b>June 30, 2016 Estimated Balance</b>	<b>\$0.00</b>	<b>\$257,797.33</b>	<b>\$22,784.97</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 28	Zone 29	Zone 30
Special Assessments	\$63,325.33	\$67,082.26	\$47,470.04
Zone Reserves	\$25,000.00	\$15,718.68	\$683.13
Gas Tax Support	\$0.00	\$3,238.15	\$1,217.77
General Fund Support	\$0.00	\$794.22	\$298.68
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$88,325.33</b>	<b>\$86,833.31</b>	<b>\$49,669.63</b>
<b>Expenses</b>			
Personnel	\$23,459.58	\$28,114.63	\$8,930.54
Grounds Maintenance Contract	\$3,540.00	\$20,604.00	\$5,640.00
Tree Maintenance Contract	\$25,000.00	\$0.00	\$1,000.00
Utilities, Water & Sewer	\$0.00	\$19,461.32	\$4,178.76
Utilities, Gas & Electric	\$1,300.61	\$1,559.92	\$333.24
Utilities, Waste	\$5.21	\$2,445.79	\$727.77
Supplies	\$4,051.65	\$3,907.04	\$1,510.05
Radio/Computer/Controllers	\$823.66	\$987.09	\$313.55
Equipment/Vehicles	\$1,727.65	\$2,070.47	\$657.68
Training/Licenses	\$76.13	\$91.24	\$28.98
LMD Administration	\$1,894.33	\$1,895.11	\$776.92
Internal Service Charges	\$1,573.43	\$1,885.64	\$598.97
Indirect Costs	\$2,164.89	\$2,594.47	\$824.13
IF Reimbursements	\$1,015.16	\$1,216.60	\$386.45
<b>Sub-Total (1)</b>	<b>\$66,632.30</b>	<b>\$86,833.31</b>	<b>\$25,907.02</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$21,693.03</b>	<b>\$0.00</b>	<b>\$23,762.60</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$88,325.33</b>	<b>\$86,833.31</b>	<b>\$49,669.63</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$136,669.28</b>	<b>\$11,729.42</b>	<b>\$96,310.13</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$63,325.33	\$67,082.26	\$47,470.04
Total Parcels Levied	\$550.00	\$444.00	\$166.00
Total EDUs Levied	\$550.00	\$485.74	\$166.00
Total EDUs	\$550.00	\$485.74	\$166.00
Levy Per EDU	\$115.14	\$138.10	\$285.96
Max Rate Per EDU (3.00% Increase)	\$145.72	\$138.10	\$285.97
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$161,669.28	\$27,448.10	\$96,993.26
FY15/16 Utilized Reserves	(25,000.00)	(15,718.68)	(683.13)
<b>June 30, 2016 Estimated Balance</b>	<b>\$136,669.28</b>	<b>\$11,729.42</b>	<b>\$96,310.13</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 31	Zone 32	Zone 33
Special Assessments	\$0.00	\$0.00	\$0.00
Zone Reserves	\$6.73	\$0.00	\$5,146.67
Gas Tax Support	\$0.00	\$0.00	\$2,466.87
General Fund Support	\$0.00	\$0.00	\$605.05
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$6.73</b>	<b>\$0.00</b>	<b>\$8,218.59</b>
<b>Expenses</b>			
Personnel	\$0.00	\$0.00	\$2,009.48
Grounds Maintenance Contract	\$0.00	\$0.00	\$756.00
Tree Maintenance Contract	\$0.00	\$0.00	\$1,500.00
Utilities, Water & Sewer	\$0.00	\$0.00	\$2,821.10
Utilities, Gas & Electric	\$0.00	\$0.00	\$224.92
Utilities, Waste	\$0.04	\$0.00	\$0.44
Supplies	\$0.37	\$0.00	\$141.54
Radio/Computer/Controllers	\$0.00	\$0.00	\$70.55
Equipment/Vehicles	\$0.00	\$0.00	\$147.99
Training/Licenses	\$0.00	\$0.00	\$6.52
LMD Administration	\$6.31	\$0.00	\$132.90
Internal Service Charges	\$0.00	\$0.00	\$134.78
Indirect Costs	\$0.00	\$0.00	\$185.44
IF Reimbursements	\$0.00	\$0.00	\$86.96
<b>Sub-Total (1)</b>	<b>\$6.73</b>	<b>\$0.00</b>	<b>\$8,218.59</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$6.73</b>	<b>\$0.00</b>	<b>\$8,218.59</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$445.08</b>	<b>\$0.00</b>	<b>\$87,106.11</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$0.00	\$0.00	\$0.00
Total Parcels Levied	\$0.00	\$0.00	\$0.00
Total EDUs Levied	\$0.00	\$0.00	\$0.00
Total EDUs	\$27.75	\$3.00	\$2,347.24
Levy Per EDU	\$0.00	\$0.00	\$0.00
Max Rate Per EDU (3.00% Increase)	\$193.17	\$158.20	\$192.19
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$451.80	\$0.00	\$92,252.79
FY15/16 Utilized Reserves	(6.73)	0.00	(5,146.67)
<b>June 30, 2016 Estimated Balance</b>	<b>\$445.08</b>	<b>\$0.00</b>	<b>\$87,106.11</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 34	Zone 35	Zone 36
Special Assessments	\$6,405.23	\$41,116.28	\$175.59
Zone Reserves	\$0.00	\$4,857.16	\$0.00
Gas Tax Support	\$5,280.93	\$918.22	\$0.00
General Fund Support	\$1,295.25	\$225.21	\$0.00
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$12,981.41</b>	<b>\$47,116.88</b>	<b>\$175.59</b>
<b>Expenses</b>			
Personnel	\$2,622.59	\$16,194.65	\$0.00
Grounds Maintenance Contract	\$5,328.00	\$10,368.00	\$0.00
Tree Maintenance Contract	\$500.00	\$0.00	\$0.00
Utilities, Water & Sewer	\$0.00	\$9,661.49	\$0.00
Utilities, Gas & Electric	\$355.12	\$774.39	\$3.53
Utilities, Waste	\$0.58	\$1,584.80	\$0.00
Supplies	\$586.64	\$2,437.01	\$150.23
Radio/Computer/Controllers	\$92.08	\$568.59	\$0.00
Equipment/Vehicles	\$193.14	\$1,192.64	\$0.00
Training/Licenses	\$8.51	\$52.55	\$0.00
LMD Administration	\$287.08	\$1,001.32	\$21.84
Internal Service Charges	\$175.90	\$1,086.17	\$0.00
Indirect Costs	\$242.02	\$1,494.47	\$0.00
IF Reimbursements	\$113.49	\$700.79	\$0.00
<b>Sub-Total (1)</b>	<b>\$10,505.14</b>	<b>\$47,116.88</b>	<b>\$175.59</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$2,476.27</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$12,981.41</b>	<b>\$47,116.88</b>	<b>\$175.59</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$16,441.24</b>	<b>\$13,381.60</b>	<b>\$1,716.99</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$6,405.23	\$41,116.28	\$175.59
Total Parcels Levied	\$9.00	\$186.00	\$1.00
Total EDUs Levied	\$83.19	\$186.00	\$20.00
Total EDUs	\$83.19	\$186.00	\$20.00
Levy Per EDU	\$77.00	\$221.06	\$8.78
Max Rate Per EDU (3.00% Increase)	\$219.35	\$221.07	\$82.87
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$16,441.24	\$18,238.76	\$1,716.99
FY15/16 Utilized Reserves	0.00	(4,857.16)	0.00
<b>June 30, 2016 Estimated Balance</b>	<b>\$16,441.24</b>	<b>\$13,381.60</b>	<b>\$1,716.99</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone 37	Zone 40	Zone 41
Special Assessments	\$4,152.55	\$3,807.02	\$0.00
Zone Reserves	\$1,677.00	\$2,710.36	\$991.06
Gas Tax Support	\$0.00	\$1,068.38	\$125.98
General Fund Support	\$0.00	\$262.04	\$30.90
Drainage Fund Support	\$0.00	\$0.00	\$0.00
<b>Total Revenue</b>	<b>\$5,829.55</b>	<b>\$7,847.81</b>	<b>\$1,147.94</b>
<b>Expenses</b>			
Personnel	\$1,986.05	\$2,385.31	\$292.13
Grounds Maintenance Contract	\$0.00	\$156.00	\$228.00
Tree Maintenance Contract	\$3,000.00	\$3,000.00	\$300.00
Utilities, Water & Sewer	\$0.00	\$1,166.49	\$149.54
Utilities, Gas & Electric	\$5.29	\$92.91	\$11.93
Utilities, Waste	\$0.45	\$0.92	\$0.03
Supplies	\$133.63	\$171.13	\$43.85
Radio/Computer/Controllers	\$69.73	\$83.75	\$10.26
Equipment/Vehicles	\$146.26	\$175.66	\$21.51
Training/Licenses	\$6.44	\$7.74	\$0.95
LMD Administration	\$79.28	\$124.57	\$30.54
Internal Service Charges	\$133.20	\$159.98	\$19.59
Indirect Costs	\$183.28	\$220.12	\$26.96
IF Reimbursements	\$85.94	\$103.22	\$12.64
<b>Sub-Total (1)</b>	<b>\$5,829.55</b>	<b>\$7,847.81</b>	<b>\$1,147.94</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$5,829.55</b>	<b>\$7,847.81</b>	<b>\$1,147.94</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	<b>\$1,213.10</b>	<b>\$3,622.18</b>	<b>\$4,016.48</b>
<b>Levy Information</b>			
Special Assessment to Levy	\$4,152.55	\$3,807.02	\$0.00
Total Parcels Levied	\$10.00	\$1.00	\$0.00
Total EDUs Levied	\$76.00	\$9.00	\$0.00
Total EDUs	\$76.00	\$9.00	\$4.16
Levy Per EDU	\$54.64	\$423.00	\$0.00
Max Rate Per EDU (3.00% Increase)	\$82.87	\$423.00	\$364.71
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>			
June 30, 2015 Estimated Balance	\$2,890.10	\$6,332.54	\$5,007.54
FY15/16 Utilized Reserves	(1,677.00)	(2,710.36)	(991.06)
<b>June 30, 2016 Estimated Balance</b>	<b>\$1,213.10</b>	<b>\$3,622.18</b>	<b>\$4,016.48</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.



## APPENDIX A – BUDGET FISCAL YEAR 2015/2016

Revenues	Zone Totals
Special Assessments	\$2,649,946.05
Zone Reserves	\$449,436.77
Gas Tax Support	\$200,000.00
General Fund Support	\$49,053.79
Drainage Fund Support	\$115,000.00
<b>Total Revenue</b>	<b>\$3,463,436.61</b>
	\$3,463,436.61
<b>Expenses</b>	
Personnel	\$814,833.09
Grounds Maintenance Contract	\$522,276.00
Tree Maintenance Contract	\$362,859.14
Utilities, Water & Sewer	\$562,400.00
Utilities, Gas & Electric	\$46,659.33
Utilities, Waste	\$36,895.55
Supplies	\$104,614.53
Radio/Computer/Controllers	\$28,608.44
Equipment/Vehicles	\$60,007.47
Training/Licenses	\$2,644.23
LMD Administration	\$60,598.91
Internal Service Charges	\$54,650.70
Indirect Costs	\$75,194.33
IF Reimbursements	\$35,260.02
<b>Sub-Total (1)</b>	<b>\$2,767,501.74</b>
<b>Long-term Cyclical Maintenance</b>	<b>\$695,934.86</b>
<b>Capital Improvement Projects</b>	<b>\$0.00</b>
<b>Total Expenses</b>	<b>\$3,463,436.61</b>
<b>Assessment Reserves for Cyclical Maintenance and CIPS</b>	\$2,798,872.45
<b>Levy Information</b>	
Special Assessment to Levy	\$2,649,946.05
Total Parcels Levied	15,482
Total EDUs Levied	20,073
Total EDUs	24,112
Levy Per EDU	
Max Rate Per EDU (3.00% Increase)	
<b>Assessment Reserves for Cyclical Maintenance and CIPS:</b>	
June 30, 2015 Estimated Balance	\$3,248,309.22
FY15/16 Utilized Reserves	(449,436.77)
<b>June 30, 2016 Estimated Balance</b>	<b>\$2,798,872.45</b>

Note: Sub-Totals, Special Assessment to Levy, Levy and Max Rate per EDU are rounded up to the nearest penny.

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 1
<b>Zone 1 - Channel way on Central Avenue frontage to the Sycamore Village Apartments.</b>
<p><b>I. Existing Arterial Landscaping in Zone 1</b></p> <p><b>A. Tracy Blvd.</b></p> <ul style="list-style-type: none"> <li>1. Southeast corner Tracy Blvd and Central turf East side, north to 1688 South Tracy Blvd.</li> </ul>
ZONE 2
<b>Zone 2 - Fairhaven Subdivision, west side of Tracy Blvd.</b>
<p><b>I. Existing Arterial Landscaping in Zone 2</b></p> <p><b>A. South Tracy Blvd.</b></p> <ul style="list-style-type: none"> <li>1. West side, approximately 1,000' south of Valpico, to Sycamore Parkway (Fairhaven subdivision)</li> <li>2. Median on Rockport Way and side strips</li> </ul>
ZONE 3
<b>Zone 3 - Located in the northwest section of Tracy. It is bordered on the north adjacent to I-205, and on the south adjacent Byron Road, and the east before O Hare Dr.</b>
<p><b>I. Existing Arterial Landscaping in Zone 3</b></p> <p><b>A. Grantline Road</b></p> <ul style="list-style-type: none"> <li>1. North side from Corral Hollow Rd east to O Hare Dr.</li> <li>2. South side from 1820 W. Grant Line Rd east to Lincoln Rd.</li> <li>3. Median island from Lincoln west to Orchard Parkway</li> <li>4. South side from Corral Hollow Rd west to Henley Pkwy</li> </ul> <p><b>B. Corral Hollow Road</b></p> <ul style="list-style-type: none"> <li>1. West side from Grant Line Rd south to Byron Rd.</li> <li>2. East side from Byron RD to approximately 150 feet north of Alegre</li> <li>3. Median island from Byron Road north to Grantline Rd.</li> <li>4. East side from Grantline Rd north to beginning of the channelway</li> <li>5. Median on Corral Hollow north of Grantline Rd to Mall Entrance</li> </ul> <p><b>C. Kavanagh Ave</b></p> <ul style="list-style-type: none"> <li>1. South side from Corral Hollow Rd east to Golden Springs Dr.</li> </ul> <p><b>D. Lowell Avenue</b></p> <ul style="list-style-type: none"> <li>2. North side from Henly PKWY heading west to the end of the soundwall</li> <li>3. South side from Henley PKWY west to Blandford Ln.</li> <li>4. Median from Corral Hollow Rd. east to Lincoln Blvd.</li> <li>5. South side from Corral Hollow east to Promenade Circle</li> </ul>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 3 (Continued)

6. North side between soundwall and curb from Bridle Creek to Joe Pombo Parkway

7. South side from east end of subdivision to end of soundwall/Joe Pombo

8. South side from Joe Pombo to Blanford Lane

9. South side from Promenade east to end of soundwall

10. North side from Henley Parkway, west to end of soundwall

#### E. Orchard Parkway

1. East side from Lowell Avenue to Grantline Rd.

2. Median island from Hillcrest north to Joseph Damon Drive

3. West side from Lowell Avenue north to approximately 500 feet north of Hillcrest and from Joseph Damon Drive to Grantline Road to be weed free, between curb and fence line

4. West side landscape area between curb and fence line, approximately 500 feet south of Joseph Damon Drive

#### F. Henley Parkway

1. East side between soundwall and curb, from Lowell Ave. to Bridle Creek Dr.

#### G. Blanford Lane

1. East side from Lowell Ave. heading south to the end of sound wall including traffic circle at Lowell Ave. and Blandford Ln.

