

Tuesday, November 3, 2015, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

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

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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS -Employee of the Month
 -Pancreatic Cancer Action Network Proclamation
 -Arbor Day Proclamation (November 14)
 -D.A.R.E Presentations
 -Runaway Homeless Youth Awareness Month Proclamation

1. CONSENT CALENDAR

- A. Adopt Council Minutes – Special Meeting minutes of July 28, 2015, September 1, 2015. Closed Session Meeting minutes of October 13, 2015 and October 20, 2015.

- B. Authorize Amendment of the City's Classification and Compensation Plans and Position Control Roster By Approving the Establishment of a New Class Specification and Salary Range for Environmental Compliance Technician in the Water Resources Section of the Utilities Department

- C. Adopt the Memorandum of Understanding Between the City of Tracy and the Tracy Police Managers Association (TPMA)

- D. Accept Travel Report for City Manager Troy Brown's Attendance at the International City/County Management Association (ICMA) Annual Conference in Seattle, Washington

- E. Waive Second Reading and Adopt Ordinance 1201 an Ordinance of the City of Tracy Amending Tracy Municipal Code Sections 10.12.065 Relating to Compliance with Regional Housing Needs Allocations within the Residential Growth Management Plan

2. ITEMS FROM THE AUDIENCE

3. APPROVAL OF RESOLUTIONS (1) INITIATING PROCEEDINGS FOR THE ANNEXATION OF TERRITORY ("TRACY GATEWAY CROSSINGS TRACY PROJECT") TO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT (TCLMD); AND THE LEVY AND COLLECTION OF ANNUAL ASSESSMENTS RELATED THERETO; (2) DECLARING THE CITY'S INTENTION TO ANNEX TERRITORY TO THE TCLMD AND TO LEVY AND COLLECT ANNUAL ASSESSMENTS RELATED THERETO COMMENCING FISCAL YEAR 2016/2017; CALLING FOR A PROPERTY OWNER PROTEST PROCEEDING; AND ESTABLISHING AN ASSESSMENT RANGE FORMULA FOR SAID ANNEXATION TERRITORY

4. COUNCIL UPDATE, DISCUSSION, AND DIRECTION REGARDING THE TRANSFER OF FEDERAL USE RESTRICTIONS AND REVERSIONARY RIGHTS FROM THE SCHULTE ROAD PROPERTY, APNs 209-230-29 AND 30, TO 300 UNDEVELOPED ACRES AT LEGACY FIELDS AND ADJACENT CITY OWNED PROPERTY, APNs 212-150-02, 03, AND 04
5. DISCUSS AND PROVIDE DIRECTION ON WHETHER TO HAVE STAFF BRING BACK A DRAFT LOBBYING ORDINANCE FOR POSSIBLE INTRODUCTION AND ADOPTION
6. APPOINT A REPRESENTATIVE TO THE TRI-VALLEY REGIONAL RAIL ADVISORY GROUP
7. ITEMS FROM THE AUDIENCE
8. COUNCIL ITEMS
9. ADJOURNMENT

July 28, 2015, 8:30 a.m.

Tracy Transit Station – 50 E. Sixth Street Rm 105

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

1. The special meeting was called to order at 8:32 a.m.
2. Present at the special meeting were Council Members Mitracos, Vargas, Mayor Pro Tem Rickman and Mayor Maciel. Council Member Young arrived at 8:46 a.m.
3. Items from the Audience – Martin Rothchild spoke on behalf of Tracy Community Connections Center requesting that the City Council agendaize an item related to the use/lease of the Firehouse/Support Services Building and yard at 301 W. Grant Line Road, for three years, beginning November 1, 2015.
4. Council Retreat – Wayne McAfee, Ph.D., Director of Organizational Development provided a brief background about his professional services and area of expertise as well as the purpose and expected outcome of the special meeting.

Dr. McAfee engaged Council and staff in team building discussions and exercises to develop skills and tools of a high performing team.

The Council took a recess at 10:58 a.m. The meeting was reconvened at 11:16 a.m.

Upon consensus by the City Council there were a few follow up items for staff: City Attorney is to develop a Code of Conduct/Guidelines of Decorum and the City Clerk to look into purchasing a visual timer to keep track of the five minutes allotted for the public comment period.

The Council took a recess at 2:22 p.m. Meeting was reconvened at 2:27 p.m.

In conclusion, a few closing remarks by Council and staff were made. Upon consensus the Council reaffirmed their commitment to the community and the organization and look forward to a future visioning process to develop a common vision as a Council.

5. Adjournment – The meeting adjourned at 2:51 p.m.

The above agenda was posted at the Tracy City Hall on July 23, 2015. The above are action minutes.

Mayor

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

September 1, 2015, 6:00 p.m.

City Hall, 333 Civic Center Plaza, Room 203, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 6:00 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. DISCUSS AND PROVIDE DIRECTION RELATIVE TO A PRELIMINARY BUDGET SOLUTIONS STRATEGY UPDATE PREPARED BY MANAGEMENT PARTNERS

Troy Brown, City Manager, provided a brief background of the 2008 structural deficit due to the collapse of the regional real estate market and the slowdown in the national and global economy. While the City has made significant progress since 2008, the City's long-range financial plan suggests an ongoing structural deficit into the future due to the planned expiration of voter-approved local funding.

Andy Belknap, Management Partners presented Council with preliminary observations and budget solution recommendations.

Council comments and questions followed.

Upon consensus it was agreed that the Council was in support of the City engaging in discussions with the County related to property tax allocation. It was also agreed to find ways to enhance services maintaining the same level of service delivery and that staff focus on revenue strategies.

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: 7:06 p.m.

The agenda was posted at City Hall on August 25, 2015.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

October 13, 2015, 5:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 5:00 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 – There were no speakers.
4. CLOSED SESSION
 - A. Personnel Matter (Gov. Code, § 54957)

Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Title: City Manager
 - B. Personnel Matter (Gov. Code, § 54957)

Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal

Position Title: City Attorney
5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Rickman motioned to recess the meeting to closed session at 5:01 p.m. Council Member Young 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 7:57 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: 7:58 p.m.

The agenda was posted at City Hall on October 8, 2015. The above are action minutes.

ATTEST:

Mayor

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

October 20, 2015, 6:20 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Pro Tem Rickman called the meeting to order at 6:50 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, and Mayor Pro Tem Rickman present. Mayor Maciel was absent.
3. ITEMS FROM THE AUDIENCE –Emmitt acknowledged and thanked staff for the cleanup that was done at Sycamore Avenue.
4. CLOSED SESSION

Labor Negotiations (Gov. Code, § 54957.6)

Employee Organizations:

Tracy Police Managers Association
Tracy Police Officers Association
Tracy Firefighters' Association
Teamsters Local 439, IBT
Tracy Mid-Managers' Bargaining Unit
Technical and Support Services Unit
Confidential Management Unit

City's designated representatives:

Troy Brown, City Manager
Stephanie Garrabrant-Sierra, Assistant City Manager
Midori Lichtwardt, Human Resources Manager
Dania Torres Wong, Esq.

Pending Litigation (Gov. Code, § 54956.9(e)(3))

- Claim of Pak & Pak Hospitality, Inc. and Midcentury Insurance Company

5. MOTION TO RECESS TO CLOSED SESSION – Council Member Vargas motioned to recess the meeting to closed session at 6:51 p.m. Council Member Young seconded the motion. Voice vote found all in favor; passed and so ordered. Mayor Maciel was absent.
7. RECONVENE TO OPEN SESSION – Mayor Pro Tem Rickman reconvened the meeting into open session at 7:11 p.m.
8. REPORT OF FINAL ACTION – There was no report of final action.
9. ADJOURNMENT – Council Member Mitracos motioned to adjourn. Council Member Young seconded the motion. Voice vote found all in favor; passed and so ordered. Mayor Maciel was absent. Time: 7:11 p.m.

The agenda was posted at City Hall on October 13, 2015. The above are action minutes.

ATTEST:

Mayor

City Clerk

AGENDA ITEM 1.B

REQUEST

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLANS AND POSITION CONTROL ROSTER BY APPROVING THE ESTABLISHMENT OF A NEW CLASS SPECIFICATION AND SALARY RANGE FOR ENVIRONMENTAL COMPLIANCE TECHNICIAN IN THE WATER RESOURCES SECTION OF THE UTILITIES DEPARTMENT

EXECUTIVE SUMMARY

This report recommends establishment of a new classification of Environmental Compliance Technician in the Water Resources Section of the Utilities Department. The new classification is needed as a result of an increased workload of water resources related duties and responsibilities, due to new and more stringent Federal and State regulations, as well as increased enforcement and reporting requirements for both water conservation and storm water quality.

DISCUSSION

Periodically, the Human Resources Department receives requests for classification studies and conducts classification reviews as necessary, to allow for changes that have occurred in areas such as job responsibilities, organizational structure, and/or service needs.

For a number of years, and especially since 2010, the Water Resources field has been in a constant state of change. In the last few years the City's Water Resources Analyst has been heavily impacted by new and more stringent State and Federal mandates and requirements for increased enforcement and plan checking for storm water and water efficiency; investigations into alleged violations; issues related to the drought; increased development in the area; and increased involvement in proposed legislation in Sacramento; and increased interaction with agencies such as the Water Board in Sacramento and the California Stormwater Quality Association.

The Utilities Department requested that Human Resources conduct a study based on their stated need for additional assistance to the Water Resources Analyst, who manages both the Stormwater Management and Water Efficiency Programs in the Water Resources Section.

Study Findings

The volume and severity of the mandated changes in the Water Resources field has increased the workload of the Water Resources Analyst to the extent that she is no longer able to adequately maintain coverage of all of the required duties. The Water Resources Analyst has no staff to assist with all of the increased data collection, phone calls, e-mails, routine inspections, compliance investigations, and service requests resulting from new enforcement mandates. As a result, she does not

have time to adequately cover all of the compliance, enforcement, and investigative functions that she is mandated by law to provide.

Additionally, in recent years as water resources issues have increased, she is the City liaison for outside water agency functions and committees, and fills a Board of Director position with the California Stormwater Quality Association.

A new Environmental Compliance Technician classification will provide support for the professional staff responsible for the mandated compliance with regulations requiring the monitoring of storm water discharges, protection of water quality and enforcement of water restrictions.

The new classification will perform a wide variety of technical office and field support for the City's Stormwater Management and Water Conservation Programs; perform routine inspections; collect water samples; investigate service requests, and disseminate public outreach materials.

Classification Salary Recommendations

Based on the results of the classification study, Human Resources recommends that the City's Classification and Compensation Plans and the Position Control Roster be amended to incorporate the following adjustments.

Establish Class Specification and Salary Range: Environmental Compliance Technician

Staff recommends that the monthly salary range for Environmental Compliance Technician be \$3,686.34-\$4,480.80 per month. This range is recommended based on internal pay structures in the City.

This is the same salary range as the Community Service Officer classification, a classification that performs both office and field work and includes enforcement of laws and regulations, dissemination of educational materials, and interaction with citizens during the performance of duties.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategy and Business Plan, and specifically implements the following goals and objectives:

Governance Strategy

Goal 1: Further develop an organization to attract, motivate, develop, and retain a high-quality, engaged, high-performing, and informed workforce.

Objective 1b: Affirm organizational values.

FISCAL IMPACT

There is not impact to the General Fund as funding for the Environmental Compliance Technician position has already been approved in the FY 1015/16 Budget.

RECOMMENDATION

That the City Council, by resolution authorize the Administrative Services Director to amend the City's Classification and Compensation Plan and the Budget Officer to amend the Position Control Roster by approving the establishment of a class specification and salary range for Environmental Compliance Technician

Prepared by Midori Lichtwardt, Human Resources Manager
Stephanie Reyna-Hiestand, Management Analyst

Reviewed by: V. Rachelle McQuiston, Administrative Services Director
Stephanie Garrabrant- Sierra, Assistant City Manager

Approved by Troy Brown, City Manager

Attachment: Environmental Compliance Technician job description

City of Tracy

ENVIRONMENTAL COMPLIANCE TECHNICIAN

Class Title: Environmental Compliance Technician	Class Code:
Department: Utilities Department	
Water Resources Section	Bargaining Unit: Teamsters
EEO Code:	Effective Date: November 3, 2015
FLSA Status: Non-Exempt	Revision History:

DESCRIPTION

The Environmental Compliance Technician performs a wide variety of technical office and field support for the City’s Stormwater Management and Water Conservation Programs; performs routine inspections; collects samples; investigates service requests; disseminates public outreach materials; prepares technical reports; and performs other related duties as assigned.

DISTINGUISHING CHARACTERISTICS

The Environmental Compliance Technician is located in the Water Resources Section of the Utilities Department. The position provides support for professional environmental staff responsible for compliance with Federal, State and Local regulatory mandates requiring monitoring of storm water discharges to waters of the United States, protection of water quality for beneficial uses and enforcement of water restrictions during declared water emergencies. Duties require good communication skills (both written and verbal), good judgment, problem identification and resolution, cooperative teamwork, and technical skills in inspection and enforcement of regulatory mandates. The Environmental Compliance Technician receives supervision from the Water Resources Analyst and does not exercise any supervision, but may at times provide technical information to other departments or agencies.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

Duties may include, but are not limited to, the following:

Maintains records of written, email and telephone correspondence regarding inquiries, complaints, violations received, and other communications pertaining to stormwater management and water conservation

Independently responds to Government Outreach service requests; photographs violations and inputs the findings with photos along with action taken. Follows-up to determine compliance and record findings

Inspects commercial, industrial, institutional and residential properties for compliance with water restrictions and discharges of stormwater to the City’s storm drain system

Inspects and enforces construction projects, as assigned, for compliance with Federal, State and local regulations

Reviews Post-Construction Maintenance Agreements and verifies self-monitoring; inspects as necessary to confirm

Assists in the development and dissemination of public outreach materials, including presentations and workshops on compliance with water restrictions and water quality; promotes public participation in program activities

Collects and records data related to investigations and findings

Collects samples and prepares chain of custody

Prepares summaries, narratives, spreadsheets, and charts for reports

Issues notice of corrective actions and testifies in court if required.

Routinely works with sensitive and confidential issues and/or materials; maintains the privacy and confidentiality of documents and topics pertaining to individuals or to sensitive program matters

Performs related duties as assigned

MINIMUM QUALIFICATIONS

Knowledge of:

Water conservation practices and procedures

Customer service and public contact

Regulatory mandates governing stormwater management and enforcement of water restrictions

Inspection and reporting practices and procedures

Modern office methods, practices and procedures including telephone etiquette

Blueprints and diagrams

Microsoft Word, Excel, PowerPoint, Publisher and Adobe Acrobat

Ability to:

Read, analyze and interpret regulations

Read and understand blueprints and diagrams

Establish and maintain effective working relationships with those contacted in the course of work

Develop instructional materials and present workshops

Prepare reports and maintain records; operate a computer.

Investigate and research information

Maintain the privacy and confidentiality of documents and topics pertaining to individuals or to sensitive program matters

Work with speed and accuracy

Communicate effectively, both orally and in writing

EDUCATION AND EXPERIENCE

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Experience equivalent to two years in areas including office and/or field work, inspections, information gathering, making reports, performing customer service/public contact, interpreting and applying policies, procedures, rules and regulations

Experience with public outreach materials/making presentations in any field highly desirable; performing inspections and/or doing sampling in any field highly desirable

Education:

Education equivalent to completion of one year of college that included college level courses or specialized training in environmental studies or a related field

LICENSES:

Possession of or ability to obtain and maintain an appropriate, valid California Driver License and must be insurable

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable

accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to walk, sit and talk or hear. The employee is occasionally required to use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to climb or balance; stoop, kneel, crouch, or crawl.

The employee must occasionally lift and/or move at least 50 pounds. Specific vision abilities required by this job include close vision, color vision, and the ability to adjust focus.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee works in outside weather conditions. The employee is occasionally exposed to wet and/or humid conditions, toxic or caustic chemicals.

The noise level in the work environment is usually quiet while in the office, or moderately loud when in the field.

RESOLUTION 2015 - _____

AUTHORIZING AMENDMENT OF THE CITY’S CLASSIFICATION AND COMPENSATION PLANS AND POSITION CONTROL ROSTER BY APPROVING THE ESTABLISHMENT OF A CLASSIFICATION SPECIFICATION AND SALARY RANGE FOR ENVIRONMENTAL COMPLIANCE TECHNICIAN

WHEREAS, The City has Classification and Compensation Plans, and a Position Control Roster, and

WHEREAS, The City has completed classification reviews to establish classification specifications.

NOW, THEREFORE, BE IT RESOLVED, as follows:

1. The City Council authorizes the Administrative Services Director to amend the City’s Classification Plan and that the City’s Classification and Compensation Plans and the Position Control Roster are as follows:

Establish Classification: Environmental Compliance Technician
Salary Range: \$3,686.34 - \$4,480.80 monthly

2. The Budget Officer is authorized to amend the Compensation Plan and the Position Control Roster to reflect the amendments set forth above.

The foregoing Resolution 2015 - _____ was adopted by the Tracy City Council on the 3rd day of November, 2015 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.C

REQUEST

ADOPT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY POLICE MANAGERS ASSOCIATION (TPMA)

EXECUTIVE SUMMARY

The Memorandum of Understanding between the City of Tracy and the Tracy Police Managers Association expired on June 30, 2015. Representatives from the City and the Tracy Police Managers Association (TPMA) met and conferred in good faith and negotiated a new Memorandum of Understanding. The attached agreement covers a period of 36 months (three years), effective on July 1, 2015, and expires June 30, 2018.

DISCUSSION

There are three key changes in the Tracy Police Managers Association (TPMA) Memorandum of Understanding. These include the following:

1. Salary Adjustments for all classifications:

July 2016	3% salary adjustment (COLA)
January 2018	2% salary adjustment (COLA)

2. One time payments:

January 2016	9% lump sum of base salary
July 2016	6% lump sum of base salary
July 2017	3% lump sum of base salary

3. Employees pay a portion of Employer's CalPERS obligation:

Effective as soon as administratively possible, each employee in this unit shall pay three percent (3%) towards the employer's share of CalPERS pension regardless of what CalPERS pension formula is applicable to the employee. In exchange, the City shall pay the corresponding salary increase that represents the three percent (3%) contribution. This is a cost neutral item for the City.

Other provisions of the contract were added or altered to better align this management unit with other management units in the City or to address compaction issues with respect to member promoting into the unit and losing incentive compensation.

- Public Employees' Pension Reform Act- Statutory Language updates: Public Employment pension laws changed effective January 1, 2013. For new employees entering the California Public Employees Retirement System (CalPERS) membership for the first time on or after January 1, 2013, those employees are subject to all the provisions of the law, including but limited to the two point seven percent at age 57 (2.7@ 57) retirement formula with a three year final compensation period. Additionally, these employees shall pay the full Employee Paid Member Contribution (EPMC) as required under the Public Employee Pension Reform Act which took effect in 2013.
- Deferred Compensation: The eligibility for members to receive City matching contribution of deferred compensation contributions will be altered to match other City management groups. The current language requires unit members to have completed one year at top step of their classification. The new language will state upon the earlier of one year after

the employee reaches the fifth and final step of the salary scale or five (5) years of City service.

- Education Incentive: Effective August 16, 2015 the City will increase the education incentive from two and one half percent (2.5%) to five percent (5%) percent for unit members who possess a BA or MA in Police Administration or related field.
- Police Officers Standard Training (POST) Certificate Incentive: Effective August 16, 2015 the City shall pay two and one half percent (2.5%) for unit members who possess a POST Supervisory or POST Management certificate, for a maximum total of five percent (5%).

*The inclusion of the Education and POST certificate incentives was intended to promote the attraction and retention of police management candidates/employees. Without these two elements, employees promoting into the management unit lose incentives that were available to them in the lower ranks. Losing the incentives at promotion increases the likelihood of compaction between the Police Sergeant and Police Lieutenant ranks.

- Affordable Care Act Reopener: In 2018 an element of the Affordable Care Act (ACA) will impose a penalty on plan sponsors for health care plan premiums that exceed a particular annual amount. This penalty is being referred to the “Cadillac Tax”. It is currently unknown if any of the City’s currently offered health care plans will be considered “Cadillac Plans” and therefore be subject to the penalty. The City and the Tracy Police Management Unit have agreed to reopener specific to this section of the MOU. The reopener would allow for further discussion to of potential plan changes that would avoid triggering the penalty.

STRATEGIC PLAN

This agenda item supports the City’s Governance Strategy and Business Plan, and specifically implements the following goals and objectives:

Governance Strategy

Goal 1: Further develop an organization to attract, motivate, develop, and retain a high-quality, engaged, high-performing, and informed workforce.

Objective 1b: Affirm organizational values.

FISCAL IMPACT

The fiscal impact for approving this MOU package is estimated at \$350,000 during the term of the contract with approximately \$90,000 in ongoing costs. For FY 2015/16, \$115,000 is being requested to be appropriate from fund balance to cover the cost of the MOU. Future year costs will be incorporated into the appropriate departmental operational budget.

RECOMMENDATION

That the City Council, by resolution, adopt the Memorandum of Understanding between the City of Tracy and the Tracy Police Managers Association (TPMA).

Prepared by: Midori Lichtwardt, Human Resources Manager

Reviewed by: V. Rachelle McQuiston, Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment: Tracy Police Managers Association (TPMA) Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF TRACY

AND

TRACY POLICE MANAGERS ASSOCIATION (TPMA)

July 1, 2015 Through June 30, 2018



Think Inside the Triangle™

Human Resources Department

333 Civic Center Plaza

Tracy, CA 95376

(209) 831-6150

www.ci.tracy.ca.us

**TRACY POLICE MANAGERS ASSOCIATION (TPMA)
July 1, 2015 through June 30, 2018**

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**TRACY POLICE MANAGERS ASSOCIATION (TPMA)
July 1, 2015 through June 30, 2018**

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**MEMORANDUM OF UNDERSTANDING
Between**

**CITY OF TRACY
and
TRACY POLICE MANAGERS ASSOCIATION**

Effective July 1, 2015 through June 30, 2018

Tracy Police Managers and representatives of the City of Tracy have met and conferred in good faith regarding wages, hours and his/her terms and conditions of employment of employees in the Tracy Police Managers Association, have freely exchanged information, opinions and proposals, and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding, hereinafter referred to as "The Agreement," is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Sections 3500, et. seq.) and has been jointly prepared by the parties.

This Agreement shall be presented to the City Council as the joint recommendations of the undersigned for salary and employee benefit adjustments for the period commencing July 1, 2015 and ending June 30, 2018.

Section 1. Recognition

1.1 Association Recognition

Tracy Police Managers Association, hereinafter referred to as the "Association," is recognized as the exclusive representative as provided in the City's Employer-Employee Relations resolution for all employees assigned to the classifications set forth below:

Police Lieutenant
Police Captain

Section 2. Compensation and Benefits

2.1 Salary Plan

The salary plan for each of the classes identified in Section 1 above, shall be effective July 1, 2015. These salaries are contained in attached Exhibit A.

Effective the beginning of the first full pay period of January 2016, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment of representing 9.0% of the employee's base salary on the salary

schedule at the time of the payment.

Effective the beginning of the first full pay period in July 2016, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment of representing 6.0% of the employee's base salary on the salary schedule at the time of the payment.

Effective the beginning of the first full pay period in July 2016, all bargaining unit employees shall receive a wage increase equal to 3.0%.

Effective the beginning of the first full pay period of July 2017, employees who are employed by the City at the time of ratification and adoption of this agreement shall receive a one-time lump sum payment of representing 3.0% of the employee's base salary on the salary schedule at the time of the payment.

Effective the beginning of the first full pay period of January 2018, all bargaining unit employees shall receive a wage increase equal to 2.0%.

2.2 Out-of-Class Pay

When an Association Member is appointed to fill a Senior Manager vacancy caused by paid leave of absence or separation, compensation will be paid at entry level of Senior Manager position or at ten (10) percent over the Association member's current class, whichever is greater, after ten consecutive calendar days, retroactive to the first day of such appointment. This out-of-class pay will be as provided in the Administrative Procedures.

2.3 Bilingual Pay

Employees shall be entitled to receive, in addition to their regular compensation, an additional two percent (2%) of base pay if they meet the following criteria:

- a. Certification from the City that the employee possesses the needed language skills; and
- b. Certification from the Police Chief that a particular assignment involves the need for the required skills on a regular basis.

Qualifying languages are Spanish, American Sign Language, and any other language designated by the Police Chief as beneficial to the City.

Section 3. Leave

3.1 Personnel Rules

Leave will be granted as provided for in the Personnel Rules. Leave may be used during the first six (6) months of service in accordance with City Policy and practice.

3.2 Holiday Pay

Each January and July, Lieutenants shall be credited with five and one-half (5 1/2) holidays for each six (6) months. Lieutenants shall be paid for holidays not used during the given six month period at the holiday pay rate. Requests to take a holiday off shall be subject to the Police Chief's approval.

The holiday pay rate shall be calculated as follows:

Annual Salary divided by 2,080 hours - hourly rate x 8 - Holiday In-Lieu Pay.

Holiday pay will be paid on separate checks on the regular pay day for the pay period that includes June 30 and December 15. Holiday hours are paid at the rate earned.

If a lieutenant is required to work on a holiday, the employee will receive an additional eight (8) hours of vacation leave in addition to straight time pay for hours worked.

3.3 Floating Holidays

Sixteen (16) hours of floating holiday leave per calendar year shall be granted to employees covered by this agreement. The maximum accrual is thirty-two (32) hours.

3.4 Management Leave

Association Members are exempt from FLSA. In recognition of the need to devote more than forty (40) hours per week to their duties, management leave in the amount of seventy-two (72) hours per calendar year shall be granted to Association Members.

3.5 Maximum Accrual of Leave

The maximum accrual for Association Member employees for vacation, management leave and floating holidays, shall be the total accrual for each type of leave, not to exceed a composite of twice the annual accrual rate.

3.6 City Sell Back of Accumulated Leave

Association Members are allowed an optional sell back of accumulated leave. They may, twice in a calendar year, sell back up to fifty percent (50%) of accumulated leave, but not more than the equivalent of one (1) year's earning rate for vacation, management leave and floating holidays. The hourly rate is the annual salary, divided by the annual hours of work.

3.7 Sick Leave

3.7.1 Accrual Rates

All Association Members shall be eligible to accrue sick leave at the following rates:

- One (1) working day for each month of service during the first 20 years of employment.

- Two (2) working days for each month of service beginning the 21st year of employment and this/hereafter.
- Unlimited accrual of sick leave is allowed.

3.8 Retirement Conversion of Sick Leave

Any employee covered by this Agreement may elect to convert all accrued sick leave to a medical insurance bank. The value of the medical insurance bank shall be determined by multiplying the number of accrued sick leave hours by the employee's hourly rate of pay. The retired employee and his/her dependents shall be entitled to continued group health insurance coverage, dental and/or vision coverage currently in effect, with premiums for such coverage being deducted from the medical insurance bank until said bank is exhausted. Thereafter, the employee and his/her dependents may continue to participate in the City's group health plan, at group rates, provided the City receives the employee's payment for the premium by the 10th of each month for the following month's coverage.

Terms of the Policy Agreement with the City's insurance carrier regarding coverage and eligibility shall apply to the employee and his/her dependents.

Section 4: Benefits

4.1 Employees hired by the City of Tracy on or before July, 1, 2010 and covered by this agreement shall receive CalPERS 3% at 50 and single highest year formula. Employees hired by the City of Tracy on or after July 2, 2010 and on or before December 31, 2012 who are covered by this agreement shall receive CalPERS 3% at 55 and single highest year formula. Employees hired by the City of Tracy on or after January 1, 2013 meeting the definition of "new member" under the Public Employees' Pension Reform Act shall be subject to all the provisions of that law, including but not limited to the two point seven percent at age 57 ([2.7% at 57](#)) retirement formula with a three year final compensation period.

Employees who receive the CalPERS retirement formula of 3% @ 50, or 3% @ 55 shall pay 9% of salary employee contribution towards employee statutory share of CalPERS retirement. Employees who receive the CalPERS retirement formula of [2.7% at 57](#) shall pay the employee contribution required by the Public Employees' Pension Reform Act, currently calculated at fifty percent (50%) of the normal cost.

Effective as soon as administratively possible in accordance with the California Government Code section 20516 contract amendment process, each employee in this unit shall pay 3% towards the employers share of CalPERS pension regardless of what CalPERS pension formula employee is applicable to employee. In exchange, the City shall pay the corresponding salary increase that represents the 3% contribution. The parties agree that should the parties negotiate elimination of the 3% contribution towards the employers share or such

contribution becomes contrary to any subsequent rules, regulations and/or law rendering the contribution null and void that the equivalent salary increase conferred in this section shall also cease and become null and void.

4.2 Deferred Compensation

Tracy Police Managers Association employees shall be eligible to participate in the City's Deferred Compensation Program and are eligible for a City matching contribution to the deferred compensation plan, based on service and performance. Each employee may receive a matching City contribution of up to two (2%) percent of his/her annual salary to his/her deferred compensation plan.

Each employee becomes eligible for the City matching contribution upon the earlier of (i) one (1) year after the employee reaches the fifth and final step of the salary scale or (ii) five (5) years of City service. The written performance evaluation and approval for the City's matching contribution shall be approved by both the Police Chief and the City Manager.

An employee promoting within the Association shall be entitled to retain the two (2%) percent matching contribution, provided the employee maintains acceptable performance in the new assignment.

4.3 Travel Expense Reimbursement

Travel expenses shall be reimbursed in accordance with the Travel Expense procedure detailed in the City's Administrative Policy and Procedure Manual

4.4 Health Insurance

4.4.1. Plans Provided

The City offers medical insurance through Kaiser and Health Net. During the term of this Agreement the City reserves the right to change medical providers and the parties shall meet and confer regarding any such change.

4.4.2 ACA "Cadillac Plan" Reopener

The parties agree to reopen this MOU within thirty (30) days of a written request by the City to meet and confer, through the entire bargaining and impasse process, over changes to the City's health plans that may be necessary to ensure that the City's medical plans do not trigger excise tax liability as "Cadillac plans" under the Affordable Care Act.