#### H. Henley Parkway

1. West side from Lowell, North to end of soundwall (North of Giovanni)

### II. Existing Subdivision Landscaping in Zone 3

#### A. Arnaudo Village

1. Entryways at Lincoln and Grantline

#### B. Blossom Valley

1. Entryways at Travao Lane and Grantline, which includes median

#### C. Foothill Ranch Estates

1. Entryway at Foothill Ranch Drive and Corral Hollow Road and median island

#### D. Woodfield Estates

1. Entryway at Fieldview which includes the north and south side soundwall and median strip entire length of Fieldview

2. Entryway at Promenade Circle which includes west side of soundwall and median island and east side

#### E. Sterling Estates

1. Alegre - north side and median island

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 3 (Continued)

#### F. Pheasant Run

- 1. Entryway at Corral Hollow and Fieldview and median
- 2. Annie Court adjacent to Fieldview including south side of soundwall

#### G. Bridle Creek

- 1. Entryway at Lowell Avenue and Bridle Creek Circle and median island on Bridle Creek
- 2. Entryway at Bridle Creek and Joe Pombo Parkway

#### H. Heartland

- 1. Entryways at Lowell Avenue and Oxford Way and median island on Oxford Way
- 2. Entryway at Hampshire Lane including median strip

#### I. Laurelbrook

- 1. Entryway at Laurelbrook Drive and Southbrook Lane including median strip

#### J. Foothill Vista

- 1. Entryway at Hillcrest Drive between Orchard Parkway and Isabel Virginia

#### K. Countryside

- 1. Giovanni Lane, both sides, including median, from Henley Parkway west to Rochester Street

### III. Existing Park Maintenance in Zone 3

#### A. Arnaudo Village

- 1. Slayter Park on Suellen Dr.

#### B. Buena Vista Estates

- 1. Kelly Park on Tammi Court and Kelly St.

#### C. Foothill Ranch Estates

- 1. New Harmon Park on Hillcrest Dr.

#### D. Laurelbrook

- 1. Dr. Ralph Allen Park at Veranda Ct. and Dorset Ln.

#### E. Sterling Estates

- 1. Pombo Family Park on Joseph Damon Dr. and Mary Alice Ct.

#### F. Park Atherton

- 1. Eagan Park on Oxford Ln. and Lowell Ave.
- 2. Thrasher Park on Lowell Ave. and Joseph Menusa Dr.
- 3. McCray Park on Fieldview Dr. and Vivian Ln.

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 3 (Continued)
<p><b>IV. Weed Abatement in Non-Landscaped Areas in Zone 3</b></p> <p><b>A. Corral Hollow</b></p> <ol style="list-style-type: none"> <li>1. Byron Road north to Grant Line Road</li> </ol> <p><b>B. Grantline</b></p> <ol style="list-style-type: none"> <li>1. North side from Corral Hollow Rd. heading west 500 Ft. from curb to 10 Ft. behind curb</li> </ol> <p><b>C. Orchard Parkway</b></p> <ol style="list-style-type: none"> <li>1. East side, from Lowell Avenue to Hillcrest curb to sidewalk</li> <li>2. Orchard Parkway median from Lowell Ave. to Grantline Rd.</li> </ol> <p><b>D. Pombo Parkway</b></p> <ol style="list-style-type: none"> <li>1. East side, from existing landscape north to end of soundwall</li> </ol>
ZONE 4
<p><b>Zone 4 - Located in front of Summergate Apartments on Grantline Rd.</b></p>
<p><b>I. Weed abatement Zone 4</b></p> <p><b>A. Grantline Rd.</b></p> <ol style="list-style-type: none"> <li>1. On Grantline Rd. in front of Summergate Apartments</li> </ol>
ZONE 5
<p><b>No Activity</b></p>
ZONE 6
<p><b>No Activity</b></p>
ZONE 7
<p><b>Zone 7 - Located within the boundaries of 11th Street south, Corral Hollow, the SPRR tracks on the south, and Hickory on the east</b></p>
<p><b>I. Existing Arterial Landscaping in Zone 7</b></p> <p><b>A. Lauriana Ln</b></p> <ol style="list-style-type: none"> <li>1. From Cypress Dr west side south to Schulte Rd</li> </ol> <p><b>B. Cypress Drive</b></p> <ol style="list-style-type: none"> <li>1. North side from approx. 100 feet west of Hickory Ave. west to Lauriana Lane</li> <li>2. South side and median island from Lauriana Lane to Corral Hollow</li> </ol> <p><b>C. Corral Hollow Road</b></p> <ol style="list-style-type: none"> <li>1. East side approximately 300 feet north of Tennis Lane, south to RR tracks</li> <li>2. East side, south from 11th Street to Cypress Dr. Safeway frontage only to include from face of curb to face of sidewalk</li> </ol>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 7 (Continued)

3. Median strip from 11th St. south to RR tracks south of Schulte Rd.

4. West side from Krohn Rd. south to Cypress curb to bike path

#### D. Schulte Road

1. From Corral Hollow Rd. heading east. The south side ends 1000 ft before RR tracks the north side ends at RR tracks, and median

### II. Existing Subdivision Landscaping in Zone 7

#### A. Fox Hollow

1. Entryways at Tennis Lane and Lauriana Lane

2. Entryways at Cypress and Fox Hollow

3. Entryways at Cypress and Hunter's Trail

4. Entryways at Tennis Lane and Corral Hollow includes median strip and two cul-de-sacs at Pheasant Run Court and Thomas Dehaven Court

#### B. Harvest Country West

1. Entryway at Raywood Lane including median strip

#### C. Quail Meadows

1. Entryway at Golden Leaf Lane including median strip

2. Entryway at Quail Meadows including median strip

#### D. Candlewood Estates

1. Entryways at Alden Glen Drive and Cypress including median strip

#### E. Corral Hollow Estates

1. Entryway at Lauriana both sides including median from Schulte south approx. 92'.

### III. Existing Park Maintenance in Zone 7

#### A. Fox Hollow

1. Kit Fox Park at Foxwood Court and Fox Hollow Way

2. Rippin Park at Tennis and Firefly

#### B. Harvest Country West

1. Harvest Park at Birchwood Court and Fireside Lane

#### C. Candlewood Estates

1. Patzer Park at Alden Glen and Meadowlark

#### D. Quail Meadows

1. Bailor-Hennan Park on Golden Leaf Lane

### IV. Weed Abatement in Zone 7

#### A. 11th Street

1. Church frontage, west of Alden Glen Dr. from face of curb to chain link fence

#### B. Schulte Road

1. From RR tracks east of Lauriana Ln. heading west 1000 ft to start of landscape, 10 ft. from curb

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 8
<b>Zone 8 - Located within the boundaries of Corral Hollow on the west, 11th Street on the south.</b>
<p><b>I. Existing Arterial Landscaping in Zone 8</b></p> <ul style="list-style-type: none"> <li>A. Belconte Drive from 11th St. to Byron Rd. east and west side, including median</li> <li>B. Redington Drive median island east and west of Belconte Drive</li> <li>C. Byron Rd from Corral Hollow Rd. west approximately 2,280 feet to end of subdivision soundwall</li> <li>D. Corral Hollow Rd. west side from Byron Rd. south to 11th St.</li> </ul> <p><b>II. Existing Mini Park Maintenance in Zone 8</b></p> <ul style="list-style-type: none"> <li>A. <b>Belconte Subdivision</b> <ul style="list-style-type: none"> <li>1. Fabian Park on Redington Drive</li> </ul> </li> </ul>
ZONE 9
<b>Zone 9 - Located west of Tracy Blvd. from SPRR spur line to Corral Hollow on the west, and the City limits on the south.</b>
<p><b>I. Existing Arterial Landscaping in Zone 9</b></p> <ul style="list-style-type: none"> <li>A. <b>Tracy Blvd</b> <ul style="list-style-type: none"> <li>1. Circle B Ranch - West side from 245 ft. north of Mt. Diablo Ave. heading south past Schulte Rd.</li> <li>2. Heritage Subdivision - West side starting from approximately 200 ft. north of Menay Dr. heading south to</li> <li>3. West side from Central Ave heading south ending approximately 970 ft. south of Valpico Rd next to baseball field.</li> <li>4. West side from Sycamore PKWY heading south approximately 570 ft. to end of soundwall</li> </ul> </li> <li>B. <b>Corral Hollow Rd.</b> <ul style="list-style-type: none"> <li>1. From the RR tracks south to Parkside Dr. approximately 600 ft</li> </ul> </li> <li>C. <b>Sycamore Pkwy west side and medians.</b> <ul style="list-style-type: none"> <li>1. From Amberwood Ln. south to Dove Ln.</li> <li>2. South of Central Ave. to Tracy Blvd.</li> <li>3. West side from Schulte south to Amberwood Ln.</li> </ul> </li> <li>D. <b>Schulte Road</b> <ul style="list-style-type: none"> <li>1. Median strip from Tracy Blvd. west to RR tracks</li> <li>2. North side from Tracy Blvd. to Sycamore Parkway</li> <li>3. South side from Tracy Blvd. to west end of shopping center</li> <li>4. South side from Sycamore Pkwy west to end of sound wall</li> <li>5. South side from Sycamore Pkwy east to shopping center</li> </ul> </li> </ul>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 9 (Continued)

#### E. Valpico Road

- 1. Tracy Blvd. west to City limits (both sides)
- 2. Median islands from Tracy Blvd. west to current City limits

#### F. West Central Avenue

- 1. Median from Tracy Blvd. to Sycamore Parkway
- 2. North side, from Tracy Blvd. West to end of Cedrus Drive

### II. Existing Subdivision Landscaping in Zone 9

#### A. Circle B Ranch

- 1. Entryways at Morris Phelps and Schulte Road
- 2. Entryways at Mt. Diablo Ave. and Tracy Blvd.

#### B. Hearthstone

- 1. Entryways at Menay Drive and Tracy Blvd.
- 2. Entryways at Amberwood and Sycamore Parkway
- 3. Cul-de-sac at Yorkshire Loop and Hampton Court

#### C. Regency Square

- 1. Entryways at Monument Drive, Tracy Blvd., and Sycamore Parkway
- 2. Monument Dr., north and south sides, including median islands at Monterey and Vintage Courts
- 3. Cul-de-sac at southeast corner of Tahoe Circle and northwest corner
- 4. Cul-de-sacs in northeast corner and southwest corner of Tahoe Circle
- 5. Court adjacent to Mt. Oso Mini Park on Henderson Court
- 6. Court adjacent to Mt. Diablo Mini Park on Alpine Court

#### D. Muirfield

- 1. Entryway at Steinbeck
- 2. Entryway at Petrig
- 3. Cul-de-sac at Whitman Court
- 4. Cul-de-sac at Longfellow Court
- 5. Entryway at Dove Lane
- 6. Median on Chaplin east and west side of Sycamore
- 7. Entryway at Cagney
- 8. Cul-de-sac at Shaw Court



## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 9 (Continued)

9. Cul-de-sac at Williams Court

10. Cul-de-sac at Bogart Court

11. Cul-de-sac at Mansfield Court

12. Cul-de-sac at Hepburn Court

13. Entryway at Alleghney

#### E. Glen Creek

1. Entryway at Glen Creek Way

#### F. Greystone Station

1. Median island at Windham

2. Median island at Sudley Drive

#### G. Harvest Glen

1. Entryway at Ray Harvey Drive

2. Entryway at Meadow Lane

3. Cul-de-sac at Cornucopia

#### H. Ironwood

1. Entryway at Monument Drive

2. Walk path from Whitehaven Ct. heading west to Mountain View Rd.

3. Cul-de-sac at New Castle Court

4. Cul-de-sac at Clairmont Court

5. Cul-de-sac at Hampton Court

#### I. Sienna Park

1. Entryway at Sienna Park Drive including median strip

2. Pedestrian walk way at Dolores Lane at Katlin Court

#### J. Heritage Subdivision

1. Median on Cedrus

2. Entryway on Cedrus east side

3. Cul-de-sac at Iberis Court

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 9 (Continued)

#### III. Existing Park Maintenance in Zone 9

##### A. Hearthstone

1. Valley Oak Park at Larkspur and Honeysuckle Ct.
2. Evelyn Costa Park at Claremont Dr. and Whitehaven Ct.

##### B. Parkside Estates

1. Evans Park on Parkside Dr.

##### C. Harvest Glen

1. Fitzpatrick Park on Savanna Dr.
2. Albert Emhoff Park on Jonathon Place at Moonlight Way

##### D. Regency Square

1. Mt. Oso Park at Henderson Ct.
2. Mt. Diablo Park at Alpine Ct.

##### E. Muirfield

1. Golden Spike Park on Christy Ct.
2. Fred Icardi Park on Russell St. at Steinbeck Way
3. Westside Pioneer Park at Cagney Dr. and Hepburn St.