4.5. New Employees

New employees hired to the City of Tracy after September 1, 2006 (except those employees within the TPOA bargaining unit that promoted to Lieutenant or Captain and who were hired prior to September 1, 2006) shall be required to select a medical plan for at least the

employee and are not eligible for cash benefits except as may be required by provisions of the IRS regulations covering Flexible Benefits plans.

4.6 Dental

The City shall offer dental insurance coverage for full-time employees and their eligible dependents through the existing providers.

4.7 Vision Care

The City shall offer vision care benefits for full-time employees and their eligible dependents through the existing providers.

4.8 Life Insurance

The City shall provide life insurance coverage equal to the nearest thousand dollars of annual salary, up to a maximum of \$50,000. This coverage will be mandatory for all TPMA employees. The City will fully pay the premium by adding the actual cost of the premium to the amount provided in the Cafeteria Plan each month.

4.9 Cafeteria Plan

4.9.1 City Contribution

The City shall maintain an account for each full-time employee in regular or probationary status within the City's cafeteria plan. The City shall make monthly payments of no more than the annual maximum amount for the employee's benefit level, either family, employee plus one or employee only to each employee's account.

4.9.2 Cash Out Options

For employees hired on or before June 1, 2006, the maximum cash payment shall be set at Nine Hundred and Eighty One Dollars and Fifty cents (\$981.50) per month for employees who do not elect a medical, dental, and/or vision plan. For new employees hired to the City of Tracy after June 1, 2006, each employee shall be required to select a medical plan and the cash payment shall be limited to the minimum required by law (if any).

4.9.3. Future Contributions

If premiums increase in the plans to which City employees subscribe effective January 1, 2013, and each January thereafter during the term of this Agreement, the City will increase the City's monthly contribution for employees by 75% of the average of the dollar increase of the family HMO plan premiums for employees electing family coverage.

For employees who elect employee only or employee plus one coverage, any City increase to the employee's account shall be limited to the amount necessary to fully

cover the plan selected or up to a maximum of the dollar amount increase allocated to employees who elect family coverage. There shall be no increase for employees who do not elect health insurance coverage.

In the event the above listed amounts are insufficient to fully pay the premiums required of employees enrolled in any one of the medical insurance plans, the City shall make a payroll deduction from the employee's pay to cover the difference in cost.

4.9.4 Approved Account Uses

The monies in an employee's account shall be used for one or more of the following purposes only: (1) payment of premium charges for the medical (insurance program in which the employee is enrolled), (2) payment of premium charges for the dental insurance program in which the employee is enrolled, (3) payment of premium charges for the vision insurance program in which the employee is enrolled. The City also independently funds life insurance premiums through each employee's account.

Each employee shall provide the Personnel Officer or Human Resources designee in writing on a form provided and at times designated by the City each year all information necessary to administer the Cafeteria Plan during the twelve month period beginning the first day of each plan benefit year. Thereafter, no changes to designations so made will be allowed until the following open enrollment period without a qualifying event.

4.9.5 Notification of Changes in Number of Dependents

Each employee shall be responsible for providing immediate written notification to the Personnel Officer or Human Resources designee of any change to the number of his/her dependents which affects the amount of the City payment on behalf of the employee. Changes in Cafeteria Plan payments required because of a change in an employee's number of dependents shall take effect at the start of the first pay period in the month next following the month in which advice from the employee is received by the Personnel Officer or Human Resource designee. No retroactive payments shall be allowed.

4.9.6 Flexible Benefits Plan (IRS Section 125)

The City has implemented an Internal Revenue Code Section 125 Plan to redirect employees' pre-selected amount of base salary to pay employee paid insurance premiums and other approved expenses. The City will not treat these monies as compensation subject to income tax withholding unless the Internal Revenue Service or the Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liabilities of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

4.10 Long Term Disability

The City of Tracy will provide PORAC Long Term Disability at \$19.50 per month to all members of the Tracy Police Managers Association. These employees must be actively working and members of PORAC. Any additional costs will be deducted from the employee's checks.

4.11 Annual Physical Exam

An annual physical (medical) examination shall be provided by the City, if desired and/or requested by the employee.

4.12 Education Expense Reimbursement

Educational expenses shall be paid, but are limited to the cost of University of California's fees, books, and tuition up to a maximum of \$1800 per year. A grade of "C" or better is required for reimbursement. The Police Chief must approve enrollment.. Employees covered by this Agreement, enrolled in an accelerated degree program, shall be eligible for accelerated reimbursement subject to Department approval.

4.13 Uniform Allowance

The City shall provide Police Captains and Lieutenants an annual uniform allowance in the amount of \$1000 per year. The uniform allowance shall be paid on the regular payday for the pay period that includes June 30th, by a separate check.

4.14 Education Incentive

Effective August 16, 2015, the City shall pay a five percent (5%) incentive on the existing salary step and range of employees who possess a BA degree or a MA degree in Police Administration or related field.

Effective August 16, 2015, the City shall pay a two and one half percent (2-1/2%) incentive on the existing salary step and range of employees who possess a POST Supervisory Certificate.

Effective August 16, 2015, the City shall pay a two and one half percent (2-1/2%) incentive on the existing salary step and range of employees who possess a POST Management Certificate.

4.15 Command Duty Officer

It is understood that all employees covered by this agreement are responsible to serve as Command Officer as required.

Section 5. Conditions of Service

5.1 Service with the City of Tracy shall be regulated by the Personnel Rules and Regulations for the positions covered by this Agreement.

5.2 The Personnel Rules and Regulations are generally implemented through the City's Administrative Policies & Procedures and Departmental Guidelines.

- 5.3 The governing documents for the resolution of any disputes over conditions of service are the Personnel Rules and Regulations.
- 5.4 Association Members have the right to appeal conditions of service through the grievance procedure contained in the Personnel Rules and Regulations.
- 5.5 In the event an employee receives an overpayment by the City, the employee shall reimburse the City for the total overpayment and the City may obtain reimbursement by payroll deduction(s). Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the City Administrative Services Director

APPROVED AND ACCEPTED:

**TRACY POLICE MANAGERS
ASSOCIATION**

By _____
Mark Duxbury, President, TPMA

By _____
Alex Neicu, TPMA

Dated _____

CITY OF TRACY

By _____
Troy Brown, City Manager

By _____
Midori Lichtwardt, Human Resources Manager

By _____
Burke Dunphy,
Renne Sloan Holtzman & Sakai

Dated _____

EXHIBIT A - Tracy Police Managers Association Salary Schedule

TPMA	SALARY SCHEDULES					
Current Salary Schedule in Effect on 7/1/15						
Class Code	Position Title		Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
62101	Police Lieutenant	A	4,444.67	8,889.34	106,672.08	51.2847
		B	4,666.90	9,333.80	112,005.60	53.8488
		C	4,900.25	9,800.50	117,606.00	56.5413
		D	5,145.26	10,290.52	123,486.24	59.3684
		E	5,402.52	10,805.04	129,660.48	62.3368
62102	Police Captain	A	4,890.97	9,781.94	117,383.28	56.4343
		B	5,135.52	10,271.04	123,252.48	59.2560
		C	5,392.30	10,784.60	129,415.20	62.2188
		D	5,661.92	11,323.84	135,886.08	65.3298
		E	5,945.02	11,890.04	142,680.48	68.5964
Effective upon CalPers Contract Amendmen 2.27% COLA **Estimate based on MOU Section 4.1						
Class Code	Position Title		Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
62101	Police Lieutenant	A	4,545.56	9,091.12	109,093.44	52.4488
		B	4,772.84	9,545.68	114,548.16	55.0712
		C	5,011.49	10,022.98	120,275.76	57.8249
		D	5,262.06	10,524.12	126,289.44	60.7161
		E	5,525.16	11,050.32	132,603.84	63.7518
62102	Police Captain	A	5,002.00	10,004.00	120,048.00	57.7154
		B	5,252.10	10,504.20	126,050.40	60.6012
		C	5,514.71	11,029.42	132,353.04	63.6313
		D	5,790.45	11,580.90	138,970.80	66.8129
		E	6,079.97	12,159.94	145,919.28	70.1535
Effective 7/1/16 3% COLA						
Class Code	Position Title		Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
62101	Police Lieutenant	A	4,681.93	9,363.86	112,366.32	54.0223
		B	4,916.03	9,832.06	117,984.72	56.7234
		C	5,161.83	10,323.66	123,883.92	59.5596
		D	5,419.92	10,839.84	130,078.08	62.5375
		E	5,690.91	11,381.82	136,581.84	65.6643
62102	Police Captain	A	5,152.06	10,304.12	123,649.44	59.4468
		B	5,409.66	10,819.32	129,831.84	62.4192
		C	5,680.15	11,360.30	136,323.60	65.5402
		D	5,964.16	11,928.32	143,139.84	68.8172
		E	6,262.37	12,524.74	150,296.88	72.2581
Effective 1/1/18 2% COLA						
Class Code	Position Title		Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
62101	Police Lieutenant	A	4,775.57	9,551.14	114,613.68	55.1027
		B	5,014.35	10,028.70	120,344.40	57.8579
		C	5,265.07	10,530.14	126,361.68	60.7508
		D	5,528.32	11,056.64	132,679.68	63.7883
		E	5,804.73	11,609.46	139,313.52	66.9777
62102	Police Captain	A	5,255.10	10,510.20	126,122.40	60.6358
		B	5,517.85	11,035.70	132,428.40	63.6675
		C	5,793.75	11,587.50	139,050.00	66.8510
		D	6,083.44	12,166.88	146,002.56	70.1935
		E	6,387.62	12,775.24	153,302.88	73.7033

RESOLUTION 2015 - _____

APPROVING A NEW MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF TRACY AND THE TRACY POLICE MANAGERS ASSOCIATION (TPMA)

WHEREAS, The Memorandum of Understanding (MOU) between the City of Tracy and the Tracy Police Managers Association (TPMA) expired on June 30, 2015, and

WHEREAS, Representatives from the City and the Tracy Police Managers Association (TPMA) have met and conferred in good faith to negotiate a new MOU, and

WHEREAS, Agreement has been reached on a new MOU covering the period of July 1, 2015 through June 30, 2015, and

WHEREAS, All parties agreed to the newly negotiated Memorandums of Understanding covering the period of July 1, 2015 to June 30, 2018

NOW, THEREFORE, BE IT RESOLVED, That City Council approves a new Memorandum of Understanding between the City of Tracy and the Tracy Police Managers Association.

The foregoing Resolution 2015 - _____ was adopted by the Tracy City Council on the 3rd day of November, 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

**ACCEPT TRAVEL REPORT FOR CITY MANAGER TROY BROWN'S ATTENDANCE
AT THE INTERNATIONAL CITY/COUNTY MANAGEMENT ASSOCIATION (ICMA)
ANNUAL CONFERENCE IN SEATTLE, WA**

EXECUTIVE SUMMARY

This agenda item involves acceptance of a travel report.

DISCUSSION

I recently attended the 2015 ICMA 101st Annual Conference in Seattle, Washington from September 25 – September 30, 2015, and am reporting on the conference per Section K of the Council adopted Policy on Travel for Elected and Appointed Officials.

As previously mentioned, in September 2014, upon completion of my term on ICMA's Executive Board, I was selected to serve as a Co-Chair of a Task Force on Strengthening Inclusiveness in the Profession for ICMA. The mission of the task force was to identify barriers and development solutions for enhancing diversity among ICMA and local government officials. The task force was comprised of approximately 30 local government administrators, staffers and public administration students from across the country. The task force presented recommendations to the ICMA Executive Board at the Seattle conference.

During the conference, there were noteworthy sessions on Economic Development, one of which was hosted by Buxton, Inc. who provides analytical data and strategies to identify consumer markets for targeted retail sectors. Buxton has a strong California presence and I will reach out to them for a discussion around our efforts as it relates to family-service oriented business attraction efforts.

Other sessions focused on community/civic engagement, as well as leadership in the City Management profession. There was a provocative session on development of social media strategies to enhance civic engagement. In this session, we heard discussions on engaging residents in various social media platforms and the perils of the proliferation of social media systems in service delivery.

Overall, the conference was very well attended by City Managers from across the globe and provided a good forum to stay up-to-date on trends and issues facing local government administrators.

FISCAL IMPACT

The travel expenses were included in this year's budget.

RECOMMENDATION

That Council accepts the travel report.

AGENDA ITEM 1.E

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1201 AN ORDINANCE OF THE CITY OF TRACY AMENDING TRACY MUNICIPAL CODE SECTIONS 10.12.065 RELATING TO COMPLIANCE WITH REGIONAL HOUSING NEEDS ALLOCATIONS WITHIN THE RESIDENTIAL GROWTH MANAGEMENT PLAN

EXECUTIVE SUMMARY

Ordinance 1201 was introduced at the Council meeting held on October 20, 2015. Ordinance 1201 is before Council for adoption.

DISCUSSION

Ordinance 1201 was introduced at a regular City Council meeting held on October 20, 2015, to amend Sections 10.12.065, and TMC 10.12.090(b) of the Tracy Municipal Code. Ordinance 1201 will allow Residential Housing Needs Allocation-related building permit issuance to be issued once either the maximum number of Residential Growth Allotments (RGAs) or building permits are allocated/issued under the regulations of the Growth Management Ordinance (GMO) each year. This should more completely satisfy the State Department of Housing and Community Development's requirements.

Additionally, Ordinance 1201 will correct an incorrect code section referenced within the Development Agreement section.

Ordinance 1201 is before Council for adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1201.

Prepared by: Adrienne Richardson, Deputy City Clerk

Reviewed by: Nora Pimentel, City Clerk
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A – Ordinance 1201

ORDINANCE 1201

AN ORDINANCE OF THE CITY OF TRACY AMENDING TRACY MUNICIPAL CODE SECTIONS 10.12.065, COMPLIANCE WITH REGIONAL HOUSING NEEDS ASSESSMENT, AND 10.12.090, ALLOCATIONS; DEVELOPMENT AGREEMENTS, WITHIN THE GROWTH MANAGEMENT ORDINANCE

WHEREAS, the Voters approved Measure A in November 2000 to limit the number of "residential growth allotments" and building permits issued in the City in any calendar year, and

WHEREAS, this system of residential growth allotments is set forth in Tracy Municipal Code Chapter 10.12, Residential Growth Management Plan, and

WHEREAS, the Residential Growth Management Plan must be integrated and reconciled with the requirements of the City's Housing Element, mandated under Government Code sections 65583 - 65585, including the Regional Housing Needs Assessment (RHNA) showing the number of housing units the City must zone for in any Housing Element cycle, and

WHEREAS, The City Council adopted the Housing Element for the 2009-2014 cycle on May 15, 2012. The state Department of Housing and Community Development certified that Housing Element on July 26, 2012 on the condition that the City amend the Growth Management Ordinance to establish a regional housing need allocation exemption as described in Housing Element Program 13: Growth Management Ordinance (GMO), and

WHEREAS, The City Council adopted an ordinance on March 19, 2013 amending the Growth Management Ordinance to provide an exemption for the regional housing need allocation, and staff now realizes that some clarification would be helpful, and

WHEREAS, On October 6, 2015 the City Council held a public hearing to consider the proposed ordinance amendments to further clarify the ability to issue building permits to satisfy the Regional Housing Needs Allocation,

Now, therefore, the City Council of the City of Tracy does ordain as follows:

SECTION 1: Section 10.12.065, Compliance with the regional housing needs assessment, of Chapter 10.12 (Residential Growth Management Plan) of the Tracy Municipal Code, is amended to read as follows:

"10.12.065 - Compliance with the regional housing needs assessment.