##### F. Circle B

1. Sister Cities Park at Morris Phelps Dr. and Saddleback Ct.

##### G. Greystone Station

1. John Kimball Park at Tom Fowler Dr. and Sudley

##### H. Sienna Park

1. Tracy Press Park located at Schulte Road and Weeping Willow Lane

### ZONE 10

Zone 10 - Includes the MacArthur Dr. Area, bounded on the north by I-205 and on the south by 11th Street

#### I. Existing Arterial Landscaping in Zone 10

##### A. MacArthur Drive

1. East side from Pescadero south to 2020 MacArthur (curb to sidewalk). West side from Grantline Road to 11th Street (approximately 35' from curb)
2. Median strip from I-205 and 11th Street
3. West side from Pescadero south to end of California Esprit subdivision
4. East side from Pescadero Av north 165 ft

##### B. Pescadero Avenue

1. North side from Mac Arthur east to the end of the Outlet Center, curb to sidewalk and median strip
2. Adjacent to Yellow Freight from redwood header to sidewalk

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 10 (Continued)
<p>3. South side adjacent to Market Wholesale from face of curb approximately 30 feet</p> <p>4. South side adjacent to California Esprit from MacArthur west to end of soundwall</p> <p>5. South side from MacArthur east to Mc Lane Food Services</p> <p><b>C. Grantline Road</b></p> <p>1. North side from MacArthur Drive east to City limits, including median strip</p> <p>2. South side east of Channelway to Sky Lark (groundcover area only).</p>
ZONE 11
<b>No Activity</b>
ZONE 12
<b>Zone 12 - Located northwest of I-205 which includes the existing arterial landscaping along the right-of-way on Naglee and Grantline Rd.</b>
<p><b>I. Existing Arterial Landscaping in Zone 12</b></p> <p><b>A. Naglee Road</b></p> <ul style="list-style-type: none"> <li>1. From Grantline Road to Auto Plaza Drive median &amp; 5 ft. strip between curb and sidewalk on eastside</li> <li>2. West side from Pavilion parkway to Robertson Drive , turf curb strip only</li> </ul> <p><b>B. Auto Plaza Dr</b></p> <ul style="list-style-type: none"> <li>1. South side curb face to wooden mow band from Naglee Rd east to the deadend</li> </ul> <p><b>C. Robertson Drive</b></p> <ul style="list-style-type: none"> <li>1. Both sides of street curb face to sidewalk from Naglee Rd west to Pavillion Parkway</li> </ul> <p><b>D. Grantline Road</b></p> <ul style="list-style-type: none"> <li>1. South side from 2850 W. Grant Line Rd, west to 3292 W. Grant Line Rd</li> <li>2. North side from west driveway of Chevron at 2615 W. Grant Line Rd, west to the west edge of property at 2785 W Grant Line Rd</li> </ul> <p><b>E. Pavillion Parkway</b></p> <ul style="list-style-type: none"> <li>1. Both sides of street curb face to sidewalk from Naglee Rd to Power Rd</li> <li>2. Median from Naglee Rd west to Power Rd</li> </ul>
ZONE 13
<b>Zone 13 - Located southwest of I-205 with 11th Street bordering on the south, Lammers Road bordering on the west, and Byron Rd. on the North</b>
<p><b>I. Existing Arterial Landscaping in Zone 13</b></p> <p><b>A. Fabian Road</b></p> <ul style="list-style-type: none"> <li>1. North side from edge of soundwall east of Montgomery Ln west to Lammers Rd.</li> <li>2. Both sides and median on Montgomery Ln from King Loop to Fabian Rd.</li> </ul> <p><b>B. Lammers Road</b></p> <ul style="list-style-type: none"> <li>1. East side from Fabian Road north to Feteira Way</li> </ul>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 13 (Continued)

#### II. Existing Subdivision Landscaping in Zone 13

##### A. Westgate

1. Entryway at Westgate Drive which includes north and south sides, east to Antonio Loop
2. Entryway from Feteira Way to Glazzy Lane, both sides, from Lammers Road, east to Glazzy
3. Median on Souza Way, from Thelma Loop to Antonio Loop

#### III. Existing Park Maintenance in Zone 13

##### A. Souza Park

1. Souza Park South - On Antonio Loop between Souza Way and Ann Marie Way
2. Souza Park North - On Thelma Loop between Milton Jenson Ct. and Michael Dr.

### ZONE 14

Zone 14 - Bounded on the west by Lammers Road, and on the east by Corral Hollow Road south to Schulte Road and the Railroad tracks.

#### I. Existing Arterial Landscaping in Zone 14

##### A. Corral Hollow Road

1. West side 234 feet north of Tracey Jean Way and 208 feet south of Tracey Jean Way. Including walk path between Corral Hollow Rd and Tracey Jean Ct.

#### II. Existing Subdivision Landscaping in Zone 14

##### A. Gabriel Estates

- ▶ 1. Entryway at Tracey Jean Way including median strip

#### III. Existing Park Maintenance in Zone 14

- ▶ 1. Joan Sparks Park located on Carol Ann Dr.
- ▶ 2. Chandeyne Kingsley Park Located on Robert Gabriel Dr.

### ZONE 15

Zone 15 - Located in the southwest section of Tracy bordered by Tracy Blvd., Linne Road, and Corral Hollow.

#### I. Existing Arterial Landscaping in Zone 15

##### A. Tracy Blvd.

- ▶ 1. West side from Edgewood approx. 700' north of Whispering Wind south to end of soundwall

##### B. Whispering Wind

- ▶ 1. Both sides including medians from Tracy Blvd. west to English Oak Lane

##### C. Applebrook Lane

- ▶ 1. East and west sides including median from Whispering Wind south approx. 75'

##### D. English Oak Lane

- ▶ 1. East side from Whispering Wind north approx. 80'

##### E. Windsong Drive

- ▶ 1. Both sides including median from Tracy Blvd. west approx. 370'

##### F. Corral Hollow

- ▶ 1. East side from 75 ft. north of Peony Dr. heading south to RR tracks

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 15 (Continued)
<p><b>II. Existing Subdivision Landscaping in Zone 15</b></p> <p><b>A. Edgewood VI</b></p> <ol style="list-style-type: none"> <li>1. Entryway at Peony Drive, both sides, including median strip from Corral Hollow, East to Maison Court</li> <li>2. Entryway at Middlefield Drive, both sides, including median strip from Corral Hollow, East to Whispering Wind Drive</li> </ol> <p><b>III. Existing Park Maintenance in Zone 15</b></p> <ol style="list-style-type: none"> <li>1. William Adams Park - located on Edgewood Terrace Drive</li> <li>2. Don Cose Park located on Whirlway Ln.</li> <li>3. Bill Schwatz Park located on Peony Drive</li> </ol>
ZONE 16
<p><b>Zone 16 - Bordered on the North by Byron Rd., on the south by 11th St., on the west by Palomar Dr., and on the east by Mamie Anderson</b></p>
<p><b>I. Existing Subdivision Landscaping in Zone 16</b></p> <p><b>A. Crossroads Dr.</b></p> <ol style="list-style-type: none"> <li>1. Crossroads Dr. east and west side from 11th St. to Tolbert Dr.</li> </ol> <p><b>II. Existing Park Maintenance in Zone 16</b></p> <p><b>A. Dan Busch Park</b></p> <ol style="list-style-type: none"> <li>1. Dan Busch Park - located on the north east corner of Crossroads Dr. and Tolbert Dr.</li> </ol>
ZONE 17
<p><b>Zone 17 - Includes all areas east of Tracy Blvd. between the SPRR tracks on the north and 100 feet north of Deerwood Lane on the south</b></p>
<p><b>I. Existing Arterial Landscaping in Zone 17</b></p> <p><b>A. Tracy Blvd.</b></p> <ol style="list-style-type: none"> <li>1. East side from Valpico Rd. north to end of shopping center On site landscape contractor maintains the 5,150 sq ft of shrubs and 800 sq ft of turf</li> <li>2. East side from Valpico Rd. south to end of shopping center</li> </ol> <p><b>B. Central Avenue</b></p> <ol style="list-style-type: none"> <li>1. Ln West side from Schulte Rd. south to Ferdinand St. and the east side from Schulte Rd. south to Deerwood</li> <li>2. West side from Schulte Road north to Country Ct. including ground cover in front of fence on Mt. Oso</li> </ol> <p><b>C. Schulte Road</b></p> <ol style="list-style-type: none"> <li>1. North side from Tracy Blvd. east to Cemetery</li> <li>2. Medians from east of Tracy Blvd. to Gianelli</li> <li>3. South side from Central Avenue to 300 feet east of Independence Drive</li> </ol>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 17 (Continued)

#### D. MacArthur Blvd.

1. West side from Krider Ct. south to the north edge of Cemetery

#### E. Third Street

1. North side from Jaeger to Tudor

#### F. Leamon Street

1. Parkway (California Cameo Park) on south side from MacArthur west to Third Street and Jaeger Street

#### G. Mt. Diablo

1. South side (est. 1000 sq ft) and median island from MacArthur west to Third Street

#### H. Valpico BLVD

1. South side from Tracy Blvd. heading east to end of landscape
2. North side from Tracy Blvd. heading east to end of landscape  
On site landscape contractor maintains the 4,906sq ft of shrubs

### II. Existing Subdivision Landscaping in Zone 17

#### A. Meadow Glen

1. Entryways at Edenvale and Schulte Rd.
2. Parkway from Cedar Mountain Drive to San Simeon Way

#### B. Victoria Park I

- 1. Entryway at Gianelli and median. South side of Schulte Rd.
- 2. Cul-de-sacs at Elizabeth Ct., Henry Ct., and Edward Ct.

#### C. Victoria Park II (American Classics)

- 1. Cul-de-sacs at James Court and Mary Court

#### D. Victoria Park III (Traditions)

- 1. Cul-de-sacs at Elysan, Lavender, and Primrose Courts, and entrance at Junior Harrington north side 100' east

#### E. California Collections

- 1. Entryways at MacArthur Drive and Wagtail
- 2. Cul-de-sac at Krider Court

#### F. California Renaissance

- 1. Entryway median island at Third Street
- 2. Entryway at Hotchkiss Street and median
- 3. Cul-de-sac at Sir Lancelot

#### G. California Cameo

- 1. Entryway median at Leamon
- 2. Cul-de-sac at Versailles Court
- 3. Cul-de-sac at Czerny Street

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 17 (Continued)

#### III. Existing Park Maintenance in Zone 17

##### A. Meadow Glen

- 1. Florence Stevens Park at Tassajero Court

##### B. Victoria Park

- 1. Sullivan Park on Victoria St.

##### C. California Collections

- 1. Huck Park on Wagtail Dr.

### ZONE 18

Zone 18 - Bounded on the north by Valpico Road, on the east by MacArthur Drive, and on the south by Linne Road.

#### I. Existing Arterial Landscaping in Zone 18

##### A. Glenbriar Estates

- 1. Valpico Road - South side from MacArthur west to end of soundwall
- 2. South side from Pebblebrook Drive west to end of soundwall (approx. 600')(Pebblebrook Estates)

##### B. MacArthur Blvd. - Glenbriar Estates

- 1. West side from Valpico south to end of landscape, approximately 290 feet south of Fair Oaks Road
- 2. West side from Glenbrook Dr south 237 ft to end of landscape
- 3. West side from Glenbrook Dr north 220 ft to end of landscape

##### C. Glenbrook Dr - Glenbriar Estates

- 1. From MacArthur Blvd west 151 ft both sides and median

#### II. Existing Subdivision Landscaping in Zone 18

##### A. Glenbriar Estates

- 1. Glenbriar Dr. from Valpico south to Glenbriar Circle, both sides, including median

##### B. Pebblebrook Estates

- 1. Entryway at Pebblebrook Drive including median

##### C. Pebblebrook Estates

- 1. Cul-de-sac at Pebblebrook Court

### ZONE 19

Zone 19 - Located north of the UPRR tracks, south of Valpico Road, east of Tracy Blvd, and West of Glenbriar Estates

#### I. Existing Arterial Landscaping in Zone 19

##### A. Tracy Blvd

- 1. East side including median from Valpico south to UPRR tracks, Whispering Winds, Regency and Brookview

#### II. Existing Park Maintenance

##### A. William Kendal Lowes

- 1. William Kendal Lowes Park
- 2. No mow area to be mowed 3 times a year

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 19 (Continued)

#### III. Existing Subdivision Landscaping in Zone 19

##### A. Regis Dr.

- 1. West side from Whispering Wind Dr. south to Dietrick Ave.
- 2. From Regis east to 418' east of Reids Way
- 3. From Whispering Wind Dr north to Arezzo Way then east on Arezzo Way to Escatta Ave

##### B. Brookview Dr.

- 1. From Perennial Pl. east to Glenhaven Dr. north side
- 2. From Regis Dr. east to to Glenhaven Dr. south side

### ZONE 20

Zone 20 - (Larkspur Estates) located generally south of Montclair Lane, west of MacArthur Drive, north of Valpico Road

#### I. Existing Arterial Landscaping in Zone 20

##### A. MacArthur Blvd

- 1. West side from DeBord Dr. north 415ft to end of sound wall and south from DeBord Dr. 213ft to end of sound wall
- 2. Median on DeBord Dr.

#### II. Existing Park Maintenance in Zone 20

##### A. Stalsberg Drive

- 1. Clyde Abbott Park located on the south dead end of Stalsberg Dr.

### ZONE 21

Zone 21 - (Huntington Park) generally located between Byron Rd. south to Fabian Rd. and Gentry Ln. east to Jones Ln.

#### I. Existing Subdivision Landscaping in Zone 21

##### A. Huntington Park

- 1. Entryway on Montgomery Ln. - both sides from Fabian Rd. north to King Loop including median.
- 2. Entryway on Lankershire Dr. - both sides from Byron Rd. south to Kennsington Ct. including median
- 3. Cul-de-sac on Kennsington Ct.
- 4. Byron Rd. south side- from Lankershire Dr. west 243ft to end of sound wall and east from Lankershire Dr. 554ft to end of soundwall
- 5. Entry at Byron Road 100' to Ogden Sannazor east and west side of path way

#### II. Existing Mini Park Maintenance in Zone 21

- 1. Richard Hastie Park on Huntington Park Dr.



## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 22
<p><b>Zone 22 - Generally located between Corral Hollow Rd. east to Egret Dr. and from Persimmon Way south to Starflower Dr. on the west half and Dove Dr. on the east half</b></p>
<p><b>I. Existing Arterial Landscaping in Zone 22</b></p> <p><b>A. Corral Hollow</b></p> <ul style="list-style-type: none"> <li>1. East side from Starflower Drive, north to end of soundwall</li> </ul>
<p><b>II. Existing Subdivision Landscaping in Zone 22</b></p> <p><b>A. Parkview (Muirfield 7)</b></p> <ul style="list-style-type: none"> <li>1. Persimmon Way - north side along soundwall from Geranium, west to Corral Hollow</li> <li>2. Lotus Way - west side along soundwall from Starflower, north to Petunia</li> <li>3. Starflower - north side along soundwall from Corral Hollow, east to Lotus Way (including median)</li> </ul>
ZONE 23
<p><b>Zone 23- Starflower Dr south to Kagehiro Dr between Corral Hollow Rd and Talley Park</b></p>
<p><b>I. Existing Arterial Landscaping in Zone 23</b></p> <p><b>A. Corral Hollow</b></p> <ul style="list-style-type: none"> <li>1. From Starflower south to Kagehiro Dr</li> </ul> <p><b>B. Starflower Dr</b></p> <ul style="list-style-type: none"> <li>1. From Corral Hollow Rd south side to Lotus Way</li> </ul> <p><b>C. Kagehiro Dr</b></p> <ul style="list-style-type: none"> <li>1. From Corral Hollow Rd east to Lotus Way</li> </ul>
ZONE 24
<p><b>Zone 24 - (Eastlake) located south of 26102 S. MacArthur Drive, north of Valpico Road and East of MacArthur Drive</b></p>
<p><b>I. Existing Park Maintenance in Zone 24</b></p> <p><b>A. Tiago Park</b></p> <ul style="list-style-type: none"> <li>1. Located on Eastlake Circle between Crater Pl. and McKenna Ct.</li> </ul>
ZONE 25
<p><b>No Activity</b></p>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 26	
Zone 26 - Located generally west of Corral Hollow Road, east of Lammers Road, north of Zone 14 and south of west 11th St.	
<p><b>I. Existing Arterial Landscaping in Zone 26</b></p> <p><b>A. Corral Hollow</b></p> <ol style="list-style-type: none"> <li>1. 60' north of Cypress to end of soundwall south (approx. 240')</li> <li>2. North side 31' north of Cypress</li> </ol> <p><b>B. Sterling Park II</b></p> <ol style="list-style-type: none"> <li>1. From San Marcos Subdivision at Tennis Lane, 290 feet north to Sterling Park Subdivision</li> <li>2. Tennis Lane west of Corral Hollow center median and south side</li> </ol> <p><b>C. Krohn Road</b></p> <ol style="list-style-type: none"> <li>1. South side from Corral Hollow west to end of landscape</li> </ol> <p><b>II. Existing Subdivision Landscaping in Zone 26</b></p> <p><b>A. Sterling Park</b></p> <ol style="list-style-type: none"> <li>1. Cypress - north and south side including median</li> <li>2. Banff - east and west side including median</li> </ol> <p><b>B. San Marcos</b></p> <ol style="list-style-type: none"> <li>1. Schulte - north and south side including median               <ol style="list-style-type: none"> <li>A. Babcock entryway and median</li> <li>B. Cabana entryway and median</li> </ol> </li> <li>2. Schulte - north 922 feet to Tennis Lane</li> <li>3. Schulte - south to Golden Leaf</li> </ol> <p><b>III. Existing Park Maintenance in Zone 26</b></p> <ol style="list-style-type: none"> <li>1. Verner Hanson - Jill Drive and Brittany</li> <li>2. Marlow Brothers - Adaire Ln and Golden Leaf Ln.</li> <li>3. John Erb Park - Barcelona Dr. and Cypress Dr.</li> </ol>	
ZONE 27	
Zone 27- Generally located west of Zone 26; South of Zone 28; North of Zones 25 and 14; approximately 1 mile east of Lammers Road"	
<p><b>South Gate</b></p> <ol style="list-style-type: none"> <li>1. Schulte Rd - east from Mabel Josephine to end of landscape</li> <li>2. Mabel Josephine - south from Schulte Rd to Patrick McCaffrey</li> <li>3. Schulte Rd - median east from Mabel Josephine to Barcelona</li> </ol>	

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 28

Zone 28 - Generally located south of West 11th Street, west of Zone 26, north of Zone 27 and east of Lammers Road

#### I. Existing Subdivision Landscaping in Zone 28

##### A. Crossroads Dr.

- 1. From 11th St. heading south on west side to the dead end of Crossroads Dr. curb to soundwall, curb to
- 2. From 11th St. heading south on the east side to the dead end of Crossroads Dr.
- 3. Median from 11th St. heading south to the dead end of Crossroads
- 4. Cranston Ct.
- 5. Wyman Ct.
- 6. Bennet Ct.
- 7. Marshal Ct.

##### B. Jefferson Pkwy.

- 1. 11th St. heading south to Safford Ln.
- 2. Median from 11th St. heading south to Safford Ln.

### Zone 29

Zone 29 - Generally located south of Schulte Road, north of Valpico Road, west of Chrisman Road, and east of Zone 24

#### I. Existing Arterial Landscaping in Zone 29

##### A. Valpico Road

- 1. North side of Valpico Rd. from Chrisman Rd. heading west 1,018 ft to the end of the soundwall
- 2. North side from Elissagaray Dr. heading west 145 ft.
- 3. North side starting 440 ft west of Elissagaray Dr. at soundwall heading 238 ft west to end of soundwall

##### B. Chrisman Road

- 1. West side from Valpico Rd. heading north 960 ft. past Elissagaray Dr.

#### II. Existing Subdivision Landscaping in Zone 29

##### A. Elissagaray Drive

- 1. East side from Valpico Rd. to Rodger Dr.
- 2. East side from Rodger Dr. heading north east to Chrisman Rd.  
Inclides Amatchi Dr. entrances east and west side
- 3. West side from Rodger Dr. heading north to Dominique Dr.
- 4. North side from Aldacourrou St. heading east to Chrisman Rd.

##### B. Dominique Dr.

- 1. South side from Elissagaray Dr. heading west 525 ft past Basque Dr.

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 29 (Continued)
<p><b>C. Mount Pellier St</b></p> <ul style="list-style-type: none"> <li>1. West side from 125 ft. south of Montauban St. heading south 225 feet to end of fence at 2203 Mt. Pellier St.</li> </ul> <p><b>III. Existing Subdivision Court Landscaping in Zone 29</b></p> <p><b>A. Baigorry Court</b></p> <ul style="list-style-type: none"> <li>1. East side from 130 ft. south of Rodger Dr. starting at soundwall 210 ft. to end of soundwall</li> </ul> <p><b>IV. Existing Park Maintenance in Zone 29</b></p> <ul style="list-style-type: none"> <li>1. Robert Kellogg Park-Located on Elissagary St.</li> </ul>
ZONE 30
<p><b>Zone 30 - Is the Yosemite Vista Housing Development located on South MacArthur Drive</b></p>
<p><b>I. Existing Arterial Landscaping in Zone 30</b></p> <p><b>A. South MacArthur Drive</b></p> <ul style="list-style-type: none"> <li>1. From Yosemite Dr. heading north to end of sound wall</li> <li>2. From Yosemite Dr. heading south to Jesse J. Martinez Dr.</li> <li>3. From Jesse J. Martinez Dr. heading south to the end of landscape</li> </ul> <p><b>B. Yosemite Drive</b></p> <ul style="list-style-type: none"> <li>1. Median island from South MacArthur Drive east approx 100'</li> </ul> <p><b>II. Existing Park Maintenance in Zone 30</b></p> <p><b>A. Sentinel Drive</b></p> <ul style="list-style-type: none"> <li>1. Jim Raymond Park</li> </ul>
ZONE 31
<p><b>No Activity</b></p>
ZONE 32
<p><b>No Activity</b></p>
ZONE 33
<p><b>Zone 33 - Generally located south of I-205, north of the Southern Pacific Railroad tracks and east of Chrisman Road</b></p>
<p><b>I. Existing Median Landscaping in Zone 33</b></p> <p><b>A. Grantline Rd</b></p> <ul style="list-style-type: none"> <li>1. From Best Buy warehouse east to Skylark Way</li> </ul>
ZONE 34
<p><b>Zone 34 - The triangle area located south of the Southern Pacific Railroad tracks, north of West 11th Street and east of Corral Hollow Rd.</b></p>
<p><b>I. Existing Arterial Landscaping in Zone 34</b></p> <p><b>A. Corral Hollow</b></p> <ul style="list-style-type: none"> <li>1. East side Corral Hollow Rd. from 11th St., north to RR tracks at Byron Rd.</li> </ul> <p><b>B. 11th Street</b></p> <ul style="list-style-type: none"> <li>1. From RR tracks east of Alden Glen heading west to Corral Hollow Rd. north side from sidewalk to mow strip</li> </ul>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 35
<b>Zone 35 - East side of Tracy Blvd. between Centre Court Drive and Tennis Lane</b>
<p><b>I. Existing Arterial Landscaping in Zone 35</b></p> <p><b>A. Tracy Blvd.</b></p> <ul style="list-style-type: none"> <li>1. East side from BSC heading south 375 ft past Tennis Ln.</li> </ul> <p><b>II. Existing Subdivision Landscaping in Zone 35</b></p> <p><b>A. Ryland Junction</b></p> <ul style="list-style-type: none"> <li>1. Entryway at Tracy Blvd. And Tennis Lane, including median</li> <li>2. Entryway at Tracy Blvd. And Centre Court, including median</li> <li>3. Rockingham Court cul-de-sacs</li> </ul> <p><b>III. Existing Park Maintenance in Zone 35</b></p> <p><b>A. Fisher Park</b></p> <ul style="list-style-type: none"> <li>1. Fisher Park on Tracy Blvd. between Tennis Ln. and Center Court Dr.</li> </ul>
ZONE 36
No Activity
Zone 37
No Activity
ZONE 38
<b>Zone 38 - This zone is split into 4 different areas within the City of Tracy LMD</b>
<p><b>I. Existing Arterial Landscaping in the 11th Street corridor</b></p> <p><b>A. 11th Street</b></p> <ul style="list-style-type: none"> <li>1. North side of 11th St. from Belconte Dr. west to Lammers road</li> <li>2. North side of 11th St. from Corral Hollow Rd. west to Belconte Dr. from curb to sidewalk</li> <li>3. North side of 11th St. from RR tracks east of Alden Glen Dr. west to Corral Hollow Rd. from curb to sidewalk</li> <li>4. South side of 11th St. from Corral Hollow Rd. west to end of landscape west of Jefferson Dr. curb to sidewalk</li> <li>5. South side of 11th St. from RR tracks east of Alden Glen Dr. west to Corral Hollow Rd. curb to sidewalk</li> <li>6. Median on 11th St. from the RR tracks east of Alden Glen Dr. heading west to Lammers road</li> </ul>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 38 (Continued)
<p><b>II. Existing Arterial Landscaping on Grantline Road</b></p> <p><b>A. Grantline Road</b></p> <ul style="list-style-type: none"> <li>1. South side from 1820 W. Grantline Rd. east to Lincoln Blvd.</li> <li>2. Corral Hollow west side From Grantline Rd north I -205</li> </ul> <p><b>III. Existing Arterial Landscaping on Valpico Road</b></p> <p><b>A. Valpico Town Center</b></p> <ul style="list-style-type: none"> <li>1. North side of Valpico Rd. from Glendbriar Dr. heading east to MacArthur Dr.</li> </ul> <p><b>IV. Existing Landscaping at and around the Tracy Transit Station on 6th St.</b></p> <p><b>A. Transit Station located on SE corner of Central Ave and 6th Street</b></p> <ul style="list-style-type: none"> <li>1. Plaza area in the middle of 6th Street from Central to D Street</li> <li>2. Traffic circle at intersection of 6th Street and Central Ave</li> <li>3. Traffic circle at intersection of 6th Street and D Street</li> <li>4. All on site landscape around building and parking lot</li> </ul>
ZONE 39 - Channelway
ZONE 39 - Channelway Located in Zone 1
Existing Channelway and Arterial Landscaping in Zone 1
<p><b>A. Central Avenue</b></p> <ul style="list-style-type: none"> <li>1. From Silkwood Lane, west to Tracy Blvd., (the channelway in front of Sycamore Village apartments)</li> <li>2. Central ave channel along the edge of the eastside of the Sycamore village apartments)</li> </ul> <p><b>B. Transit Corridor ( Bike path to face of curb)</b></p>
ZONE 39 - Channelway Located in Zone 3
Channelway Landscape Maintenance from edge of property to bike path
<p><b>A. Arterial/channelway (east side) from Grantline Road north to I-205 freeway right-of-way approximately 1600 +/- linear feet</b></p> <p><b>B. Orchard Parkway channelway</b></p> <ul style="list-style-type: none"> <li>1. Orchard Parkway westside from Lowell ave to Grantline</li> </ul> <p><b>C. Vivan Ln / Rita Way Channelway</b></p> <ul style="list-style-type: none"> <li>1. From south end of Vivan Ln heading north past Rita Way to Lowell Ave.</li> </ul> <p><b>D. Lowell Channelway</b></p> <ul style="list-style-type: none"> <li>1. Northside of Lowell to Orchard parkway</li> </ul> <p><b>E. East side from Grantline north to 1-205 ( No Mow) Weed down as needed</b></p>

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 39, Channelway Located in Zone 3 (Continued)

#### F. Transit Corridor (Bike path to face of curb)

- 1. East side of Corral Hollow from Grantline to I -205
- 2. Orchard Parkway
- 3. Orchard Parkway west side from Lowell ave to Grantline
- 4. Vivian Lane /Rita way  
From Rail road tracks south of Vivian Ln north Lowell Ave
- 5. Lowell Ave  
Northside of Lowell west to Orchard parkway

### ZONE 39 - Channelway Located in Zone 7

#### Channelway Landscape Maintenance from edge of property to bike path

A. Cypress Dr. north side from Corral Hollow to Lauriana Lane

B. Lauriana Lane east side from Cypress Dr. to Schulte Rd

C. Schulte Road north side from Lauriana Lane east to the RR tracks

#### D. Transit corridor ( Bike path to face of curb)

- 1. Starting at the railroad tracks on Schulte west of Sycamore parkway heading west to Lauriana then on Lauriana then west on Cypress to Corral Hollow

### ZONE 39 - Channelway Located in Zone 9

#### Channelway Landscape Maintenance from edge of property to bike path

#### A. Schulte Road north side

- 1. Channelway from RR tracks to Sycamore Parkway

#### B. Sycamore Parkway east side

- 1. Channelway from Schulte Road south to Windham Drive

#### C. Central Avenue south side.

- 1. Channelway from Tracy Blvd. to Sycamore Parkway

#### D. Windham Drive

- 1. Channel Way on eastside south from Sycamore Parkway to Cherry Blossom

#### E. Transit Corridor ( bike path to face of curb)

- 1. Sycamore Parkway
  - A. From Cherry Blossom north to Sycamore parkway on the eastside north to Schulte road then west to railroad tracks
- 2. Central Ave
  - A. Central Ave from Tracy Blvd west to Sycamore Parkway
- 3. Northside of Schulte from Sycamore Parkway west to Lauriana

## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### ZONE 39 - Channelway Located in Zone 10

#### Existing Channelway Landscape Maintenance in Zone 10

##### A. MacArthur Drive

- ▶ 1. Landscaped Channelway east side from 11th St. overpass north to driveway at 2020 MacArthur edge of property to bike path
- ▶ 2. Non-landscaped channel area east side from driveway at 2020 MacArthur Drive to Grantline Rd. north to Pescadero Rd.
- ▶ 3. I-205 west to Railroad Tracks, west of MacArthur

##### B. Pescadero Ave

- ▶ 1. Starting from the east driveway of the Outlet Mall heading east 835 ft. to the curve then head north 975 ft. to the curve then head west 2080 ft. ending at MacArthur Dr.
- ▶ 2. Starting from south side of Pescadero Ave from the east driveway of the Outlet Mall heading south 2550 ft to Grantline Rd. Channelway is approximately 50 ft wide
- ▶ 3. Starting on the east edge of the property at 800 E. Grantline Rd. heading south 485 ft. then picking back up on south side of RR tracks and heading south 950 ft to MacArthur Dr. Channelway is approximately 50 ft

##### C. Transit Corridor ( Bike path to face of curb)

- ▶ 1. Mac Arthur Dr
  - A. Eastside from 11th street over pass north to 1820 Mac Arthur

### ZONE 39 - Channelway Located in Zone 12

#### Existing Channelway Landscape Maintenance in Zone 12

- ##### A. Naglee Detention Basin around fence line and, inside of fence line to bottom of berm.