- (a) Authority. This section is enacted under the authority of and is intended to comply with and implement Government Code section 65584.
- (b) RHNA. The State Department of Housing and Community Development requires that each city adopt a housing element as part of its general plan. That Department also establishes a "Regional Housing Needs Allocation" (RHNA) for all cities, setting forth the target number of dwelling units to be constructed during any planning period. (The "planning period" is defined in each housing element. The planning period in effect at the time this code amendment was adopted is July 1, 2009

through December 31, 2015.) The RHNA housing unit allocations are established by income categories: very low-, low-, moderate, and above-moderate-income.

- (c) Requirement. Notwithstanding other provisions of this chapter, in any calendar year, once RGAs have been allocated or building permits have been issued for the number of residential units permitted by this chapter, the City shall continue to issue building permits for residential dwelling units if they are necessary to achieve the RHNA goals in a particular income category (during each planning period). The number of building permits may not exceed the RHNA goals in each income category. Any building permits issued in accordance with this provision shall not require an RGA.
- (d) Purpose of calculating averages. For the sole purpose of calculating the RGA and building permit averages contained in sections 10.12.100 and 10.12.110, any building permits issued under the authority of this section shall be treated as if an RGA and a building permit were issued under the GMO.”

SECTION 2: Section 10.12.090, Allocations; Development Agreements, of Chapter 10.12 (Residential Growth Management Plan) of the Tracy Municipal Code is amended to read as follows:

“10.12.090 - Allocations; development agreements.

- (a) RGAs shall be allocated in accordance with this chapter and the GMO guidelines. Notice shall be given to each applicant of the availability of the annual report.
- (b) At a minimum, the terms of any development agreement providing for an allocation of RGAs, shall identify: (1) the timing of the applicant's obligation to comply with the requirements set forth in GMO; (2) the timing and amount of RGA allocations (not to exceed a maximum of 225 RGAs per calendar year, as set forth in GMO subsection 10.12.100(c)); and (3) remedies for default, including the time after which RGAs shall be invalid as described in the GMO guidelines.
- (c) Unless specifically modified by a development agreement identified in subsection 10.12.090(b), above, each applicant shall comply with all requirements set forth in the GMO and the GMO guidelines. A development agreement may only modify the requirements of the GMO related to: (1) the timing requirements for applications for RGAs; and (2) the time after which RGAs will be deemed invalid (as identified in the GMO guidelines).
- (d) The number of RGA allocations per application shall not exceed: (1) the number requested in the application; and (2) the number which can be reasonably anticipated to be used by the applicant based on development project approvals (such as general plan, specific plan, tentative map, final map or development plan). The Board has the discretion to award all of the RGAs that are available in that allocation cycle, or fewer, based on the applications received and the criteria as established in the GMO guidelines.”

SECTION 3. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4. This Ordinance shall be published once in the Tri Valley Herald, a newspaper of general circulation, within 15 days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance 1201 was introduced at a regular meeting of the Tracy City Council on the 20th day of October, 2015, and finally adopted on the 3rd day of November, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CERK

AGENDA ITEM 3

REQUEST

APPROVAL OF RESOLUTIONS (1) INITIATING PROCEEDINGS FOR THE ANNEXATION OF TERRITORY (“TRACY GATEWAY CROSSINGS TRACY PROJECT”) TO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT (TCLMD); AND THE LEVY AND COLLECTION OF ANNUAL ASSESSMENTS RELATED THERETO; (2) DECLARING THE CITY’S INTENTION TO ANNEX TERRITORY TO THE TCLMD AND TO LEVY AND COLLECT ANNUAL ASSESSMENTS RELATED THERETO COMMENCING FISCAL YEAR 2016/2017; CALLING FOR A PROPERTY OWNER PROTEST PROCEEDING; AND ESTABLISHING AN ASSESSMENT RANGE FORMULA FOR SAID ANNEXATION TERRITORY

EXECUTIVE SUMMARY

It is the desire of the City and the Tracy Gateway Crossings Project to annex the planned project, and associated public right-of-way, into the Tracy Consolidated Landscape Maintenance District (TCLMD). Because of the unique requirements for this area, the area could not be incorporated into an existing zone. Therefore, staff recommends that Council approve the creation of a new zone, TCLMD Zone 42, through the annexation process as described in this report.

DISCUSSION

On August 27, 2014, the City of Tracy Planning Commission approved the Development Review for the Tracy Gateway Crossings Project located on Grant line Road (see Exhibit “A”). As required by the Development Review “Conditions of Approval”, the property owner is required to form a landscape maintenance district and/or annex into TCLMD to assure the maintenance of public landscape improvements installed in the public right-of-way.

SR95 Ventures, LLC. (Applicant) has requested that the City annex their development into TCLMD pursuant to the “Landscaping and Lighting Act of 1972” being Part 2 of Division 15, of the Streets and Highway Code of the State of California. In consideration of the approval of the annexation by the City, the Applicant has proposed the following:

- a. To install the improvements including, but not limited to, all appurtenances as may be reasonably required by the City;
- b. To bear all costs to complete the construction or other installation of the improvements on those portions of the property to the reasonable satisfaction of the City;
- c. To consent to the annexation of territory into the District;

- d. To consent to, and cast a ballot authorizing the levy of, assessments against the property in an amount reasonably determined by the City to cover all costs and expenses incurred for the continued maintenance, and operation, of the improvements; and
- e. To pay the assessments levied against the property for the first fiscal year in which they are levied prior to the submittal to the County of any associated final subdivision map.

The City Council, through previous resolutions, has established the TCLMD and has levied annual assessments pursuant to the provisions of the "Landscaping and Lighting Act of 1972" to pay the cost and expenses related to the special benefits received from the maintenance and operation of the landscape improvements connected with development. Annexation of the Tracy Gateway Crossings Project (designated as "Annexation 2015-1" of the TCLMD) will create a new zone: "Zone 42."

While it is preferred to add territory to existing zones rather than create new zones in the TCLMD, creating Zone 42 will allow the territory to enter into a residential District, compared to the adjacent Zone 12. Zone 12 is comprised of commercial properties that include median landscaping, while the proposed Zone 42 will consist of multi-family residential properties that will include parkway landscaping and median landscaping.

Legal procedures dictate that the following occur in order to complete an annexation into a landscape maintenance district (LMD):

1. By resolution, the City initiates proceedings for the annexation of territory and for the levy and collection of annual assessments.
 - a. A product of this action will be an Engineer's Report which will have been prepared by an Assessment Engineer and will identify the improvements and services connected with the project, an estimate of the costs financed by the levy of assessments, the properties benefiting from the improvements and the method of apportioning the assessments connected with the annexation.
2. By resolution, a City:
 - a. Declares its intention to annex territory to the LMD, to levy and collect an annual assessment, and to conduct a public hearing (to be set for December 1, 2015, during the regularly scheduled City Council meeting) regarding the annexation to the LMD and the levy of assessments;
 - b. Provides *preliminary* approval of the Engineer's Report;

- c. Calls for a property owner protest proceeding and authorizes the City Clerk to prepare and mail a notice of the public hearing, and in the same or separate mailing, mail property owner protest ballots to the property owner regarding the proposed levy of assessments and the assessment range formula.
3. If the City approves the aforementioned resolutions, staff will publicly notice the Resolution of Intention at least ten days prior to the public hearing, which is tentatively scheduled for December 1, 2015.¹

[Proposed for December 1, 2015 City Council Meeting]

4. City conducts a public hearing regarding the annexation to the LMD and the levy of assessments;
5. By resolution:
 - a. Declares results of the protest balloting proceedings and establishes the maximum assessment;
 - b. Provides final approval of Engineer's Report;
 - c. Orders the levy and collection of assessments.

If the City Council approves the resolutions, and the result of the ballot proceedings for the Tracy Gateway Crossings Project reflects a vote in favor of the annexation and assessment levy, the City's Assessment Engineer, Willdan Financial Services, will cause the newly annexed territory to be added to the County Tax Roll.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no impact to the General Fund. The property owner will bear the costs of annexation proceedings and future assessments which are currently proposed to be \$56.96 per year per EDU (Tracy Gateway Crossing Project has 441 EDUs).

¹ While provisions of the California Constitution Article XIID require that the City conduct a public hearing not less than 45 days after mailing a notice of the proposed assessment to record owner, California Civil Code, Section 3513, allows anyone to waive the 45-day period before the conduction of the public hearing. The Tracy Gateway Crossing Project has submitted to the City a petition waiving the 45-day requirement, allowing a public hearing to occur on December 1, 2015.

RECOMMENDATION

It is recommended that the City Council adopt two resolutions: (1) Initiating Proceedings for the Annexation of Territory (Tracy Gateway Crossings Project) to the TCLMD; and the Levy and Collection of Annual Assessments Related Thereto; (2) Declaring the City's Intention to Annex Territory to the TCLMD; and to Levy and Collect Annual Assessments Related Thereto Commencing FY 2016/2017; and Calling for a Property Owner Protest Proceeding, to Submit to the Qualified Property Owners the Question of Levying such Assessment and Establishing an Assessment Range Formula for said Annexation Territory.

Prepared by: Brian MacDonald, Management Analyst II, Public Works

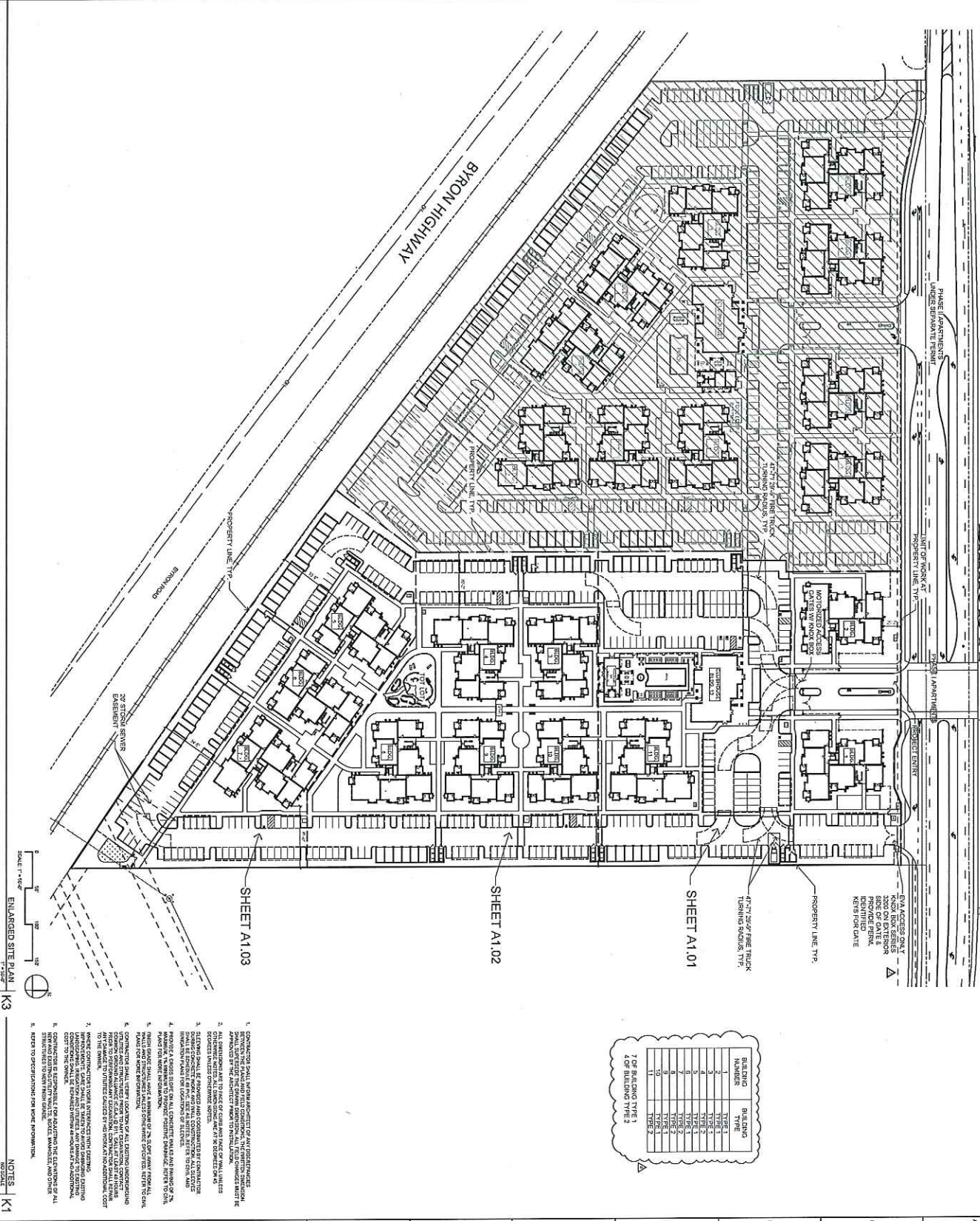
Reviewed by: Don Scholl, Interim Public Works Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Exhibit A: Project Site Plan
Exhibit B: Draft Engineer's Report

Exhibit A



ENLARGED SITE PLAN 1"=40'

NOTES K1

BUILDING NUMBER	BUILDING TYPE
1	TYPE 1
2	TYPE 1
3	TYPE 1
4	TYPE 1
5	TYPE 1
6	TYPE 2
7	TYPE 2
8	TYPE 2
9	TYPE 2
10	TYPE 2
11	TYPE 2

1 OF BUILDING TYPE 1
4 OF BUILDING TYPE 2

- CONTRACTOR SHALL PERFORM INSPECTION OF ALL PERFORMANCE CRITICAL DETAILS TO VERIFY THE DESIGN INTENT. ALL INSPECTIONS SHALL BE CONDUCTED WITH THE ARCHITECT PRESENT. ALL INSPECTIONS SHALL BE CONDUCTED WITHIN THE SPECIFIED TIME FRAME AND SHALL BE CONDUCTED IN ACCORDANCE WITH THE PROJECT SCHEDULE.
- ALL DIMENSIONS ARE TO FACE OF CURB AND FACE OF WALL UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE NOTED.
- STRENGTH SHALL BE PROVIDED AND COMPLETED BY CONTRACTOR. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.
- CONTRACTOR SHALL VERIFY LOCATION OF ALL EXISTING UTILITIES AND SERVICES PRIOR TO CONSTRUCTION. CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM ALL APPLICABLE AGENCIES AND AUTHORITIES.
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LPAS

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 916.442.0222 | lpa@sdp.com | Architecture • Design

TRACY APARTMENTS
GRANT LINE ROAD
 PHASE I
 GRANT LINE ROAD
 TRACY, CA

ES COMMENTS: 06/20/23
 ES COMMENTS: 06/20/23



ARCHITECT'S STAMP

APPROVAL

CONSULTANT

OVERALL SITE PLAN
 PROJECT NO. 1138-0001
 DATE: 2019.06.23
 SHEET NO. **A1.00**
 BLDG. DEPT. RESPONSIBILITY



Think Inside the Triangle™

City of Tracy

**Tracy Consolidated Landscape
Maintenance District**

Engineer's Report

ANNEXATION OF TERRITORY;
AND
ESTABLISHMENT OF ZONE No. 42

FISCAL YEAR 2016/2017

Intent Meeting: November 3, 2015
Public Hearing: December 1, 2015

27368 Via Industria
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Temecula, CA 92590
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F 951.587.3510

www.willdan.com/financial



Engineer's Report Affidavit

Tracy Consolidated Landscape Maintenance District

**Annexation of Territory; and
Establishment of Zone No. 42 for
Fiscal Year 2016/2017**

**City of Tracy
San Joaquin County, State of California**

As part of the Resolution of Intention packet presented for the consideration of the Tracy City Council, this Report and the enclosed budgets, diagrams, and descriptions outline the proposed annexation of territory into the Tracy Consolidated Landscape Maintenance District and the resulting establishment of Zone No. 42 and assessments related thereto commencing in Fiscal Year 2016/2017. 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 annexation of territory and subject to the proposed assessments. The undersigned respectfully submits the enclosed Report as directed by the City Council of the City of Tracy.