  - ▶ 1. Entrance on Naglee Rd north west side of Auto Plaza Drive

#### Park and Ride Lot Zone 12

Transit Corridor Park and Ride (S)



## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

ZONE 39 - Channelway Located in Zone 26
Channelway Landscape Maintenance from edge of property to bike path
<p><b>A. Corral Hollow Road west side from Cypress Dr. north to Krohn Road</b></p> <p><b>B. End of channelway from Krohn Road 300 ft. west to DB-V Detention Basin</b></p> <p><b>C. Plescencia Fields Channelway (General Fund Channelway)</b></p> <ul style="list-style-type: none"> <li>1. North of Cypress Drive towards Eleventh Street then east to end of channelway</li> </ul> <p><b>D. Transit Corridor ( bike path to face of curb)</b></p> <ul style="list-style-type: none"> <li>1. Westside of Corral Hollow From Cypress north to Khron Rd.</li> </ul>
ZONE 40
Zone 40 - Located at the northwest corner of Valpico Road and MacArthur Drive
<p><b>I. Existing Arterial Landscaping in Zone 40</b></p> <p><b>A. Rite Aid</b></p> <ul style="list-style-type: none"> <li>1. Valpico Rd. north side from MacArthur Rd. heading west 370 ft to second driveway</li> <li>2. MacArthur Rd. west side from Valpico Rd. heading north 135 ft.</li> </ul>
ZONE 41
Zone 41 - East side of Corral Hollow, north of Tennis Lane, south of Cypress Drive
<p><b>I. Existing Arterial Landscaping in Zone 41</b></p> <p><b>A. Corral Hollow Rd. Public Right-of-Way</b></p> <ul style="list-style-type: none"> <li>1. East side of Corral Hollow Rd., fronting 350 N. Corral Hollow Rd. starting from 258 ft. north of Cypress Dr. heading north 375 ft. to end of landscape</li> </ul>
Note
<p>The following cyclical maintenance programs directly benefit the Zones indicated below:</p> <p><b>Streetscape Revitalization:</b> Zones 1-13, 16-22, 23, 24, 26-30, 33-37, 39-41</p> <p><b>Arterial Street Tree Maintenance:</b> Zones 6-10, 13, 15-26, 28-30</p> <p><b>Park Rehabilitation and Renovation:</b> Zones 3, 7-9, 13-17, 19-21, 24, 26, 29, 30, 35</p>

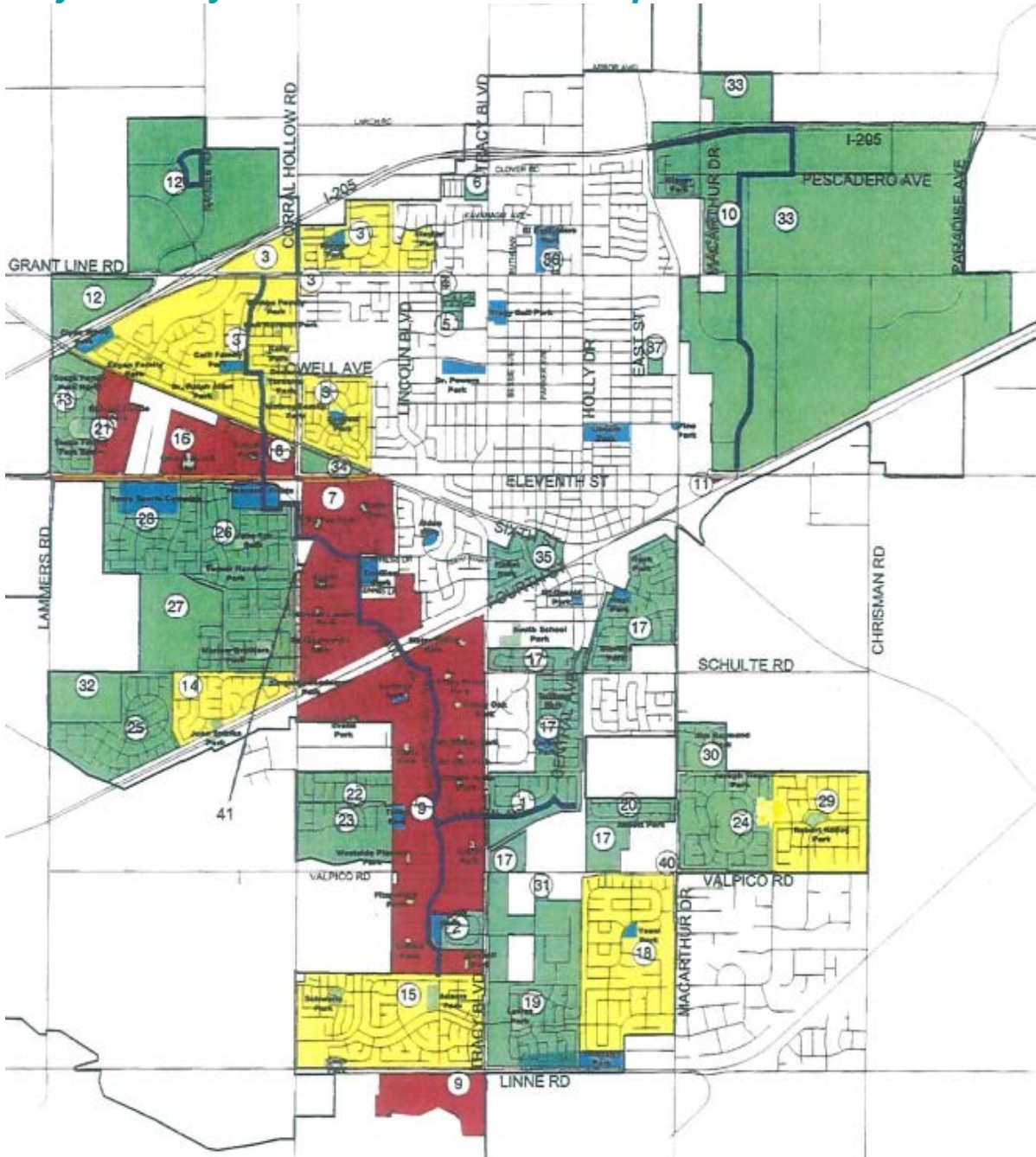
## APPENDIX B – IMPROVEMENT AREAS AND DESCRIPTIONS

### Supplemental Information – Tree Counts

Zone	Existing Trees	Tree Vacancies	Total		Zone	Existing Trees	Tree Vacancies	Total
1	366	28	394		34	45	0	45
2	74	2	76		35	431	31	462
3	2872	622	3494		36	0	0	0
4	3	1	4		37	37	3	40
5	63	2	65		38	885	55	940
6	14	9	23		39-1	117	0	117
7	1887	285	2172		39-3	199	0	199
8	574	26	600		39-7	169	0	169
9	4662	467	5129		39-8	45	0	45
10	692	177	869		39-9	404	0	404
11	16	0	16		39-10	245	0	245
12	304	0	304		39-26	66	0	66
13	773	16	789		40	80	8	88
14	558	32	590		41	4	1	5
15	2112	126	2238		Total	27,552	3,157	30,709
16	370	20	390					
17	1811	148	1959					
18	1336	197	1533					
19	1043	126	1169					
20	228	58	286					
21	617	20	637					
22	220	54	274					
23	215	27	242					
24	165	0	165					
25	0	0	0					
26	1661	328	1989					
27	31	0	31					
28	921	198	1119					
29	830	78	908					
30	284	12	296					
31	0	0	0					
32	0	0	0					
33	123	0	123					

## APPENDIX C – ZONE DESIGNATIONS

### City of Tracy Consolidated Landscape Maintenance District



## ***APPENDIX D – 2015/2016 ASSESSMENT ROLL***

The proposed assessment amounts for fiscal year 2015/2016 for the District are sent under separate cover and hereby referenced to this report. Parcel identification, for each lot or parcel identification for each lot or parcel within the District shall be the Assessor Parcel Numbers as shown on the San Joaquin County Assessor's map for the year in which this Report is prepared.

The listing of parcels and the amount of assessment to be levied shall be submitted to the County Auditor/Controller and included on the property tax roll for each parcel in fiscal year 2015/2016.

If any parcel submitted for assessment is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate approved in this Report. Therefore, if a single parcel has changed to multiple parcels, the assessment amount applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.

RESOLUTION \_\_\_\_\_

APPROVING THE ENGINEER'S REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT, FISCAL YEAR 2015/2016, PURSUANT TO THE PROVISIONS OF THE LANDSCAPING AND LIGHTING ACT OF 1972

WHEREAS, The City Council of the City of Tracy (hereinafter referred to as the "City") did by previous Resolution order the Engineer, WILLDAN Financial Services, to prepare and file an Engineer's Report for the District known and designated as the Tracy Consolidated Landscape Maintenance District (hereafter referred to as the "Districts") in accordance with *Article 4 of Chapter 1 of Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22565*, in connection with the proposed levy and collection of assessments related thereto for the fiscal year commencing July 1, 2015 and ending June 30, 2016, and

WHEREAS, Said Engineer's Report was filed with the City Clerk of the City of Tracy and upon review of the Report, the City Council had, by resolution, declared its intention to levy and collect assessments within the District for fiscal year 2015/2016 and fixed July 21, 2015 as the public hearing date to accept public comment and testimony regarding the District and proposed assessments in accordance with *Section 22624 of Chapter 3 of Part 2 of Division 15 of the California Streets and Highways Code*, and

WHEREAS, The City Council hereby finds that the levy has been spread in accordance with the special benefits received from the improvements, operation, maintenance and services to be performed, as set forth in said Report, and

WHEREAS, The Engineer's Report was completed and finalized after adoption of the City's Fiscal Year 2015/2016 Budget and minor adjustments are required to reconcile the Budget and Engineer's Report;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby resolves, orders and determines as follows:

1. The above recitals are true and correct.
2. The Engineer's Report as previously presented or as modified by direction of the City Council shall consist of the following:
  - a) A description of the District and improvements including all Zone designations and a diagram of the District Boundaries.
  - b) The annual budget (costs and expenses of services, operations and maintenance) for each Zone.
  - c) A description of the method of apportionment resulting in an assessment rate per levy unit within said District and Zones for fiscal year commencing July 1, 2015 and ending June 30, 2016.

- d) Assessment Roll identifying the special benefit assessment proposed for each assessed parcel within the District.
- 3. The Report as presented or as modified by City Council action is hereby approved. Said Report as presented or as modified is ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.
- 4. The Budget Officer is authorized to make necessary adjustments to the City's Budget to reconcile the Budget with the Engineer's Report.
- 5. The City Clerk shall certify to the passage and adoption of this Resolution and the minutes of this meeting shall so reflect the presentation and final approval of the Report.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council of the City of Tracy on the 21<sup>st</sup> day of July, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

RESOLUTION \_\_\_\_\_

ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN  
THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT  
FOR FISCAL YEAR 2015/2016

WHEREAS, The City Council of the City of Tracy (hereinafter referred to as the "City Council") did by previous resolution, pursuant to the provisions of *The Landscaping and Lighting Act 1972, Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22500* (hereinafter referred to as the "Act"), initiate proceedings and declare its intention to levy special benefit assessments against parcels of land within the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "District") for the fiscal year commencing July 1, 2015 and ending June 30, 2016 to pay the costs and expenses of operating, maintaining, servicing landscaping and appurtenant facilities located within the District, and

WHEREAS, The designated Assessment Engineer has prepared and filed with the City Clerk of the City of Tracy and the City Clerk has presented to the City Council the Engineer's Annual Levy Report (hereinafter referred to as the "Report") in connection with the proposed levy and collection of special benefit assessments upon eligible parcels of land within the District, and the City Council did, by previous resolution, approve such Report, and

WHEREAS, The City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2015 and ending June 30, 2016, to pay the costs and expenses of operating, maintaining and servicing landscaping and appurtenant facilities located within the District;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby resolves, orders determines and certifies as follows:

1. The above recitals are true and correct.
2. Following notice duly given, the City Council has held a full and fair Public Hearing regarding its Resolution approving or amending the Report prepared in connection herewith; the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons.
3. Based upon its review (and amendments, as applicable) of the Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, the City Council hereby finds, determines, and certifies that:
  - a) The land within the District will receive special benefit by the operation, maintenance and servicing of landscaping and appurtenant facilities within the boundaries of the District.
  - b) The District includes all of the land receiving such benefit.
  - c) The net amount to be assessed upon the lands within the District has been apportioned by a formula and method which fairly distributes the net amount among the eligible parcels in proportion to the special benefit to be received by each parcel from the improvements and services for the fiscal year commencing July 1, 2015 and ending June 30, 2016.

- d) The proposed special benefit assessments calculated and apportioned for fiscal year 2015/2016 are consistent with the previously adopted Rate and Method approved by the property owners within the District in accordance with the provisions of the California Constitution Articles XIII C and XIII D; and meet the requirements of Proposition 218.
  - e) The assessments are in accordance with *Article 4 of Chapter 1 of Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22565*, in connection with the proposed levy and collection of assessments related thereto.
  - f) The assessments to be levied are without regard to property valuation.
4. The Report and assessments as presented to the City Council and on file with the City Clerk are hereby confirmed as filed.
  5. The City Council hereby orders the proposed improvements to be made, which improvements are briefly described as the maintenance, operation, administration and servicing of the improvements including turf, ground cover, shrubs and trees, irrigation systems, water features, drainage systems, and all appurtenant facilities related thereto or that may be authorized pursuant to the provisions of the Act.
  6. The City Council agrees to defend, indemnify and hold harmless the County of San Joaquin, the Board of Supervisors, the Auditor-Controller, its officers and employees, from litigation over whether the requirements of Proposition 218 were met with respect to such assessments.
  7. The County Auditor of San Joaquin County shall enter on the County Assessment Roll opposite each parcel of land the amount of levy, and such levies shall be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.
  8. The City Treasurer shall deposit all money representing assessments collected by the County for the District to the credit of a fund for the Tracy Consolidated Landscape Maintenance District, and such money shall be expended only for the maintenance, operation and servicing of the landscaping, parks and appurtenant facilities as described in the Report.
  9. The adoption of this resolution constitutes the District levy for the fiscal year commencing July 1, 2015 and ending June 30, 2016.
  10. The City Clerk or their designee is hereby authorized and directed to file the levy with the County Auditor upon adoption of this resolution.



Resolution \_\_\_\_\_  
Page 3

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council of the City of Tracy on the 21st day of July, 2015, by the following vote:

AYES:           COUNCIL MEMBERS:

NOES:           COUNCIL MEMBERS:

ABSENT:        COUNCIL MEMBERS:

ABSTAIN:       COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 5

REQUEST

**ACCEPT ANNUAL REPORT OF THE MEASURE E RESIDENTS' OVERSIGHT COMMITTEE**

EXECUTIVE SUMMARY

The Measure E Residents' Oversight Committee bylaws state that its role is to review the independent financial reports necessary to advise the City Council of its findings and make recommendations during the term of the Committee.

Tonight, the Measure E Residents' Oversight Committee ("Committee") will:

1. Present its annual report on Measure E Fiscal Year 2013-2014 expenditures and revenues;
2. Present its findings regarding the status of the General Fund and the five-year forecast;
3. Provide recommendations with regard to the use of Measure E surplus funds;
4. State its support of the City continuing its on-going exploration of cost reductions and/or revenue enhancement strategies in preparation of Measure E expiring.

A summary of the report and a PowerPoint presentation will be presented by Chairperson Michel Bazinet.

DISCUSSION

City Council established the Measure E Residents' Oversight Committee ("Committee") for the purpose of overseeing revenues generated by, and expenses related to, the one-half cent sales tax measure (Measure E), which was adopted by the voters in November 2010. The current members of the Committee are Michel Bazinet (Chairperson), Kevin Tobeck (Vice-Chairperson), John Ferguson, Larry Fragoso, and Eleassia Davis.

The Committee's responsibilities include the following:

- To serve in an advisory-only capacity to the City Council;
- To provide oversight of the revenues and expenses pertaining to the portion of the sales tax generated by Measure E;
- To review the annual independent financial audit of the City performed by an independent auditor on sections pertaining to the revenue and expenses related to the portion of the sales tax generated by Measure E;

- To review other City financial reports pertaining to the revenue generated by and expenses related to the portion of the sales tax generated by Measure E revenue and expenses;
- To provide Council with an annual written report;
- To provide additional reports to Council at the committee and/or Council's discretion (all reports must be in writing and agendaized pursuant to the Brown Act).

The Committee's roles and responsibilities do not include the following:

- Decision-making on spending priorities;
- Oversight on Enterprise and other funds generated independent of Measure E;
- Reviewing Enterprise and, except to the extent necessary for the General Fund, other funds generated independently of Measure E.