Dated this _____ day of _____, 2015.

Willdan Financial Services
Assessment Engineer
On Behalf of the City of Tracy

By: _____
Jim McGuire
Principal Consultant, Project Manager

By: _____
Richard Kopecky
R. C. E. # 16742

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INTRODUCTION

Pursuant to the provisions of the *Landscape and Lighting Act of 1972, being Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22500* (“1972 Act”), and in compliance with the substantive and procedural requirements of the *California State Constitution Article XIII D* (“California Constitution”), the City Council of the City of Tracy, County of San Joaquin, State of California (“City”), in connection with the proceedings required for the annexation of territory to the City’s existing Tracy Consolidated Landscape Maintenance District (“District”) and the establishment of the special benefit assessments for the annexation territory.

The Tracy City Council being the legislative body for the District, may pursuant to the 1972 Act, annex territory and levy annual assessments for the maintenance, operation, and administration of improvements authorized under the 1972 Act. Section 22608 of the 1972 Act states in part “In annexation proceedings, the resolutions, report, notices of hearing, and right of majority protest shall be limited to the territory proposed to be annexed...”.

In addition, the 1972 Act further allows various areas to be annexed into an existing district zone of benefit (“Zone”), when the territory in the annexation receives substantially the same proportional special benefits from the improvements provided as other properties in the Zone or established as a separate Zone if the proportional special benefits from the improvements provided are different. The costs associated with the installation, maintenance, and servicing of the improvements may be assessed to those properties, which are benefited by the installation, maintenance, and servicing of such improvements.

By resolution, the City Council has ordered the preparation of this Engineer’s Report (“Report”) in connection with the proceedings for the annexation of approximately twenty (20.040) acres of territory south of West Grant Line Road, north of Byron Road, and west of South Lammers Road into the District for Fiscal Year 2016/2017 and referred to hereafter as the:

“Annexation Territory”

This Annexation Territory consists of all lots and parcels of land within the planned multiple residential unit development commonly referred to as the Tracy Gateway Crossing which is proposed to be developed in two phases with a total of 441 units (231 units in Phase 1 and 210 units in Phase 2). As part of this multiple residential unit development new landscape improvements within the public right-of-ways are being installed and the special benefit costs associated with the ongoing annual maintenance of these landscape improvements are to be levied and collected through the District. Therefore, the Annexation Territory is also being established as a new local landscape Zone within the District for Fiscal Year 2016/2017 to be designated as:

“Zone No. 42”

The parcels within the Annexation Territory, being Zone No. 42 of the District, will benefit from the ongoing maintenance, operation, and servicing of the landscape improvements within the public right-of-ways to be installed in connection with the development of the Tracy Gateway Crossing, as well as the development’s proportional special benefit from the Streetscape Revitalization & Rehabilitation and Arterial Street Tree Maintenance programs that have been implemented within the District for the long-term repairs, rehabilitation and replacement of such improvements. The District is currently comprised of thirty-nine (39) special benefit zones including Zones 01 through 37, 40 and 41. (Zone 38 and Zone 39 designations have

been previously reserved for budgeting purposes to track special funds associated with the District and do not represent any specific parcels or Zone boundaries).

This Report has been prepared pursuant to the provisions of the California Constitution and in accordance with Article 4 (commencing with Section 22565) of Chapter 1 of the 1972 Act and shall serve as the detailed engineer's report regarding the annexation of this designated Annexation Territory (Tracy Gateway Crossing) into the Tracy Consolidated Landscape Maintenance District and the proposed new assessments to be levied on the properties therein for Fiscal Year 2016/2017 as part of Zone No. 42 for the proportional special benefits the properties will receive from the ongoing maintenance and servicing of the landscaping improvements associated with and/or resulting from the development of properties within the Annexation Territory.

The City Council proposes to annex the Annexation Territory, including each lot, parcel, and subdivision of land therein into the District as Zone No. 42, and to levy and collect annual special benefit assessments on the County tax rolls commencing in Fiscal Year 2016/2017 to provide ongoing funding for the direct expenditures, incidental expenses, and fund balances that are necessary to service and maintain the landscape improvements associated with and resulting from the development of property within the Annexation Territory. The improvements described in this Report are based on the improvement plans and specifications developed in connection with the development plans for the Tracy Gateway Crossing and by reference these plans and specifications are made part of this Report. The estimated budget provided herein is based on these improvement plans and the City's estimate of services to be provided. The resulting annual assessments are 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 word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessor's Parcel Number (APN) by the San Joaquin County Assessor's Office. The San Joaquin County Auditor/Controller uses Assessor's Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

As part of this annexation proceeding, the City shall conduct a Property Owner Protest Ballot proceeding for the proposed levy of a new assessment pursuant to the provisions of the *California Constitution, Article XIII D Section 4*. In conjunction with this ballot proceeding, the City Council will conduct a noticed public hearing to consider public testimonies, comments and written protests regarding the annexation, and the levy of the new assessments described herein. With respect to these proceedings, the sole property owner of record for the Annexation Territory has submitted a petition to the City Council for the annexation of this development to the District. As part of that petition the property owner has waived the 45-day period for mailing of the notice of public hearing and ballot afforded to the affected property owners of record under the provisions of the California Constitution Article XIII D. As such, the public hearing and returned ballot deadline for these proceedings has been reduced with the public hearing being scheduled for December 1, 2015.

Upon conclusion of the public hearing, property owner protest ballots received will be opened and tabulated to determine whether majority protest exists (ballots shall be weighted based on assessment amount), and by resolution the City Council will confirm the results of the ballot tabulation. If majority protest exists, the proceedings to annex the territory and to levy the proposed assessments shall be abandoned. If tabulation of the ballots indicates that majority protest does not exist for the proposed assessment and the assessment range formula presented and described herein, the City Council may by Resolution approve

this Report (as submitted or amended), order the annexation of the Annexation Territory as Zone No. 42 to the District, approve the assessment diagram and confirm the assessments. The City Council may order the levy and collection of the assessments for Zone No. 42 for Fiscal Year 2016/2017 as part of this same Resolution, or subsequently order the levy and collection of the assessments for Zone No. 42 together with the other Zones in the District during the annual assessment approval process for Fiscal Year 2016/2017. In either case, the assessments for Fiscal Year 2016/2017 shall be submitted to the San Joaquin County Auditor/Controller for inclusion on the property tax roll for each parcel within Zone No. 42 as approved and ordered by the City Council.

Each subsequent fiscal year, an Engineer's Report for the District including the Annexation Territory (Zone No. 42) shall be prepared and presented to the City Council to address any proposed changes to the improvements, budget and assessments for that fiscal year. The City Council shall hold a noticed public hearing regarding these matters prior to approving and ordering the levy of such assessments.

This Report consists of five (5) parts:

Part I

Plans and Specifications: A description of the boundaries of Zone No. 42 (Annexation Territory) and the proposed improvements associated with Zone No. 42 within the District which provides special benefits to the parcels therein. A diagram showing the exterior boundaries of Zone No. 42 (Annexation Territory) is attached and incorporated herein under Part IV (Annexation Territory Diagram). The specific plans for the landscape improvements are on file in the City of Tracy Public Works Office.

Part II

Method of Apportionment: A discussion of the special and general benefits associated with the overall local landscaping improvements to be provided within the Annexation Territory as Zone No. 42 of the District. This Part also includes a determination of the proportional costs of the special benefits and a separation of costs considered to be of general benefit and therefore not assessed. This section of the Report also outlines the method of calculating each property's proportional special benefit and annual assessment utilizing a weighted benefit of apportionment known as an Equivalent Dwelling Unit.

Part III

Estimate of Improvement Costs: An estimate of the annual funding (Budget) required for the annual maintenance, servicing, and operation of landscape improvements and specifically the costs associated with the improvements determined to be of special benefit to parcels within Zone No. 42 of the District (Annexation Territory). The budget identifies an estimate of anticipated ongoing annual expenses to service, maintain, and operate landscape improvements and related facilities within the Zone including, but not limited to, annual maintenance and service expenses, utility costs, long term replacement and rehabilitation funding, and related incidental expenses authorized by the 1972 Act to establish an initial maximum assessment to be approved by the property owner(s) of record. The special benefit assessment shall be based on the overall operation costs minus any costs that are considered general benefit. The proposed maximum assessment (Rate per Equivalent Dwelling Unit) identified in the budget of this Report establishes the initial maximum assessment rate for Zone No. 42 (Annexation Territory) for Fiscal Year 2016/2017. This section also identifies and outlines an Assessment Range Formula (inflationary adjust) that provides for an annual adjustment to the maximum assessment rate that establishes limits on future assessments, but also provides for reasonable cost adjustments due to inflation.

Part IV

Annexation Territory Diagram: A Diagram showing the exterior boundaries of Zone No. 42 of the District (Annexation Territory) is provided in this Report and includes the entire territory of land that will receive special benefits from the improvements described herein. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within Zone No. 42 (Annexation Territory) is inclusive of the parcels as shown on the San Joaquin County Assessor's Parcel Maps of land as they existed at the time this Report was prepared and shall include all subsequent subdivisions, lot-line adjustments, or parcel changes therein. Reference is hereby made to the San Joaquin County Assessor's maps for a detailed description of the lines and dimensions of each lot and parcel of land within Zone No. 42 of the District (Annexation Territory).

Part V

Assessment Roll: A listing of the proposed Maximum Assessment for each parcel to be included in Zone No. 42 of the District (Annexation Territory) as part of these proceedings. The Maximum Assessment amount for each parcel is based on the parcel's calculated proportional special benefit as outlined in the method of apportionment and assessment rate ("Assessment per EDU") established in the Estimate of Improvement Costs (Zone Budget). These assessment amounts represent the Maximum Assessments for Fiscal Year 2016/2017 to be presented to the property owner(s) of record in the protest ballot proceedings required pursuant to the provisions of the California Constitution and the assessments proposed to be levied and collected on the County Tax Rolls for Fiscal Year 2016/2017.

PART I — PLANS AND SPECIFICATIONS

OVERVIEW OF THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT

The territory within the District and assessments levied and collected therein provide for the continued maintenance, servicing, administration, and operation of specific landscaped areas and associated appurtenances for each of thirty-nine (39) existing Zones, including Zones 01 through 37, 40 and 41. Each parcel within the Consolidate District is assigned to each zone that funds landscape maintenance services that specially benefit the parcel.

The landscape improvements maintained in each Zone are local landscaping improvements that were installed in connection with the development of the parcels comprising each respective Zone and are considered to be an integral part of the subdivisions and developments for which they were installed, creating a green amenity and aesthetically pleasing enhancement to the parcels served by the landscaping. In most cases, the landscaping improvements were a condition of development of the parcels in the Zone, and the properties within the Zone would not have been developed if the landscaping were not included. Improvements for each Zone are either located within the subdivision or along the entry path to the residential subdivisions and/or non-residential developments within each Zone. As such, each assessable parcel 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 the special benefits received. The funds collected from the assessments are dispersed and used in each Zone for the maintenance and operation of the improvements that provided special benefits to the parcels within each respective Zone.

These local landscape improvements 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 annual maintenance of these improvements are budgeted and reviewed each fiscal year and fully or partially funded through the annual assessments.

In addition to the regular maintenance of the landscape improvements associated with each Zone, the budgets and maintenance costs for each Zone may also include the collection of funds for long-term 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 City developed these programs to fund periodic and programmed maintenance, renovation, rehabilitation, replacement and revitalization of the district improvements. The total amount to provide these programs for each Zone (where the services apply) are typically greater than can be conveniently raised from a single annual assessment and the estimated costs of these programs are collected in installments as part of each Zone's annual assessments. The associated program costs and the corresponding

collection of funds for these activities are proportionately spread to each parcel within the District 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:

- 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.
- 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 tree maintenance services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with tree maintenance.

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.

- Removal and replacement of existing dead/dying plant materials within the medians and parkway landscaped areas.
- Removal of existing plant materials and replacement with new plant material or non-plant materials within the medians and parkway landscaped areas.
- Upgrades or renovation to the irrigation or drainage systems, electrical systems or metering systems, hardscape improvements associated with the landscaping such as fencing, sidewalks, curbs, stamped concrete and soil.

Assessments for the Streetscape Revitalization and Rehabilitation 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.

Assessments for the Park Rehabilitation and Renovation Program shall be collected from only those parcels and Zones identified as receiving special benefit from park improvements. 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.

DESCRIPTION OF THE ANNEXATION TERRITORY

The Annexation Territory and ultimately Zone No. 42 of the District, consists of the lots, parcels and subdivision of land within the planned multiple residential unit development commonly referred to as the Tracy Gateway Crossing which encompasses an area of land totaling approximately twenty (20.040) acres located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road.

This multiple residential unit development is planned to be developed in two phases with a total of 441 residential units on two existing Assessor's Parcel Numbers (APNs) 209-270-30 and 209-270-30. Phase 1 of the development is planned to be 231 residential units which includes all of parcel 209-270-31 (84 units) and a portion of parcel 209-270-30 (147 of the 357 units to be constructed on that parcel). The remaining 210 residential units to be constructed as part of Phase 2 are within APN 209-270-30. Collectively, these two Assessor's Parcel Numbers (209-270-30 and 209-270-31) encompass all parcels of land within the Annexation Territory and Zone No. 42.

ANNEXATION TERRITORY IMPROVEMENTS AND SERVICES

The Annexation Territory (Zone No. 42 of the District) will provide funding to ensure the ongoing maintenance, servicing, and operation of the landscape improvements established and installed in connection with the development of the multiple residential unit development (Tracy Gateway Crossing). The improvements installed as part of this development and to be incorporated into the District as Zone No. 42, shall be maintained and funded in part through the special benefit assessments outlined in Part III of this Report. The proportional annual cost of maintaining these improvements determined to be of general

benefit shall be funded by other sources and not included as part of the annual assessments for this Annexation Territory.

As authorized pursuant to the 1972 Act, the landscape improvements within Zone No. 42 may include, but is not limited to, ground cover, shrubs, trees, plants, mulch, irrigation, drainage, and electrical systems, and associated appurtenant facilities including various hardscape features such as cobble stone, sidewalks and edging strips. The maintenance, servicing, and operation of these improvements may include, but is not limited to all labor, materials, equipment, utilities, and incidental expenses including administrative expenses and reserve funding necessary to support the annual maintenance and operation of the improvements installed in connection with the development of the property within the Annexation Territory (Zone No. 42 of the District).

The improvements to be provided and maintained for the special benefit of parcels within Zone No. 42 are identified as streetscape areas within the public right-of-way near or adjacent to the Annexation Territory. More specifically these streetscape improvements are identified as:

- The parkway (street side panels) located adjacent to the development on the south side of W. Grant Line Road. As outlined in the proposed development plans for the Tracy Gateway Crossing this landscape area includes, but is not limited to approximately 5,253 square feet of shrubs and ground cover; 16 trees (two varieties), and approximately 5,500 square feet of sidewalk area.
- The two median island segments located on W. Grant Line Road between Byron Road and South Lammers Road, extending from the western boundary of the Tracy Gateway Crossing up to the eastern entryway/driveway of that development. The landscape improvements within these medians includes, but is not limited to approximately 6,370 square feet of shrubs and ground cover; 18 trees (two varieties), and approximately 3,845 square feet of cobble apron hardscape.
- The irrigation system for both the median and parkway area includes, but is not limited to 3 irrigation controllers, backflow devices, approximately 6,325 linear feet of irrigation lines (1,165 linear feet of main line and 5,160 linear feet of laterals), and various irrigation heads and bubblers.
- The performance of occasional repairs, replacement and expanded maintenance activities associated with the landscape improvements referenced above are budgeted and funded as part of the District's Streetscape Revitalization & Rehabilitation and Arterial Street Tree Maintenance programs. The Annexation Territory will contribute its proportional share and funding of the Streetscape Revitalization & Rehabilitation and Arterial Street Tree Maintenance programs as part of the proposed annual assessment. These activities are proportionately funded by each of the developments and Zones within the District that have such improvements. (The Park Rehabilitation and Renovation Program for the District does not apply to this Annexation Territory).

Detailed maps and descriptions of the location and extent of the landscape improvements to be installed and maintained for the Annexation Territory are on file in the City of Tracy Public Works Office and by reference are made part of this Report.

PART II — METHOD OF APPORTIONMENT

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements, including the acquisition, construction, installation and servicing of landscape improvements and related facilities. The 1972 Act requires that the cost of these improvements be levied according to benefit rather than assessed value:

Section 22573 defines the net amount to be assessed as follows:

“The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.”

Section 22574 provides for zones as follows:

“The diagram and assessment may classify various areas within an assessment district into different zones where, by reason of variations in the nature, location, and extent of the improvements, the various areas will receive differing degrees of benefit from the improvements. A zone shall consist of all territory which will receive substantially the same degree of benefit from the improvements.”

The formulas used for calculating assessments and the designation of zones within the District and specifically herein Zone No. 42, reflect the composition of parcels and the improvements and activities to be provided, and have been designed to fairly apportion the cost of providing those improvements based on a determination of the proportional special benefits to each parcel, consistent with the requirements of the 1972 Act and the provisions of Proposition 218 and Article XIII D of the California Constitution.

PROPOSITION 218 BENEFIT ANALYSIS

Each of the proposed improvements, the associated costs, and assessments for the Annexation Territory have been reviewed, identified and allocated based on special benefit pursuant to the provisions of the California Constitution and 1972 Act. The improvements to be provided and for which an assessment is to be imposed are considered local public landscape improvements and related amenities that were installed in connection with the development of the property/properties and identified as necessary, required and/or desired for the orderly development of the parcel of land within the Annexation Territory to its full potential, consistent with the development plans and applicable portions of the City General Plan. As such, it has been determined that these improvements are only necessary and required for the development of the property/properties within the Annexation Territory and the ongoing annual cost of ensuring the maintenance and operation of the improvements are considered a distinct and special benefit to only these property/properties and the assessments and method of apportionment is based on the premise that these improvements would otherwise not have been required without the development of the parcels within the Annexation Territory. Pursuant to the California Constitution:

Article XIID Section 2d defines District as follows:

“District means an area determined by an agency to contain all parcels which will receive a special benefit from a proposed public improvement or property-related service”;

Article XIID Section 2i defines Special Benefit as follows:

“Special benefit” means a particular and distinct benefit over and above general benefits conferred on real property located in the district or to the public at large. General enhancement of property value does not constitute “special benefit.”

Article XIID Section 4a defines proportional special benefit assessments as follows:

“An agency which proposes to levy an assessment shall identify all parcels which will have a special benefit conferred upon them and upon which an assessment will be imposed. The proportionate special benefit derived by each identified parcel shall be determined in relationship to the entirety of the capital cost of a public improvement, the maintenance and operation expenses of a public improvement, or the cost of the property related service being provided. No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel.”

BENEFIT ANALYSIS

Special Benefit

The ongoing maintenance of local public landscaped areas within the District provides aesthetic benefits to the properties within each respective Zone and provides a more pleasant environment to walk, drive, live, and work. The primary function of these landscape improvements and related amenities is to serve as an aesthetically pleasing enhancement and green space for the benefit of the immediately surrounding developments for which the improvements were constructed and installed. These improvements (specifically, the improvements being installed in connection with the Annexation Territory as Zone No. 42) are an integral part of the physical environment associated with the development of the parcels, and if the improvements are not properly maintained, it is these parcels that would be aesthetically burdened. In addition, the street landscaping for this Zone serves as a physical buffer as well as a sound reduction buffer between the roadways and the development. Furthermore, these public landscape improvements serve as a physical representation and extension of the private property landscaping and amenities within the development, such as their front or rear yards and common areas, and these public landscape improvements serves as a pleasant aesthetic amenity that enhances the approach to the parcels. As a result, the maintenance of these landscaped improvements is a particular and distinct benefit to the properties within the Annexation Territory.

General Benefit

In reviewing the location and extent of the specific landscaped areas and improvements to be funded by the Zone No. 42 assessments and the proximity and relationship to properties to be assessed, it is evident these improvements are local improvements that were installed in connection with the development of properties in the Annexation Territory and although the improvements include amenities available or visible to the public at large, the construction and installation of these improvements were only necessary for the development of property within the Annexation Territory and were not required nor necessarily desired by any properties or developments outside the boundaries of the Annexation Territory. It is also evident that the maintenance these improvements and the level of maintenance provided only has a direct and particular impact on these properties (special benefit) and such maintenance beyond that which is required to ensure the safety and protection of the general public and property in general, has no identifiable benefit to the public at large or properties in general.

Recognizing that in the absence of a special funding zone, the City only has a general obligation to maintain areas within the public right-of-ways at a level of service that provides for public safety and avoids negative impacts on adjacent roadways and vehicles traveling on those roadways (“baseline service”). However, this baseline service level would typically be limited to occasional weed abatement (once or twice a year) and as-needed tree trimming, and results in a far less visually pleasing environment than is created with the enhanced levels of services associated with the landscape maintenance to be provided in Zone No. 42. Conservatively, the cost to provide this baseline level of service is estimated to be less than \$0.02 per square foot for such streetscape areas and based on the approximately 11,623 square feet of landscaped area to be maintained within Zone No. 42, this annual baseline maintenance costs is estimated to be no more than \$240 per year. Since the baseline services, unlike the enhanced aesthetic services, provide substantial benefits to the general public and to properties in general, the cost of providing this baseline service is treated as a general benefit cost associated with the landscape maintenance services.

In addition, it is also recognized that the median island landscaping to be constructed in connection with the Annexation Territory is in part, adjacent to a large undeveloped property on the north side of W. Grant Line Road (APN 209-270-06). The fact that this property (approximately eighty-seven acres), is undeveloped and the future development of the property is unknown at this time, it is not reasonable or appropriate to include this property in the Annexation Territory. However, because this property may potentially benefit from the Zone No. 42 median landscape improvements when the property is developed (assuming its development facilitates some access from W. Grant Line Road), it is reasonable to conclude that this undeveloped property indirectly benefits from the median landscape improvements to be constructed, but at this time that benefit is general rather than special. Based on the this undeveloped parcel’s frontage to the medians on W. Grant Line Road and its acreage (frontage per acre) compared to that of the Tracy Gateway Crossing (Annexation Territory) a proportional potential benefit to this property has been calculated, that proportionality being 9.3% of the total median frontage per acre. Therefore, in addition to the baseline maintenance cost described above, ten percent (10%) of the cost to maintain the median landscape improvements within Zone No. 42 has been allocated as general benefit.

Collectively, these proportional general benefit costs shall not be assessed to properties within Zone No. 42 (Annexation Territory) and are deducted from the total annual maintenance costs to be levied and collected as part of the annual special benefit assessments.

ASSESSMENT METHODOLOGY

The benefit formula used to determine the assessment obligation for any parcel should be based upon both the improvements and the parcels that benefit from those specific improvements. While for this annexation (involving a single multiple residential development) a simple per parcel apportionment could be applied for the calculation of proportional special benefit, it is possible that future developments in the area could be annexed into Zone No. 42. Therefore, for consistency purposes the method of apportioning annual costs for Zone No. 42 (Annexation Territory) shall utilize the Equivalent Dwelling Unit (EDU) method of apportionment previously established for the District

The assessment methodology for the District and the Zones therein, assigns each parcel a number of EDUs (Equivalent Dwelling Units) based each property’s specific development status, type of development (land use), and size of the property, as compared to other properties that benefit from the improvements. One EDU is defined as the special benefit allocable to a single family home (basic EDU unit). In each case, a parcel is only allocated EDUs if the landscaping serving the Zone has been accepted by the City or will be accepted by the City during the upcoming fiscal year. Because the maintenance of the improvements

include this developments proportional cost and benefit from the existing Streetscape Revitalization & Rehabilitation and Arterial Street Tree Maintenance programs of the District, the use of the established EDU assessment formulas applied in the District is appropriate and will ensure that this development is proportionately assessed for the shared maintenance programs, but will also ensure an appropriate apportionment of costs should subsequent developments or properties be annexed to Zone No. 42 in the future.

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. The following is a summary of the EDU allocation and calculation of the proportional special benefit used in the District and shall be applied to the Annexation Territory:

Equivalent Dwelling Units by Land Use

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 (i.e. Equivalent Dwelling Unit EDU).

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 considered a fully subdivided residential lot, planned residential subdivision, or partially developed non-residential property. 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 with parcels less than 0.20 acres, being 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 has not been identified on the secured roll or verified by the City, the property is assessed as Developed Non-Residential property at 5.00 EDU per gross acre, but a minimum of 1.00 EDU.

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;
- Also included in this land use classification is privately owned property that cannot be developed or is associated with other assessable properties such as common areas, sliver parcels and bifurcated lots or properties that have little or no land value;

These types of properties receive no special benefit from the District improvements and are therefore exempt from assessment.

Government owned properties commonly identified as non-taxable properties by the County Assessor's Office are not exempt from assessment 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 reasonably categorized by one of the other land use designations. This land use classification may include, but is not limited to:

- Developed Non-Residential properties that only a small portion of the parcel has been developed;
- Properties identified as planned residential subdivisions, but currently has 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 table summarizes the preceding 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 ²	4.00	Acre
Vacant, Undeveloped Private Property (Zones 10,11, 36 and 37 ²)	5.00	Acre
Developed, Commercial/Industrial Property	5.00	Acre
Developed Multiple Residential Units	1.00	Unit
Undeveloped, Public Property ¹	0.00	Acre
Developed, Public ⁴	0.30	Acre
Developed, Regional Commercial ³	0.36	Acre

Notes

- 1. 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.*
- 2. 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 parcel's benefit compared to other property types within the respective Zones.*
- 3. 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.*
- 4. 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.*

PART III — ESTIMATE OF IMPROVEMENT COSTS

CALCULATION OF ASSESSMENTS

The formula used to calculate the annual assessments for each Zone within the District reflects the composition of the parcels and the services provided, to accurately apportion the associated annual costs based on estimated special benefit to each parcel in that Zone. The assessment rates (Levy per EDU) will vary between Zones due to the different costs to maintain the improvements within each Zone and the number of EDUs within the Zone.

The following formulas are used to calculate each parcel's EDU (proportional benefit) and assessment in each Zone of the District.

Taking the "Total Annual Expenses" (Total budgeted costs) and subtracting the "Total General Benefit Contribution", to establish the "Special Benefit Costs";

➤ ***Total Amount Budgeted – Total General Benefit Contribution = Special Benefit Costs***

To the resulting "Special Benefit Costs", various "Benefit Cost Adjustments" are applied that may include:

- "Fund Balance Transfer/Reduction", represents the amount of available Fund Balance being applied to pay a portion of the Special Benefit Costs for the fiscal year.
- "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.
- "Additional City Funding", represents additional funding support (City contribution) to the Zone above that which has already been identified general benefit. This funding may be from various sources available to the City including the City General Fund.

These adjustments to the Special Benefit Costs result in the "Net Special Benefit Assessment";

➤ ***Special Benefit Costs +/- Benefit Cost Adjustments = Net Special Benefit Assessment***

The amount identified as the "Net Special Benefit Assessment" is divided by the total number of EDUs of parcels that benefit to establish the "Assessment Rate" or "Assessment per EDU" for the fiscal year. This Rate is then applied back to each parcel's individual EDU to calculate the parcel's proportionate special benefit and assessment for the improvements.

➤ ***Net Special Benefit Assessment / Total EDU = Assessment per EDU***

➤ ***Assessment per EDU x Parcel EDU = Parcel Assessment Amount***

ZONE No. 42 BUDGET

The following tables outline the estimated cost to maintain the improvements within Zone No. 42 upon completion of the improvements, establishing the initial Maximum Assessment per EDU for Fiscal Year 2016/2017 to be balloted as well as the proposed Budget and Assessment per EDU to be levied and collected for Fiscal Year 2016/2017.