Thus, in response to reporting on the prior year's (FY2013-2014) Measure E revenues and expenditures, the Committee finds that per the audited financial report of Moss, Levy, and Hartzheim, LLP, the City received \$7,194,407 in Measure E revenues (\$725,340 more than the prior year) and it was deposited for use in the City's General Fund.

The Committee's report also illustrates the need for Measure E revenue by citing structural deficits the City would, and may, realize without Measure E. It also discusses the following recommendations to the City (which will be expounded upon during the Committee's presentation to Council):

1. The reservation and use of Measure E surplus funds
2. Supplementing financial statements and forecasts with those that exclude Measure E sales tax revenues
3. General Fund financial reporting suggestions
4. Continue its efforts to reduce expenditures and continue with revenue enhancement strategies in order to have a balanced budget in future years due to the 2016 expiry of Measure E.

## STRATEGIC PLAN

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

## FISCAL IMPACT

No fiscal impact is associated with this informational report.

Agenda Item 5  
July 21, 2015  
Page 3

RECOMMENDATION

It is recommended that the City Council accept the annual report from the Measure E Residents' Oversight Committee.

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

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Measure E Residents' Oversight Committee 2015 Annual Report (for Fiscal Year 2013-2014)



# MEASURE E RESIDENTS OVERSIGHT COMMITTEE

## 2015 Annual Report

Authors: Measure E Residents Oversight Committee  
Creation Date: May 7, 2015  
Last Updated: July 8, 2015  
Document Version : 2.0  
Statu: FINAL

---

## Document Control

### Contributors

Name	Role	Content Contribution
Eleassia Davis	Measure E Residents Oversight Committee	
John Ferguson		
Kevin Tobeck		
Larry Fragoso		
Michel Bazinet		

### Change Record

Date	Name	Version	Change Reference
6/1/15	Michel Bazinet	1.0	Initial draft
6/11/15	Michel Bazinet	2.0	Incorporated oversight committee comments from Jun 1, 2015 meeting

### Document References

Title	Date	Source
Auditor's certification of Measure E revenue for FY ending Jun 30, 2014	Mar 24, 2015	Moss, Levy & Hartzheim, LLP
Acceptance of the City of Tracy's Comprehensive Annual Financial Report (CAFR) for FY Ending Jun 30, 2014	Mar 3, 2015	Tracy city council meeting, agenda item 3
Workshop to review and the proposed FY2014/15 city budget, five year forecast and general fund reserves	May 19, 2015	Tracy city council special meeting, agenda item 4

---

## Table of Contents

<b>1. Overview</b>	<b>4</b>
<b>1.1 Introduction</b>	<b>4</b>
1.1.1 MEROC Roles and Responsibilities	4
1.1.2 Prior Year Activities	4
<b>2. Measure E Residents Oversight Committee Certification of Results</b>	<b>5</b>
<b>3. Financial Analysis</b>	<b>6</b>
<b>3.1 General Fund Actual Financial Results, Budget and Two Year Forecast</b>	<b>6</b>
3.1.1 Income statements with and without Measure E revenues	6
<b>4. Conclusions and Recommendations</b>	<b>8</b>
<b>4.1 Conclusions</b>	<b>8</b>
4.1.1 Operating surplus/deficit last year (FY 13/14)	8
<b>4.2 Recommendations</b>	<b>8</b>
4.2.1 Reservation and use of Measure E surplus funds	8
4.2.2 Supplemental (exclusive of Measure E) financial statements and forecasts	8
4.2.3 Improvements in General Fund financial reporting	8
4.2.4 Identification of additional revenue enhancement and cost reduction opportunities	9
<b>5. Appendix A – Projected General Fund Balance</b>	<b>10</b>
<b>6. Appendix B – Measure E Question on Voter Ballot</b>	<b>11</b>
<b>7. Appendix C – Impartial Analysis of Measure E</b>	<b>12</b>
<b>8. Appendix D – Auditor Report – FY Ending June 30, 2014</b>	<b>13</b>

---

# 1. Overview

*This report was approved and adopted by a unanimous vote of the Measure E Residents Oversight Committee on 6/9/2014.*

## 1.1 Introduction

Measure E is a ballot proposition approved by voters in the City of Tracy in November 2010, passing with 58.3% of the vote. The measure adds 0.50% to the sales tax rate charged on goods and services sold within the geographic boundaries of the City of Tracy for a 5 year period. This sales tax rate increment serves to add sales tax revenue to the City's General Fund, giving the City time to eliminate the structural financial deficit in its General Fund by aligning expenditures with non-Measure E sources of revenue before the expiry of Measure E.

Implementation of the incremental Measure E sales tax rate became effective April 2011 and expires in March 2016. Terms of the Measure E ballot initiative calls for a Measure E Residents Oversight Committee (MEROC) composed of five members appointed by city council from applicants who reside within the boundaries of Tracy's city limits.

---

### 1.1.1 MEROC Roles and Responsibilities

As specified in the ballot measure, the role of the MEROC is:

- To serve in an advisory-only capacity to the City Council;
- To provide oversight of the revenues and expenses pertaining to the portion of the sales tax generated by Measure E;
- To review the annual independent financial audit of the City performed by an independent auditor on sections pertaining to the revenue and expenses related to the portion of the sales tax generated by Measure E;
- To review other City financial reports pertaining to the revenue generated by and expenses related to the portion of the sales tax generated by Measure E revenue and expenses;
- To provide Council with an annual written report and;
- To provide additional reports to Council at the committee and/or Council's discretion (in writing and agendaized pursuant to the Brown Act).

This 2014 report is the third annual MEROC report covering the City's 2013/14 fiscal year and its 4 year financial forecast ending in the 2016/17 fiscal year.

---

### 1.1.2 Prior Year Activities

In accordance with the guidelines provided in the Notice of Council-Appointed Committee Vacancy dated January 19, 2011 and as set forth in the Measure E Residents' Oversight Committee Bylaws adopted by Resolution 2013-019 of the Tracy City Council dated January 18, 2011 and amended on February 19, 2013 (Resolution 2013-023); the Measure E Oversight Committee has reviewed the following:

- Independent financial audit report of Moss, Levy, and Hartzheim, LLP, Certified Public Accountants;
- City of Tracy sales and use tax forecasts;
- City of Tracy General Fund adopted budgets and 5 year forecasts;
- Miscellaneous reports, worksheets, and analysis related to fiscal issues of the City.

On the basis of the documents presented above, the Measure E Oversight Committee reports the receipt of \$7,194,407 in Measure E revenues in the fiscal year ending June 30, 2014. This amount was deposited in the City's General fund.



## 2. Measure E Residents Oversight Committee Certification of Results

Based on the reported results in the City of Tracy audited financial statements, the Measure E Residents' Oversight Committee attests that Measure E funds received in the fiscal year ending June 30, 2014 in the amount of \$7,194,407 was deposited in the City's General Fund in accordance with the terms of Measure E.

As shown in the table below, the General Fund operating surplus for FY 13/14 was \$7,386,474. Portions of this surplus in the amount of \$1,208,709 were transferred out to fund debt service. The remaining amount of \$6,177,765 increased the General Fund ending balance to \$35,071,347.

<b>Statement of Revenues, Expenditures &amp; Change in General Fund Balances FY Ending Jun 30, 2014 (Measure E Committee Summary)</b>	
	<b>Amount (\$)</b>
Non-Measure E Revenues	50,200,647
Measure E Revenue	7,194,407
<b>Total Revenue</b>	<b>57,395,054</b>
Expenditures	50,008,580
<b>Operating Surplus (Deficit)</b>	<b>7,386,474</b>
Transfers Out	
- Debt service	1,208,709
- To capital projects	0
<b>Total Transfers Out</b>	<b>1,208,709</b>
Change fund balance	6,177,765
Fund Balance Jul 1, 2013	28,893,582
Fund balance Jun 30, 2014	35,071,347

The City of Tracy's auditor certified these results in a letter to the City dated Mar 24, 2015 as shown in [Appendix D – Auditor Report – FY Ending June 30, 2014](#) at the end of this document.

### 3. Financial Analysis

#### 3.1 General Fund Actual Financial Results, Budget and Two Year Forecast

##### 3.1.1 Income statements with and without Measure E revenues

General Fund FY 11/12 to FY 13/14 Actual, FY 14/15 Projection and 2 Year Forecast (in \$ millions)											
	FY 11/12		FY 12/13		FY 13/14		FY 14/15		FY 15/16		2017 After Measure E
	Actual	No ME	Actual	No ME	Actual	No ME	Budget	No ME	Forecast	No ME	Forecast
Revenues	50.63	44.72	54.12	47.65	57.39	50.20	60.10	52.88	54.00	47.70	49.80
Expenditures	(49.26)	(49.26)	(49.47)	(49.47)	(50.00)	(50.00)	(54.50)	(54.50)	51.30	51.30	53.90
Op Surplus (Deficit)	1.37	(4.54)	4.65	(1.82)	7.39	0.20	5.60	(1.62)	2.70	(3.60)	(4.10)
Transfers Out	(1.42)		(2.69)		(1.21)		(10.50)		--		--
Change fund balance	(0.05)		1.96		6.18		(4.90)		2.70		(4.10)
Measure E tax revenues	5.91	--	6.47	--	7.19	--	7.22	--	6.30	--	--

\* Source: City of Tracy financial reports

##### 3.1.1.1 Prior year income statements with/without Measure E tax revenues

In the three years since Measure E was approved by voters in an electoral ballot in Nov 2010, it has brought in an average of \$6.5M in additional sales tax revenue to the City of Tracy general fund. This includes \$5.91M in FY 11/12, \$6.47 in FY 12/13 and \$7.19M in FY 13/14.

As shown in the above table, Measure E revenues have allowed the City to report operating surpluses in each year that Measure E has been effective. This financial picture in the general fund is however not as bright when Measure E revenues are removed from the financial results to show the level of structural deficits that would have been reported had Measure E not been implemented.

One very encouraging sign is last year's FY 13/14 financial results where the City reported an operating surplus of \$7.39M including Measure E tax revenues. The operating surplus excluding Measure E revenues was \$0.20M, evidence that City of Tracy finances are showing signs of significant recovery from the Great Recession.

### 3.1.1.2 2015 Budget out of sync with historical expenditure levels?

After examination of actual expenditures in the general fund over the past three years, the Measure E oversight committee noted that budgeted general fund expenditures for FY 2014/15 are significantly higher than the actual general fund expenditures for prior years.

Fiscal Year	Measure E Years									
	FY 2011/12	FY 2012/13	FY 2013/14		FY 2014/15		FY 2015/16			
	Actual	Actual	% +/-	Actual	% +/-	Budget	% +/-	Forecast	% +/-	
<b>Revenues</b>										
Taxes	34,079,771	37,134,728		40,282,107						
Charges for Services	8,213,167	8,930,270		8,588,914						
Licenses, permits and fees	2,997,556	3,375,983		3,813,645						
Other revenues	5,339,414	4,674,298		4,710,388						
<b>Total revenues</b>	<b>50,629,908</b>	<b>54,115,279</b>	<b>6.9</b>	<b>57,395,054</b>	<b>6.1</b>	<b>60,100,000</b>	<b>4.7</b>	<b>54,000,000</b>	<b>-10.1</b>	
<b>Expenditures</b>										
General government	5,985,311	5,715,236		6,076,961						
Public safety	30,625,436	30,232,518		30,814,096						
Public works	9,048,676	9,872,480		9,949,617						
Culture and leisure	3,463,370	3,329,534		3,112,681						
Capital outlay	132,688	312,597		55,225						
<b>Total expenditures</b>	<b>49,255,481</b>	<b>49,462,365</b>	<b>0.4</b>	<b>50,008,580</b>	<b>1.1</b>	<b>54,500,000</b>	<b>9.0</b>	<b>48,700,000</b>	<b>-10.6</b>	

As shown in the above table, budgeted expenditures for FY 14/15 are \$54.5M compared to the actual expenditure level of \$50.0M in FY 13/14 and \$49.5M in FY 12/13. This budgeted amount is \$4.5M or 9% over FY 13/14 actual expenditures which is a very material and significant increase in the level of expenditures in FY 14/15.

The City’s budget documents and financial statements do not provide a breakdown of the specific expenditures that are contributing to the large increase in budgeted expenditures for FY 14/15. Such a breakdown would provide more transparency in the budget setting process, reassuring stakeholders that budgeted expenditure levels are reasonable. It would also help City Council in its decision regarding prioritization of general fund expenditures.

### 3.1.1.3 Significant accounting change – Development services

As mentioned by staff in the May 19 budget workshop, revenues and expenses related to development services will be transferred out of the General Fund in FY 2015/16. Further to an information request from the Oversight committee, the city’s financial consultant indicated that \$7.2M in revenues and \$8.6M in expenditures related to engineering, planning and buildings are being transferred from the General Fund to special revenue fund. This significant accounting change makes year to year financial comparisons impossible.

Fiscal Year	Measure E Years									
	FY 2011/12	FY 2012/13	FY 2013/14		FY 2014/15		FY 2015/16			
	Actual	Actual	% +/-	Actual	% +/-	Forecast	% +/-	Forecast	% +/-	
<b>Revenues</b>										
Taxes	34,079,771	37,134,728		40,282,107						
Charges for Services	8,213,167	8,930,270		8,588,914						
Licenses, permits and fees	2,997,556	3,375,983		3,813,645						
Other revenues	5,339,414	4,674,298		4,710,388						
<b>Total revenues</b>	<b>50,629,908</b>	<b>54,115,279</b>	<b>6.9</b>	<b>57,395,054</b>	<b>6.1</b>	<b>60,100,000</b>	<b>4.7</b>	<b>54,000,000</b>	<b>-10.1</b>	
<b>Expenditures</b>										
General government	5,985,311	5,715,236		6,076,961						
Public safety	30,625,436	30,232,518		30,814,096						
Public works	9,048,676	9,872,480		9,949,617						
Culture and leisure	3,463,370	3,329,534		3,112,681						
Capital outlay	132,688	312,597		55,225						
<b>Total expenditures</b>	<b>49,255,481</b>	<b>49,462,365</b>	<b>0.4</b>	<b>50,008,580</b>	<b>1.1</b>	<b>54,500,000</b>	<b>9.0</b>	<b>48,700,000</b>	<b>-10.6</b>	
<b>Operating surplus (deficit)</b>	<b>1,374,427</b>	<b>4,652,914</b>		<b>7,386,474</b>		<b>5,600,000</b>		<b>5,300,000</b>		
Transfers out	1,427,405	2,693,468		1,208,709		10,500,000		2,600,000		
<b>Net change in fund balance</b>	<b>(52,978)</b>	<b>1,959,446</b>		<b>6,177,765</b>		<b>(4,900,000)</b>		<b>2,700,000</b>		
<b>Beginning fund balances</b>	<b>26,987,114</b>	<b>26,934,136</b>		<b>28,893,582</b>						
<b>Ending fund balances</b>	<b>26,934,136</b>	<b>28,893,582</b>		<b>35,071,347</b>						
<b>Measure E sales tax in taxes</b>	<b>5,913,308</b>	<b>6,469,067</b>		<b>7,194,407</b>		<b>7,220,250</b>		<b>6,300,000</b>		

---

## 4. Conclusions and Recommendations

### 4.1 Conclusions

As shown in the previous tables and chart, the city's financial position is showing definitive signs of improvement due to a combination of recoveries in sales tax revenues and due to the positive impacts of past City cost containment policies and programs.