Zone No. 42	Maximum Assessment Budget	Proposed Budget ⁽¹⁾ FY 2016/2017
Annual Maintenance and Operation Expenses		
Personnel	\$6,201.81	\$3,100.91
Grounds Maintenance Contract	405.60	202.80
Tree Maintenance Contract	7,800.00	3,900.00
Utilities, Water & Sewer	3,639.45	1,819.73
Utilities, Gas & Electric	241.57	120.79
Utilities, Waste	2.39	1.20
Supplies	444.94	222.47
Radio/Computer/Controllers	217.75	108.88
Equipment/Vehicles	456.72	228.36
Training/Licenses	20.12	10.06
LMD Administration	323.88	161.94
Internal Service Charges	415.95	207.98
Indirect Costs	572.31	286.16
IF Reimbursements	268.37	134.19
Total Annual O&M Expenditures	\$21,010.86	\$10,505.43
Cyclical Maintenance		
Streetscape Revitalization & Rehabilitation Program	4,997.89	2,498.95
Tree Maintenance Program	1,883.60	941.80
Park Rehabilitation & Renovation Program	-	-
Long-term Cyclical Maintenance	6,881.49	3,440.75
Capital Improvement Project Expenditures	-	-
Operational Reserves (5% of Expenses)	1,394.62	697.31
Total Annual Cyclical Maintenance and Reserve Funding	8,276.11	4,138.06
Total Annual Expenses		
	\$ 29,286.97	\$ 14,643.49

⁽¹⁾ Based on the estimated schedule for construction and installation of improvements for Zone No. 42, it is anticipated that the City will be accepting the improvements for maintenance no earlier than the spring of 2017. Thus the "Proposed Budget FY 2016/2017" above and on the following page represents approximately one half of the expenses and revenues that would be typically budgeted. Any assessment revenues collected for Fiscal Year 2016/2017 and not spent during that fiscal year shall be carried over to Fiscal Year 2017/2018.

Zone No. 42	Maximum Assessment Budget	Proposed Budget ⁽¹⁾ FY 2016/2017
General Benefit		
Baseline Service Maintenance General Benefit	(240.00)	(120.00)
Proportional Median General Benefit	(1,151.50)	(575.75)
Total General Benefit Contribution (General Fund Support)	(1,391.50)	(695.75)
Total Special Benefit Costs		
	\$ 27,895.47	\$ 13,947.74
Benefit Cost Adjustments		
Fund Balance Transfer/Reduction	-	-
Gas Tax Support	(2,777.92)	(1,388.96)
Additional City Funding	-	-
Total Benefit Cost Adjustments	(2,777.92)	(1,388.96)
Net Special Benefit Assessment (Balance to Levy)		
	\$ 25,117.55	\$ 12,558.78
Levy Information		
Total Parcels Levied	2	2
Total EDUs	441.00	441.00
Calculated Assessment Per EDU	\$56.96	\$28.48
⁽²⁾ Maximum Assessment Per EDU (Balloted Assessment Rate)	\$57.00	\$57.00
Total Amount Balloted		
	\$ 25,137.00	

⁽¹⁾ Based on the estimated schedule for construction and installation of improvements for Zone No. 42, it is anticipated that the City will be accepting the improvements for maintenance no earlier than the spring of 2017. Thus the "Proposed Budget FY 2016/2017" above and on the following page represents approximately one half of the expenses and revenues that would be typically budgeted. Any assessment revenues collected for Fiscal Year 2016/2017 and not spent during that fiscal year shall be carried over to Fiscal Year 2017/2018.

⁽²⁾ For purposes of establishing the Maximum Assessment Rate for Zone No. 42 and the Total Amount Balloted, the Calculated Assessment Rate per EDU has been rounded up to the nearest dollar.

ANNUAL INFLATIONARY ADJUSTMENT (ASSESSMENT RANGE FORMULA)

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.

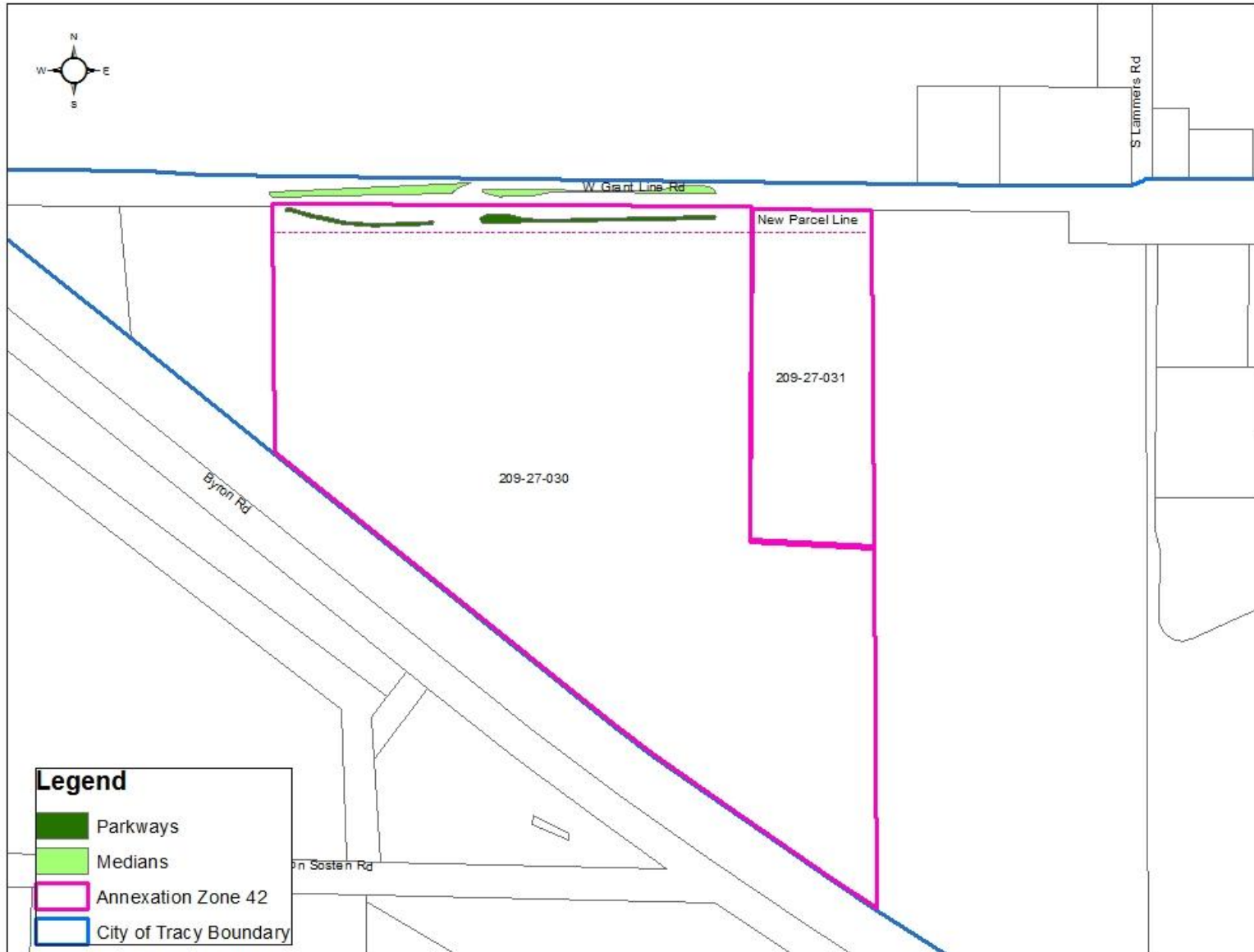
PART IV — ANNEXATION TERRITORY DIAGRAM

The Annexation Territory being Zone No. 42 of the District, consists of the lots, parcels and subdivision of land within the planned multiple residential unit development commonly referred to as the Tracy Gateway Crossing which encompasses an area of land totaling approximately twenty (20.040) acres located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road.

The following Annexation Territory Diagram incorporates the lots and parcels of land within the within Tracy Gateway Crossing and constitutes all parcels within the Annexation Territory and Zone No. 42 of the District for Fiscal Year 2016/2017, as the same existed at the time this Report was prepared.

The parcels of land within the Annexation Territory and Zone No. 42 is inclusive of Parcels 030 and 031 on Page 27, Book 209 of the San Joaquin County Assessor's Parcel Maps, and by reference this Assessor's Parcel Map is made part of this Report. The maximum assessment rate, assessment range formula and the proposed assessment amounts for the Annexation Territory as described herein, shall be presented to the property owner(s) of record for approval or protest in accordance with the provisions of the California Constitution.

**ASSESSMENT DIAGRAM FOR
ANNEXATION TERRITORY
TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT (ZONE NO. 42)
CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA**



PART V — ASSESSMENT ROLL

Parcel identification for each lot or parcel within the Annexation Territory being Zone No. 42 of the District is based on available parcel maps and property data from the San Joaquin County Assessor's Office, as they existed at the time this Report was prepared and the City Council adopted the Resolution of Intention. A listing of the proposed lots and parcels to be assessed within the Annexation Territory along with the assessment amounts is provided herein.

If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the 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 described in this Report as approved by the City Council.

The following is a list of the parcel(s) and proposed assessment amount(s) for the parcel(s) within the Annexation Territory as determined by the assessment rates and method of apportionment described herein:

Assessor's Parcel Number	Designated Land Use	Acreage	EDUs	Proposed Maximum Assessment	Proposed Assessment Fiscal Year 2016/2017
209-270-30	Developed Multiple Residential Units	17.040	357.00	\$ 20,349.00	\$ 10,167.36
209-270-31	Developed Multiple Residential Units	<u>3.000</u>	<u>84.00</u>	<u>\$ 4,788.00</u>	<u>\$ 2,392.32</u>
Zone Total		20.040	441.00	\$ 25,137.00	\$ 12,559.68

RESOLUTION _____

INITIATING PROCEEDINGS FOR THE ANNEXATION OF TERRITORY
(TRACY GATEWAY CROSSING) TO THE TRACY CONSOLIDATED
LANDSCAPE MAINTENANCE DISTRICT; AND THE LEVY AND COLLECTION
OF ANNUAL ASSESSMENTS RELATED THERETO COMMENCING WITH
FISCAL YEAR 2016/2017, PURSUANT TO THE PROVISIONS OF PART 2 OF
DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE

WHEREAS, the City Council through previous resolutions has established and levied annual assessments for the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "District"), pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act") that provides for the collection of assessments by the County of San Joaquin on behalf of the City of Tracy to pay the maintenance and services of improvements and facilities related thereto, and

WHEREAS, the City Council desires to initiate proceedings for the annexation of territory identified as the Tracy Gateway Crossing located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road (hereinafter referred to as the "Annexation Territory"), to the District pursuant to *Chapter 2 Article 2* of the Act; and the establishment of the proposed maximum annual assessment related thereto; and the levy and collection of annual assessments against lots and parcels of land within the Annexation Territory commencing in fiscal year 2016/2017 for the landscape improvements and services that will provide special benefits to the properties within the Annexation Territory pursuant to *Chapter 4 Article 2* of the Act and the California Constitution Article XIID, and

WHEREAS, the City Council has retained Willdan as the Assessment Engineer of Work, for the purpose of assisting with the annexation of the territory to the District, the establishment of annual assessments, and to prepare and file an Engineer's Report with the City Clerk in accordance with the Act;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby resolves as follows:

1. Recitals: The above recitals are true and correct.
2. Engineer's Report: The City Council hereby orders the Assessment Engineer to prepare and file with the City Clerk an Engineer's Report concerning the annexation of territory to the District; the improvements and services connected therewith and the proposed levy of annual assessments beginning in the fiscal year commencing July 1, 2016 and ending June 30, 2017, in accordance with *Chapter 3 Section 22623* of the Act. Said Engineer's Report shall contain a description of the improvements and services, an estimate of the costs financed by the levy of the assessments, the properties benefiting from the improvements and the method of apportioning the assessments connected with the annexation of said territory to the District.

3. Proposed Improvements: The proposed improvements and services for the Annexation Territory, include but are not limited to the maintenance, operation and incidental expenses related to the landscaped areas within the public right-of-ways or easements associated with the parcels of land within the Annexation Territory that may include, but are not limited to: street trees; turf; ground cover and shrubs; irrigation, drainage, and electrical systems; monuments; hardscape improvements; and all necessary appurtenances and services connected with the medians, parkways and public easements and facilities designated and to be maintained by the City in connection with the special benefit received by parcels of land within the Annexation Territory. The Engineer’s Report prepared in connection with the Annexation Territory shall provide a more detailed description of the improvements and services to be provided and for which properties are to be assessed.

4. Annexation Territory: The City Council hereby finds that proposed territory within the Annexation Territory consists of all lots, parcels and subdivisions of land within the planned multiple residential unit development commonly referred to as the “Tracy Gateway Crossing” that encompasses approximately twenty acres (20.040 Acres), located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road; and that this Annexation Territory includes all properties that receive special benefits from the improvements to be provided.

5. Assessments: The City Council hereby determines that in order to provide the improvements described in section 3 of this resolution and to be detailed in the Engineer’s Report, it is necessary to levy and collect assessments against the lots and/or parcels within the Annexation Territory commencing in fiscal year 2016/2017 and said assessments shall be outlined and described in the Engineer’s Report and imposed pursuant to the provisions of the Act and the California Constitution Article XIID.

* * * * *

The foregoing Resolution _____ was adopted by the City Council of the City of Tracy on the 3rd day of November, 2015, by the following vote:

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

Mayor

ATTEST:

City Clerk

RESOLUTION _____

DECLARING THE CITY'S INTENTION TO ANNEX TERRITORY TO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT; AND TO LEVY AND COLLECT ANNUAL ASSESSMENTS RELATED THERETO COMMENCING FISCAL YEAR 2016/2017, PURSUANT TO THE PROVISIONS OF PART 2 OF DIVISION 15 OF THE CALIFORNIA STREETS AND HIGHWAYS CODE; AND CALLING FOR A PROPERTY OWNER PROTEST PROCEEDING, TO SUBMIT TO THE QUALIFIED PROPERTY OWNERS THE QUESTION OF LEVYING SUCH ASSESSMENTS AND ESTABLISHING AN ASSESSMENT RANGE FORMULA FOR SAID ANNEXATION TERRITORY PURSUANT TO THE PROVISIONS OF THE CALIFORNIA CONSTITUTION, ARTICLE XIID

WHEREAS, the City Council, pursuant to provisions of the Landscaping and Lighting Act of 1972 being Part 2, Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act"), did by previous Resolution, initiate proceedings for the annexation of territory known as the Tracy Gateway Crossing located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road (hereafter referred to as the "Annexation Territory") to the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "District") as Zone No. 42, and the levy and collection of assessments against lots and parcels within said Annexation Territory commencing in fiscal year 2016/2017, and

WHEREAS, the City Council desires to annex the territory of land comprising the Annexation Territory to the District; and to establish such territory as Zone No. 42 within said District; and to levy and collect new assessments against lots and parcels of land within the Annexation Territory to pay the cost and expenses related to the special benefits received from the maintenance and operation of the landscape improvements connected therewith, and

WHEREAS, the Assessment Engineer of Work has prepared and filed an Engineer's Report in connection with the Annexation Territory and the levy of annual assessments connected therewith commencing in fiscal year 2016/2017 (beginning July 1, 2016 and ending June 30, 2017) with the City Clerk pursuant to Section 22623 of the Act, and said report has been presented to the City Council, and is incorporated herein by reference;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby resolves as follows:

1. Recitals: The above recitals are true and correct.
2. Engineer's Report, Content: The Engineer's Report as presented, consists of the following:
 - 2a.) The Plans and Specifications which describe the boundaries of the Annexation Territory (Zone No. 42) and the improvements associated therewith that provide special benefits to the parcels therein.