#### **4.1.1 Operating surplus/deficit last year (FY 13/14)**

---

For FY 13/14, the City received revenues of \$57.4M and reported expenditures of \$50.0M with a resulting operating surplus of \$7.4M. After transfers out of the General Fund of \$1.2M due to debt service payments, the General Fund balance increased by \$6.2M to \$35.0M. The revenues include \$7.2M of Measure E sales tax revenues which were used to pay General Fund expenditures in compliance with the provisions of Measure E.

Excluding Measure E sales tax revenues, the budgeted FY 13/14 revenues are \$50.2M and reported expenditures are \$50.0M with a resulting operating surplus of \$0.2M. It is encouraging that the City had a structural surplus last fiscal year.

### 4.2 Recommendations

Given that the Tracy electorate voted for the Measure E sales tax increase based on the stipulation that it would expire in 2016 and that the City would not seek to extend or renew it past that year, the City must continue to implement additional revenue enhancement and cost reduction strategies so as to align its anticipated General Fund expenditure levels to revenues.

#### **4.2.1 Reservation and use of Measure E surplus funds**

---

To the extent that General Fund revenues (inclusive of Measure E tax revenue) exceed General Fund expenditures in any given fiscal year, it is again this year the recommendation of the Committee that a portion of the resulting "Measure E" surplus be reserved to a special fund. This special fund would be used to finance one-time operating measures or capital projects that serve to reduce General Fund operating expenses.

#### **4.2.2 Supplemental (exclusive of Measure E) financial statements and forecasts**

---

The Committee recommends that staff supplement the official General Fund CAFR income statements and forecast with tables and charts that show financial results excluding Measure E sales tax revenues. These recalculated tables and charts (as used in this report) serve to highlight the progress the City is making towards the alignment of General Fund expenditures and non-Measure E revenues.

#### **4.2.3 Improvements in General Fund financial reporting**

---

The Oversight Committee is concerned that the City's financial statements are not as informative and transparent as they could be and do not provide the city council, as policy makers, the information they need to make long term strategic decisions.

There are two factors that contribute to these concerns.

##### **4.2.3.1 Large differences between budgeted and actual spending levels**

---

The City has historically spent no more than \$50M in the General Fund in the past several years yet this year's FY 2015/16 budget has been set at \$54.5M. This suggests that the City is carrying a large "reserve" of unspent funds in its budget of at least \$4M.

Based on discussions with staff, it is our understanding that many cities provide their city councils with an annual managerial summary that provides a reconciliation or "true-up" between actual and budgeted expenditure levels from one fiscal year to the next.

It is the Committee's recommendation that the City supplement its current financial reporting with information that details the differences between actual and budgeted spending levels.

#### **4.2.3.2 Very significant FY 2015/16 General Fund accounting change**

---

In next year's FY 2015/16 budget, staff is implementing a very significant financial accounting change where development service revenues and expenditures will be transferred from the General Fund to a special development services fund. This change makes comparisons of FY 2015/15 General Fund revenues and expenditures to prior year General Fund revenue and expenditure meaningless – a true apples to oranges comparison.

In order to provide more meaningful information to city council and to the community, the Oversight Committee recommends that staff provide supplementary information regarding this accounting change. This supplementary information would restate prior year General Fund financial summaries removing development service revenues and expenditures so that prior year financial results and FY 2015/16 results can be compared on apples to apples basis.

#### **4.2.4 Identification of additional revenue enhancement and cost reduction opportunities**

---

The Committee is pleased that the City was able to cover all of its operating expenditures in FY 13/14, where its revenues exclusive of Measure E sales tax revenue exceeded its operating expenditures by \$200,000. The fact that the City can report a structural operating surplus in its General Fund account is encouraging and hopefully a sign that we are witnessing a recovery in sales and property tax revenues in the years ahead.

The Committee however strongly recommends that City council and staff continue to explore additional revenue enhancement and cost reduction opportunities in order to better align General Fund revenue and expenditure levels in anticipation of the expiry of Measure E in the year 2016.

##### **4.2.4.1 Diversifying sources of tax revenues**

---

As part of its economic development strategy and its need to diversify its revenue sources beyond retail sales and property taxes, the city should explore the feasibility of utilizing existing and future physical assets to develop event-based revenue sources that generate additional revenue streams for local businesses.

Local, regional and national sports league competitions and events when hosted in Tracy have the potential of adding significant hospitality revenues to the local economy. As the city gets to keep ALL of the Transient Occupancy Tax (TOT) received within city limits, even moderate levels of increased hotel stays and restaurant visits by event participants would have a material positive effect on local businesses and city occupancy tax revenues.

By increasing the paid usage of city-owned recreational and performing arts facilities organized events would proportionately increase their level of cost recovery.

## 5. Appendix A – Projected General Fund Balance

At the end of FY 13/14, the City of Tracy general fund had an actual audited balance of \$35.07M. Inclusive of Measure E tax revenue, the general fund balance is projected to be \$28.77M by FY 16/17.

Forecast of General Fund Balance 2012 – 2017 (in \$ millions)			
Fiscal Year Ending	Surplus (Deficit)	Transfers Out	General Fund Balance
2012 (actual)	1.37	(1.43)	26.94
2013 (actual)	4.65	(2.69)	28.90
2014 (actual)	7.38	(1.21)	35.07
2015 (budget)	5.60	(10.50)	30.17
2016 (forecast)	2.70		32.87
2017 (forecast)	(4.10)		28.77

---

## 6. Appendix B – Measure E Question on Voter Ballot

To help prevent additional budget cuts and maintain City services, including: police (patrol, 911, command, gang/narcotics enforcement, crime investigations, other police services); fire protection, emergency services, and other fire services; park/sports field maintenance; support services; senior, teen, and youth services; art programs; and other general services, shall the City of Tracy enact a ½ cent sales tax, expiring in five years, with resident oversight, annual independent audits, and all funds used for City of Tracy services only?

---

## 7. Appendix C – Impartial Analysis of Measure E

### ONE-HALF CENT TRANSACTIONS AND USE (SALES) TAX

The Tracy City Council has placed Measure E on the ballot to ask the voters of Tracy if the City should enact a 1/2 cent sales tax for five years. The sales tax is also referred to as a transactions and use tax. If approved by a majority of the voters, the 1/2 cent sales tax would become operative on April 1, 2011. The proposed increased City of Tracy sales tax would be collected at the same time and in the same manner as existing sales taxes.

If Measure E is approved, the proposed increased sales tax will expire five years after it starts being collected.

This 1/2 cent sales tax would be a general tax, meaning that the revenue raised from the tax would go into the City's general fund and could be used for any municipal governmental purpose. Municipal governmental purposes include: police (patrol, 911, command, gang and narcotics enforcement, crime investigations, other police services); fire protection, emergency services, and other fire services; park and sports field maintenance; support services; senior, teen, and youth services; art programs; and other general functions and services.

If Measure E is approved, the City's independent auditors will be required to complete a financial audit report, by no later than December 31st of each year, which will include the revenue raised and expended by this tax. Also, if Measure E is approved, the Tracy City Council will establish a Residents' Oversight Committee to review the expenditure of the revenue from this tax prior to any collection of the tax. The Committee will consist of five members to be appointed by the Mayor and approved by the City Council. The terms of the Committee members and their specific duties will be established by resolution of the City Council.

*Submitted by: Daniel G. Sodergren, Tracy City Attorney "The above statement is an Impartial Analysis of Measure E"*



## 8. Appendix D – Auditor Report – FY Ending June 30, 2014

Based on the reported results in the City of Tracy audited financial statements, the Measure E Residents' Oversight Committee attests that Measure E funds received in the fiscal year ending June 30, 2013 in the amount of \$7,194,407 was deposited in the City's General Fund in accordance with the terms of Measure E.



**PARTNERS**

RONALD A LEVY, CPA  
CRAIG A HARTZHEIM, CPA  
HADLEY Y HUI, CPA  
ALEXANDER C HOM, CPA  
ADAM V GUISE, CPA  
TRAVIS J HOLE, CPA

**COMMERCIAL ACCOUNTING & TAX SERVICES**

433 N. CAMDEN DRIVE, SUITE 730  
BEVERLY HILLS, CA 90210  
TEL: 310.273.2745  
FAX: 310.670.1689  
www.mlhcpas.com

**GOVERNMENTAL AUDIT SERVICES**

5800 HANNUM, SUITE E  
CULVER CITY, CA 90230  
TEL: 310.670.2745  
FAX: 310.670.1689  
www.mlhcpas.com

Honorable Mayor and City Council  
City of Tracy  
Tracy, California

Re: Measure E (one half cent sales tax)

We have audited the financial records of the City of Tracy for the fiscal year ending June 30, 2014 reported in our Independent Auditor's Report which accompanies the City's Comprehensive Annual Financial Report. Included in this audit was the examination of tax proceeds from the City's Measure E – one half cent sales tax approved by Tracy voters in November 2010 and commencing for a 5 year period on April 1, 2011. The amount of Measure E tax proceeds received and recorded during the fiscal year ending June 30, 2014 was \$7,194,407. Measure E is a general tax of the City of Tracy and as such, said amount was deposited into the City's General Fund. Expenditures for a variety of City functions were subsequently made from the City's General Fund. A listing of expenses utilizing Measure E revenue and other revenue of the City can be found on page 28 of the City's Comprehensive Annual Financial Report.

*Moss, Levy & Hartzheim*

Moss, Levy & Hartzheim, LLP  
Culver City, California  
March 24, 2015

**CITY OF TRACY  
GOVERNMENTAL FUNDS  
STATEMENT OF REVENUES, EXPENDITURES, AND CHANGES IN FUND BALANCES  
For the Fiscal Year Ended June 30, 2014**

	General	Housing Successor	North East Industrial Plan Area #1	Other Governmental Funds
<b>REVENUES</b>				
Taxes	\$ 40,282,107	\$ -	\$ -	\$ 3,522,295
Licenses, permits, and fees	3,813,645			194,256
Fines and penalties	790,326			72,663
Use of money and property	832,258	61,768	59,289	745,637
Intergovernmental	1,533,055			11,394,536
Charges for services	8,588,914			305,208
Special assessments	370,643			6,810,604
Contributions			300,000	4,046,394
Other revenues	1,184,106			582,545
<b>Total Revenues</b>	<b>57,395,054</b>	<b>61,768</b>	<b>359,289</b>	<b>27,674,138</b>
<b>EXPENDITURES</b>				
Current:				
General government				
Economic development	436,893			513,967
General government	3,165,940			82,956
Finance	2,102,067			
Non-departmental	372,061			377,065
Public safety				
Police	21,582,841			9,397
Fire	9,231,255			6,638,018
Public works				
Development and engineering	6,301,000			165,574
Public works	3,648,617			4,822,535
Culture and leisure				
Cultural arts	1,310,025			
Parks and community services	1,802,656			
Capital outlay	55,225		9,776,754	17,346,716
Debt service:				
Principal payments				245,000
Interest and fiscal charges				1,344,592
<b>Total Expenditures</b>	<b>50,008,580</b>		<b>9,776,754</b>	<b>31,545,820</b>
Excess of Revenues over (under) Expenditures	7,386,474	61,768	(9,417,465)	(3,871,682)
<b>OTHER FINANCING SOURCES (USES)</b>				
Transfers in				1,213,671
Transfers out	(1,208,709)			(26,962)
<b>Total Other Financing Sources (Uses)</b>	<b>(1,208,709)</b>			<b>1,186,709</b>
<b>Net Changes in Fund Balances</b>	<b>6,177,765</b>	<b>61,768</b>	<b>(9,417,465)</b>	<b>(2,684,973)</b>
Fund Balances, July 1, 2013	28,893,582	2,942,011	13,219,708	92,060,437
Fund Balances, June 30, 2014	<u>\$ 35,071,347</u>	<u>\$ 3,003,779</u>	<u>\$ 3,802,243</u>	<u>\$ 89,375,464</u>

The notes to the basic financial statements are an integral part of this statement

AGENDA ITEM 6

REQUEST

**ACCEPT A REPORT ON PERSONNEL STAFFING WITHIN THE FIRE DEPARTMENT AND IMPACTS FOLLOWING THE CANCELLATION OF FIRE SERVICES CONTRACT BETWEEN TRACY RURAL FIRE DISTRICT AND MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT AND ADOPT A RESOLUTION ELIMINATING SIX FULL-TIME EQUIVALENT POSITIONS FROM THE CITY EMPLOYEE CONTROL ROSTER ALLOCATED UNDER THE FIRE DEPARTMENT.**

EXECUTIVE SUMMARY

At the June 16, 2015 City Council meeting, Council adopted the Fiscal Year 2015-16 budget, which includes the fire department budget. The fire department budget was adopted with a reduction of nine full-time equivalent (FTEs) positions, reducing the authorized staffing level from 79.7 to 70.7. The reduction in FTE positions results from the City's other South County Fire Authority (SCFA) member agency, Tracy Rural Fire Protection District (TRFPD), being terminated as the contracted service provider to the Mountain House Community Services District (MHCS D) after September 13, 2015. With TRFD no longer serving MHCS D, staffing of nine FTEs for the MHCS D fire station is not required.

The adoption of the Fiscal Year 2015-16 budget does not include funding for the nine FTEs positions beyond September 13, 2015. There are five existing vacancies within the fire department that have remained purposely unstaffed in anticipation of the workforce reduction. Additionally, the City recently received informal notification by a full time employee of the intent to retire within the next ninety days. Subsequently, fire department staffing would theoretically reduce to 73.7, resulting in three more personnel than anticipated in the approved FY2015/2016 budget.

DISCUSSION

The City of Tracy and the Tracy Rural Fire Protection District (TRFPD) are the member agencies of the South County Fire Authority (SCFA). In addition, the MHCS D has contracted with TRFPD for fire services. The MHCS D Board of Directors recently approved a fire service contract with a new provider, French Camp-McKinley Fire District. Effective September 13, 2015, the service contract between MHCS D and TRFPD will terminate. After this date, fire service will no longer be provided to the MHCS D through TRFPD as a member agency of the SCFA.

The fire department budget is incorporated into the City of Tracy Adopted Budget each fiscal year. On March 31, 2015, the Fiscal Year 2015-16 fire department budget was presented at a joint budget workshop of the Tracy City Council and the TRFPD Board of Directors. The proposed budget was also presented and approved by the TRFPD at its regular meeting on April 14, 2015. The budget was again presented to the SCFA Board of Directors and approved on May 12, 2015. Ultimately, Council adopted the Fiscal Year 2015-16 budget at its regular City Council meeting held June 16, 2015. The Fiscal Year

2015-16 adopted budget includes pro-rated revenue and expenditures for MHCSD, covering the shortened term of service from July 1, 2015 through September 13, 2015, and does not include any funding for MHCSD beyond this date. Nine full-time equivalent (FTE) employees are assigned to the fire station located in MHCSD. With the loss of the contract, the FTEs are not required to staff the fire station after September 13, 2015.

Over the past year fire administration has prepared the department for the workforce reduction made necessary by the elimination of a fire station from the SCFA system, resulting in the excess nine full time positions that will exist after September 13, 2015. Through attrition the department currently holds five vacancies and has received notification of a personnel retirement scheduled within the next ninety days. This will result in six of the nine positions being absorbed into vacant positions and three full-time personnel in excess of the authorized personnel allocation for the fire department.

In collaboration with the Tracy Fire Fighters Association, Fire Administration has completed an analysis and determined the cost of the three excess full-time personnel positions would require an additional \$325,345 from September 14, 2015 through the end of Fiscal Year 2015-16. It is estimated that savings of \$313,577 could be achieved by using the three full-time positions to backfill staffing vacancies throughout the year, which result from scheduled staffing leaves, to include: training vacation, holiday, sick, work comp and family medical leave and vacation. These leaves are routinely backfilled through scheduled overtime. Thus, the annual fiscal impact of retaining the positions can be mitigated to less than \$12,000 for the remainder of the fiscal year. The ongoing expenses are estimated at \$428,372 annually, with an estimated savings of \$394,674 through the backfilling of vacancies. This represents an annual additional impact of less than \$34,000.

The elimination of a fire station from the SCFA system also results in excess personnel within specific classifications; Captain, Engineer, or Fire Fighter. To provide for the greatest organizational flexibility while maximizing savings, the City Manager may direct staff to determine which classifications the over hire positions would be assigned. The final amendments to the Position Control Roster would be brought before the City Council for final approval within 120 days.

## STRATEGIC PLAN

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

## FISCAL IMPACT

The Fiscal Year 2015-16 budget was adopted including the reduction of nine FTEs. The budget assumes a partial year of funding from MHCSD in the amount of \$494,090 to cover expenses from July 1, 2015 through September 13, 2015. If the council proceeds with reductions in force as indicated in the adopted Fiscal Year 2015-16 budget, there is no new fiscal impact.

Should council adopt the staff recommendation, the fiscal impact will change. The retention of three personnel from September 14, 2015 through June 30, 2016 will result in an estimated additional expense of \$325,345. It is estimated this cost could be offset

by \$313,577 through the excess personnel covering scheduled leaves. After the offset is applied, it is estimated to be an overall additional cost impact of less than \$12,000 for the remainder of Fiscal Year 2015-16.

The retention of three additional personnel on an ongoing annual basis is estimated to cost \$428,372. It is estimated this cost could be offset by \$394,674 through the excess personnel covering scheduled leaves. After the offset is applied, it is estimated to be an overall additional cost impact of less than \$34,000 annually.

#### RECOMMENDATION

Adopt a resolution to eliminate six FTE positions from the employee Position Control Roster allocated under the fire department, and allocate the three excess personnel resulting from the MHCSD reduction as temporary over hires in a relief pool to reduce fire department overtime expenses.

Prepared by: David A. Bramell, Fire Division Chief

Reviewed by: Gary Hampton, Public Safety Director

Approved by: Troy Brown, City Manager

RESOLUTION \_\_\_\_\_

ELIMINATING SIX FULL-TIME EQUIVALENT POSITIONS FROM THE CITY EMPLOYEE POSITION CONTROL ROSTER ALLOCATED UNDER THE FIRE DEPARTMENT AND ALLOCATING THREE FULL-TIME EQUIVALENT POSITIONS AS TEMPORARY OVER HIRES

WHEREAS, As a member agency of the South County Fire Authority, the City provides personnel to the Tracy Rural Fire Protection District via contract, and

WHEREAS, The Tracy Rural Fire Protection District is the contracted fire service provider to the Mountain House Community Services District staffing one fire station with nine personnel, and

WHEREAS, The Mountain House Community Services District is terminating the service contract with Tracy Rural Fire Protection District effective September 13, 2015, thereby eliminating the staffing requirement for nine personnel, and

WHEREAS, The personnel staffing the Mountain House Community Services District Fire Station are employees of the City of Tracy, and

WHEREAS, The City of Tracy Adopted Fiscal Year 2015-16 budget does not include funding for the nine personnel beyond September 13, 2015, and

WHEREAS, The employee Position Control Roster allocated under the fire department will need to be reduced to align staffing with the adopted Fiscal Year 2015-16 funding, and

WHEREAS, Of the nine positions affected, the elimination of six full-time equivalent positions and retention of three full-time equivalent positions as over hires will offset the majority of the fiscal impact for Fiscal Year 2015-16;

NOW, THEREFORE, BE IT RESOLVED, That the City Council eliminates six full-time equivalent employees from the Position Control Roster, temporarily retains three over hire full-time equivalent positions within the Fire Department, and authorizing the City Manager to allocate the over hire personnel into the Position Control Roster, with the understanding that staff will bring the final changes to the Position Control Roster back to City Council within the next 120 days for final approval.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 7

REQUEST

**APPROVE AMENDMENTS TERMINATING THE PROPERTY DEVELOPMENT AND LEASE AGREEMENTS BETWEEN THE CITY OF TRACY AND TRACY BABE RUTH AND TRACY YOUTH SOCCER LEAGUE, AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENTS, AND PROVIDE DIRECTION REGARDING THE BID DOCUMENTS FOR CONSTRUCTION OF FIELDS AT LEGACY FIELDS**

EXECUTIVE SUMMARY

In 2012, City Council approved Property Development and Lease Agreements with the Tracy Babe Ruth (TBR), Tracy Little League (TLL) and Tracy Youth Soccer League (TYSL), all local youth non-profit organizations, which provide recreational and competitive sports programs that benefit the City. The original concept for Legacy Fields was for the leagues to construct and maintain the fields. Due to recent City Council action, the concept has now changed and requires amending the current agreements with TBR and TYSL. Staff is recommending that the Council approve the amendments to the Agreements with TBR and TYSL.

In recent conversations with TLL, TLL representatives expressed concern regarding the available water supply to irrigate the fields and, as such, TLL has not agreed to amend its agreement at this time. As a result, staff is providing Council with options (below) and is requesting that Council provide direction on the bid documents.

DISCUSSION

In 2012, Council approved Property Development and Lease Agreements with Tracy Babe Ruth (TBR), Tracy Little League (TLL), Tracy Youth Soccer League (TYSL), and Tracy Futbol Club (Tracy Futbol Club's Agreement was terminated). In this original concept, the leagues were responsible for constructing, maintaining, and operating their respective areas of Legacy Fields.

After several meetings with league representatives and the Legacy Fields Subcommittee, Council directed staff to pursue a different concept. On June 1, 2015, Council directed staff to proceed with construction of sports fields within the Phase 1 area of Legacy Fields and revise the current Agreements.

Consequently, the property that is currently leased to the leagues needs to be free and clear of any contractual obligations before the City can bid the construction and development of said property. Because Council directed staff to develop baseball and soccer fields, all Agreements will need to be amended in order to construct the fields.

The Agreements with TBR and TYSL will need to be terminated, as staff will be pursuing construction of all fields within their respective lease agreements.

The Agreement with TLL needs to be amended to remove the three fields the City is proposing to construct. TLL will continue to develop and construct the existing two fields and the two larger fields that remain undeveloped (four fields total) per the original Agreement. However, TLL's representatives have expressed concern regarding the available water supply required to irrigate the fields and has not agreed to amend the agreement at this time. TLL is concerned that, given the current drought restrictions, the water supply will not be guaranteed for construction of the fields.

Staff is providing Council with two options:

1. Include the three TLL fields as a bid-alternate but have low bid be determined with those fields included (which would allow the City to remove those fields from the specifications if agreement with TLL cannot be reached by time of bid award).
2. Completely remove the three TLL fields from the bid specifications.

Per Council direction, staff will continue to negotiate separate use agreements with TBR, and TYSL (and, if Option 1 is selected, with TLL) for the City constructed fields.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

There is no fiscal impact to the General Fund at this time. Staff time for executing the amendments will be absorbed within the existing operating budget.

#### RECOMMENDATION

Staff recommends that City Council by separate resolutions:

1. Approve the amendment to the Property Development and Lease Agreement with Tracy Babe Ruth (Attachment A) terminating the current Agreement; and
2. Approve the amendment to the Property Development and Lease Agreement with Tracy Youth Soccer League (Attachment B) terminating the current Agreement; and

Provide direction on which option Council wants to pursue regarding Tracy Little League.

Prepared by: Brian MacDonald, Management Analyst II

Reviewed by: Don Scholl, Parks, Sports Fields & Trees Superintendent  
David Ferguson, Director of Public Works  
Andrew Malik, Acting Assistant City Manager

Approved by: Troy Brown, City Manager



ATTACHMENTS

Attachment A: Amendment to Property Development and Lease Agreement with Tracy Babe Ruth

Attachment B: Amendment to Property Development and Lease Agreement with Tracy Youth Soccer League

**AMENDMENT TO THE PROPERTY DEVELOPMENT AND LEASE AGREEMENT  
TERMINATING THE AGREEMENT BETWEEN THE CITY OF TRACY AND  
TRACY BABE RUTH**

**RECITALS**

- A. This Amendment (hereinafter "Amendment") to the Property Development and Lease Agreement (hereinafter "Agreement") is made by and between the City of Tracy (hereinafter "City"), a municipal corporation, and Tracy Babe Ruth (hereinafter "TBR"), a non-profit public benefit California Corporation.
- B. The City Council has directed staff to bid and construct fields on the property currently leased by TBR. The property needs to be free and clear of any agreement before the City can bid and construct the fields.
- C. The City intends to negotiate a use agreement with TBR for the City-constructed fields.


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

- 1. **Incorporation by Reference.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.
- 2. **Terms of Amendment.** The Agreement is hereby terminated, provided however, that the indemnity and insurance provisions set forth in the Agreement shall remain in full force and effect for any matter arising during the period during which the Agreement was in 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. **Signatures.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of TBR and City. This Agreement shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**


**TRACY BABE RUTH**

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

By:  \_\_\_\_\_  
Troy Camacho  
Title: President

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

Date: 7-12-15

By: Ponch Martinez Ponce 

Title: Treasurer

Date: 7-13-15

ATTEST:

By: \_\_\_\_\_

Nora Pimental

Title: City Clerk

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

APPROVED AS TO FORM:

By: \_\_\_\_\_

Bill Sartor, Assistant City Attorney

RESOLUTION \_\_\_\_\_

APPROVING AN AMENDMENT TO THE PROPERTY DEVELOPMENT AND LEASE AGREEMENT TERMINATING THE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY BABE RUTH AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, the City Council has directed staff to bid and construct fields on the property currently leased by Tracy Babe Ruth (TBR). The property needs to be free and clear of any agreement before the City can bid and construct the fields, and

WHEREAS, The City intends to negotiate a use agreement with TBR for the City-constructed fields;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby approves an Amendment terminating the Property Development and Lease Agreement between the City of Tracy and Tracy Babe Ruth.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 21<sup>st</sup> day of July 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

**AMENDMENT TO THE PROPERTY DEVELOPMENT AND LEASE AGREEMENT  
TERMINATING THE AGREEMENT BETWEEN THE CITY OF TRACY AND  
TRACY YOUTH SOCCER LEAGUE (TYSL)**

**RECITALS**

- A. This Amendment (hereinafter "Amendment") to the Property Development and Lease Agreement (hereinafter "Agreement") is made by and between the City of Tracy (hereinafter "City"), a municipal corporation, and Tracy Youth Soccer League (hereinafter "TYSL"), a non-profit public benefit California Corporation.
- B. The City Council has directed staff to bid and construct fields on the property currently leased by TYSL. The property needs to be free and clear of any agreement before the City can bid and construct the fields.
- C. City intends to negotiate a use agreement with TYSL for the City-constructed fields.

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

- 1. **Incorporation by Reference.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement which are not specifically modified by this Amendment shall remain in full force and effect.
- 2. **Terms of Amendment.** The Agreement is hereby terminated, provided however, that the indemnity and insurance provisions set forth in the Agreement shall remain in full force and effect for any matter arising during the period during which the Agreement was in 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. **Signatures.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of TYSL and the CITY. This Agreement shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**

**TRACY YOUTH SOCCER LEAGUE**

By: \_\_\_\_\_

Michael Maciel

Title: Mayor

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

By:  \_\_\_\_\_

Jesse Munoz

Title: President

Date: 7-13-15

By: Mark Mackay

Title: Treasurer

Date: 7/13/15

ATTEST:

By: \_\_\_\_\_

Nora Pimental

Title: City Clerk

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

APPROVED AS TO FORM:

By: \_\_\_\_\_

Bill Sartor, Assistant City Attorney

RESOLUTION \_\_\_\_\_

APPROVING AN AMENDMENT TO THE PROPERTY DEVELOPMENT AND LEASE AGREEMENT TERMINATING THE AGREEMENT BETWEEN THE CITY OF TRACY AND TRACY YOUTH SOCCER LEAGUE AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, the City Council has directed staff to bid and construct fields on the property currently leased by Tracy Youth Soccer League (TYSL) and the property needs to be free and clear of any agreement before the City can bid and construct the fields, and

WHEREAS, The City intends to negotiate a use agreement with TYSL for the City-constructed fields;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby approves an Amendment terminating the Property Development and Lease Agreement between the City of Tracy and the Tracy Youth Soccer League and authorizes the Mayor to execute the Amendment.

\*\*\*\*\*

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 21<sup>st</sup> day of July 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 9.A

REQUEST

**COUNCIL DESIGNATION OF VOTING DELEGATE AND UP TO TWO VOTING ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES 2015 ANNUAL CONFERENCE BUSINESS MEETING**

EXECUTIVE SUMMARY

Staff requests that Council designate a voting delegate and up to two voting alternates for the upcoming League of California Cities Annual Conference Business Meeting.

DISCUSSION

The League of California Cities Annual Conference is scheduled for Wednesday, September 30, 2015, through Friday, October 2, 2015, in San Jose, California.

An important part of the Annual Conference is the League of California Cities' Annual Business Meeting, held on Friday, October 2, 2015, at noon. At this meeting, the League membership considers and takes action on resolutions that establish League policy. In order to expedite the conduct of business at this policy-making meeting, each City Council should designate a voting delegate and up to two alternates who will be registered at the conference and present at the Annual Business Meeting. A voting card will be given to the City official designated on the Voting Delegate Form.

The League of California Cities has requested the names of the designated delegates be forwarded to them no later than Friday, September 18, 2015.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact associated with this discussion item.

RECOMMENDATION

That Council designate a voting delegate and up to two voting alternates for the League of California Cities 2015 Annual Conference Business Meeting.

Prepared by: Nora Pimentel, City Clerk

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager



RESOLUTION 2015-

DESIGNATING A VOTING DELEGATE AND UP TO TWO VOTING ALTERNATES  
FOR THE LEAGUE OF CALIFORNIA CITIES 2015 ANNUAL  
CONFERENCE BUSINESS MEETING

WHEREAS, The League of California Cities Annual Conference is scheduled for September 30, 2013, through October 2, 2015, in San Jose, California, and

WHEREAS, An important part of the Annual Conference is the Annual Business Meeting held on October 2, 2015, at which, the League membership takes action on resolutions that establish League policy, and

WHEREAS, In order to expedite the conduct of business at this policy-making meeting, each City Council designates a voting delegate and up to two alternates who will be registered at the conference and present at the Annual Business Meeting;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby designates \_\_\_\_\_ as the voting delegate and \_\_\_\_\_ as the alternate voting delegate for the League of California Cities 2015 Annual Conference Business Meeting

\* \* \* \* \*

The foregoing Resolution 2015- was passed and adopted by the Tracy City Council on the 21<sup>st</sup> day of July, 2015, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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