- 2b.) The Method of Apportionment that details the method of calculating proportional special benefit and the annual assessment obligation for each affected parcel.
 - 2c.) The Estimate of Improvement Costs including the calculation of the assessments and the estimated annual funding (Budget) required for the annual maintenance, servicing, and operation of landscape improvements and specifically the costs associated with the improvements determined to be of special benefit to parcels within the Annexation Territory establishing the proposed maximum assessment and the assessment for fiscal year 2016/2017.
 - 2d.) The Assessment Range Formula (Annual Inflationary Adjustment) to be applied to the proposed Maximum Assessment per Equivalent Dwelling Unit in subsequent fiscal years. The proposed Maximum Assessments including the Assessment Range Formula shall be presented to the property owner(s) of record in a protest ballot proceeding pursuant to the California Constitution Article XIID.
 - 2e.) An Annexation Territory Diagram outlining the boundaries of the Annexation Territory and Zone No. 42 of the District.
 - 2f.) An Assessment Roll containing the proposed maximum assessment and levy of assessment for fiscal year 2016/2017 for each Assessor Parcel Number within the Annexation Territory.
3. Engineer's Report, Approval: The Engineer's Report is hereby approved on a preliminary basis as submitted or amended by direction of this City Council, and is hereby ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.
4. Intention: The City Council hereby declares its intention to annex the multiple residential unit development known as the Tracy Gateway Crossing to the Tracy Consolidated Landscape Maintenance District pursuant to *Chapter 2 Article 2* of the Act, and to establish said Annexation Territory as a benefit zone within said District pursuant to *Section 22574* of the Act; and to levy and collect annual assessments against parcels of land within the Annexation Territory commencing with fiscal year 2016/2017 in accordance with the Act and the provisions of the California Constitution Article XIID. The territory being annexed to the District as part of these proceedings shall subsequently be designated as Zone No. 42 of the Tracy Consolidated Landscape Maintenance District.

The City Council further declares its intention to conduct a public hearing regarding this annexation of territory to the District and the levy of assessments pursuant to the provisions of the Act and the California Constitution Article XIID and thereby calls for a property owner protest balloting proceeding related thereto. The City Council finds that the public's best interest requires such action and levy of assessments.

5. Annexation Territory: The City Council hereby finds that proposed territory within the Annexation Territory consists of all lots, parcels and subdivisions of land within the planned 441 unit multiple residential unit development known as the “Tracy Gateway Crossing” that encompasses approximately twenty acres (20.040 Acres), located on the south side of West Grant Line Road, north of Byron Road, and west of South Lammers Road consisting of San Joaquin County Assessor’s Parcel Numbers 209-270-30 and 209-270-31; and that this Annexation Territory includes all properties that receive special benefits from the improvements to be provided.

6. Improvements: The proposed improvements and services for the Annexation Territory, include but are not limited to the maintenance, operation and incidental expenses related to the landscaped areas within the public right-of-ways or easements associated with the parcels of land within the Annexation Territory that may include, but are not limited to: street trees; turf; ground cover and shrubs; irrigation, drainage, and electrical systems; monuments; hardscape improvements; and all necessary appurtenances and services connected with the medians, parkways and public easements and facilities designated and to be maintained by the City in connection with the special benefit received by parcels of land within the Annexation Territory. The Engineer’s Report prepared in connection with the Annexation Territory provides a more detailed description of the improvements and services to be provided and for which properties shall be assessed and by reference that Engineer’s Report is made part of this Resolution.

7. Assessments: The City Council hereby determines that to provide the improvements described in section 6 of this resolution, it is necessary to levy and collect assessments against lots and parcels within the Annexation Territory commencing in fiscal year 2016/2017. The Engineer’s Report referred to in section 2 of this resolution establishes the proposed maximum assessment for the Annexation Territory including the annual inflationary adjustment to the maximum assessment rate; and the assessment necessary to provide for the annual operation, administration, services and maintenance of the improvements for fiscal year 2016/2017.

8. Compliance with the Constitution: Pursuant to California Constitution Article XIID, an assessment ballot proceeding is hereby called on the matter of confirming the proposed new assessments for the Annexation Territory. The ballots and notices so authorized shall be distributed by first class mail to the property owners of record as of the last County equalized roll, and each property owner may return the ballot by mail or in person to the City Clerk not later than the conclusion of the public hearing for this matter.

While provisions of the California Constitution Article XIID require that the City conduct a public hearing not less than 45 days after mailing a notice of the proposed assessment to record owners of each parcel which will have a special benefit conferred upon them and upon which an assessment will be imposed, California Civil Code, Section 3513, allows anyone to waive the advantage of a law intended solely for their benefit; and the forty-five day mailed ballot period before the scheduled public hearing is not established for a public reason, but is

solely for the advantage of the parcels having a special benefit conferred upon them and which an assessment will be imposed. For the proceeding conducted herein for the Annexation Territory, the sole owner of real property to be benefited by the improvements and the maintenance, operation, and servicing thereof; has submitted to the City Council a written petition for the annexation of their property to the District and said petition included the property owner's waiver of all statutory notice of hearing and right of majority protests by interested property owners in the proposed annexation per *Section 22608* of the Act and waived their right to the notice period provided by the provisions of the California Constitution Article XIID.

9. Mailed Notice and Ballot: The City Council hereby authorizes and directs the City Clerk or their designee to prepare and mail notice of the Public Hearing; and in the same or separate mailing, mail the property owner protest ballot(s) to the subject property owner regarding the proposed levy of assessments and the assessment range formula outlined in the Engineer's Report, for return receipt prior to the date and time of the public hearing set forth in this resolution.

10. Public Hearing: The City Council hereby declares its intention to conduct a Public Hearing concerning the Annexation Territory, the improvements, and the levy of assessments and in accordance with *Section 22624 (e)* and *22625* of the Act, notice is hereby given that on Tuesday, December 1, 2015 at 7.00 P.M., the City Council will hold a Public Hearing for the Annexation Territory and the levy and collection of assessments related thereto commencing in fiscal year 2016/2017, or as soon thereafter as feasible. The Public Hearing will be held in the City Council Chambers, located at 300 East Tenth Street, Tracy, at the time so fixed. At the Public Hearing, all interested persons shall be afforded the opportunity to hear and be heard.

11. Determination of Majority Protest: The property owner protest ballot proceeding conducted for the Annexation Territory shall constitute the property owner's approval or rejection of the annual levy of assessments and assessment range formula. The property owner may return the ballot by mail or in person to the City Clerk not later than the conclusion of the Public Hearing on Tuesday December 1, 2015. After the close of the Public Hearing, pursuant to Section 4, Sub-Section 4 (e) of the California Constitution, the City shall tabulate the ballots returned to determine if majority protest exists. The ballots shall be weighted according to the proportional financial obligation of the affected property. Majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment.

Any interested person may file a written protest with the City Clerk prior to the conclusion of the hearing, or having previously filed a protest, may file a written withdrawal of that protest. A written protest shall state all grounds of objection, and protest by a property owner shall contain a description sufficient to identify the property owned by such property owner. At the public hearing, all interested persons shall be afforded the opportunity to hear and be heard.

12. Notice: The City Clerk is hereby authorized and directed to give notice of such Public Hearing as provided by law.

* * * * *

The foregoing Resolution _____ was adopted by the City Council of the City of Tracy on the 3rd day of November, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4

REQUEST

COUNCIL UPDATE, DISCUSSION, AND DIRECTION REGARDING THE TRANSFER OF FEDERAL USE RESTRICTIONS AND REVERSIONARY RIGHTS FROM THE SCHULTE ROAD PROPERTY, APNs 209-230-29 AND 30, TO 300 UNDEVELOPED ACRES AT LEGACY FIELDS AND ADJACENT CITY OWNED PROPERTY, APNs 212-150-02, 03, AND 04

EXECUTIVE SUMMARY

The General Services Agency (GSA) of the Federal Government and staff have identified a means to transfer the Schulte Property park/educational use restrictions and reversionary rights to other undeveloped City-owned property as a way to eliminate the funding requirement necessary to allow the City to use the Schulte Road property for economic development purposes. This staff report explains that GSA is amenable to a transfer of land use restrictions from the City's Schulte Road property to portions of Legacy Fields and other, adjacent City-owned property provided that the City agrees to an increase in acreage subject to the land use restrictions.

DISCUSSION

On October 21, 2014, the City Council approved resolution 2014-185, supporting the concept of transferring the land use restrictions and reversionary rights from the City's Schulte Road property to 300 acres of Legacy Fields property (see Attachment A, City Council staff report from October 21, 2014, and Attachment B Schulte Road Property location map). Since that time, other activities related to Legacy Fields have been undertaken: the City Council has considered performing a land swap with San Joaquin County for up to 103 acres of Legacy Fields for a South County Regional Park; and the City Council has awarded a construction contract to McGuire and Hester of Oakland, California to develop 72 acres of Legacy Fields for active recreation uses as part of the Legacy Fields Sports Complex project.

Since October, 2014, City staff has been in discussion with GSA negotiating final terms. The GSA requires that the land be City-owned, undeveloped, with supporting infrastructure, and be of 300-acres in size. Property with active construction or existing recreation uses does not count toward the required 300 undeveloped acres, therefore 72-acres of soon-to-be developed portions of Legacy Fields do not count. Additionally, the 103 acres being considered by the City Council for the South County Regional Park land swap does not count due to conflicting park funding and use restrictions. Therefore, the balance of Legacy Fields (151-acres) plus 149-acres of nearby City property is required to be subject to the land use restrictions.

In order to transfer land use restrictions from the Schulte Road Property, staff recommends 149 acres of City owned property located at Legacy Fields and north of Legacy Fields, (APNs 212-150-02 and 03) to create approximately 300 total acres of undeveloped property to meet the requirements of the GSA (Attachment C Legacy

Fields Detail Map). A portion of this land is the undeveloped, planned Legacy Fields site, and the other is an adjacent, City-owned site.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no new impact to the General Fund. There currently is a balance of approximately \$425,000 in the Schulte Road CIP Fund 79367. If the transfer concept is ultimately approved by GSA and the City, any unused funds in the Schulte Road CIP would be returned to the RSP Fund 345. The costs to transfer the land use restrictions is approximately \$25,000 in staff time and an estimated \$30,000 to be paid from the Schulte Road CIP Fund 79367 for professional services including environmental updates, land surveying, title reports and other requested tasks by the GSA to complete the transfer.

RECOMMENDATION

Staff recommends that Council discuss and direct staff to pursue the transfer of land use restrictions and reversionary rights from the City's Schulte Road property to 151 undeveloped acres at Legacy Fields, APN 212-150-04, and up to 149 acres of City owned property north of Legacy Fields at APNs 212-150-02, and 03, and direct staff to work with GSA on the next steps in the process.

Prepared by: Joshua Ewen, Management Analyst
Andrew Malik, Development Services Director

Reviewed by: Rachelle McQuiston, Administrative Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – City Council Agenda Item of October 21, 2014, Resolution 2014-185
Attachment B - Location Map
Attachment C - Legacy Fields Detail Map

Attachment A

October 21, 2014

AGENDA ITEM _____

REQUEST

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

EXECUTIVE SUMMARY

On September 18, 2012, Council appropriated \$1,105,250 to remove the Federal use restrictions and reversionary interests from the Schulte Road property and directed staff to continue to work with the General Services Administration (GSA) to reduce the dollar amount necessary to remove the restrictions. After lengthy discussions, GSA and staff have identified a potential way to transfer the Schulte Property park/educational use restrictions and reversionary rights to other undeveloped park property in the City as a way to eliminate the funding requirement necessary to allow the City to use the Schulte Road property for economic development purposes.

On September 10, 2014, GSA sent a letter to the City outlining the transfer concept and documents necessary to begin the process. One such request is to receive confirmation that the City is interested in pursuing this concept, which would include recording park restrictions on approximately 300 acres of the Legacy Fields. Greater details of the park use restrictions and reversionary rights would come back to Council at a later date for approval through a Memorandum of Agreement (MOA) between the City and GSA. Staff recommends that Council direct staff to move forward with GSA on the concept of transferring the Federal use restrictions and reversionary rights from the Schulte Road property to approximately 300 acres of the Legacy Fields property.

DISCUSSION

The Schulte Road property is approximately 200 acres and is located on the south side of Schulte Road, west of Lammers Road. See Attachment A (Location Map).

The United States Congress authorized the General Services Administration ("GSA") to convey 200 acres to the City via special legislation originally enacted in 1998. The special legislation conveyed 50 acres to the City at fair market value for "economic development" purposes and the remaining 150 acres at no cost to the City, but specifically for recreational and/or educational "public benefit" purposes.

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

On October 7, 2008, through Council direction, staff began to work with Congressional Delegates to amend the existing property conveyance legislation to allow for renewable and/or alternative energy uses and began exploring a City project that involved

renewable and/or alternative energy uses. Consequently, over the next two years, the City began negotiations to sell or lease the site to GWF for a private project that involved renewable and/or alternative energy uses.

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

On May 15, 2012, Congress enacted Public Law 112-119, authorizing GSA to offer the City of Tracy the option to acquire the 150 acres at appraised fair market value, thereby releasing any reversionary interest retained by the United States on the property. The June 27, 2012, letter from GSA to the City requested that the City consider acquiring the property for \$1,115,250 (*these costs include the appraised value of \$1,100,000, and the appraisal expense of \$5,250*). GSA also informed the City that delaying acquisition of the property could result in an increase to the appraised value amount as well as additional administrative fees. If the Council determined it did not want to acquire the 150 acre property or develop it for recreation or educational purposes, the property would revert back to GSA.

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

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

After numerous discussions between GSA and the City relative to reducing the cost to remove the use restrictions on the Schulte Road property, GSA and staff have identified a concept whereby the use restrictions and reversionary rights recorded on the Schulte Road property could be transferred to other undeveloped park property in the City. On

July 22, 2014, staff provided a tour of Legacy Fields to Clark Van Epps, GSA Regional Director and his support staff. At the conclusion of the tour, GSA representatives indicated that they would need to internally discuss the transfer concept and, if acceptable, would send a letter to the City detailing how to proceed. On September, 10, 2014, the City received a letter from GSA outlining certain requirements and documents necessary to proceed with the transfer concept. The following represent those requests:

GSA Requirements of the City to proceed with Transfer Concept

1. Confirmation from the City Council to proceed with the use restrictions and reversionary interest transfer from the Schulte Road property to 300 acres of the undeveloped Legacy Field project.
2. Provide a public use plan that details the City's plans for the entire replacement property with a development schedule.
3. Complete a Phase I Environmental Site Assessment to determine whether the property is environmentally safe and not contaminated.
4. Provide a title report and legal description of the replacement property.

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

Next Steps

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

STRATEGIC PLAN

This agenda item relates to the Economic Development Strategy relative to Goal 1/ Objective 1: Continuously review and improve the streamline permit process and ensure quality infrastructure to meet future development needs.

FISCAL IMPACT

There is no new impact to the General Fund. There currently is a balance of approximately \$565,000 in the Schulte Road CIP. If the transfer concept is ultimately approved by GSA and the City, any unused funds in the Schulte Road CIP would be returned to the RSP Fund 345.

RECOMMENDATION

Staff recommends that Council support the concept of transferring the use restrictions and reversionary rights from the City's Schulte Road property to the undeveloped 300 acre Legacy Field property and direct staff to work with GSA on the next steps in the process.

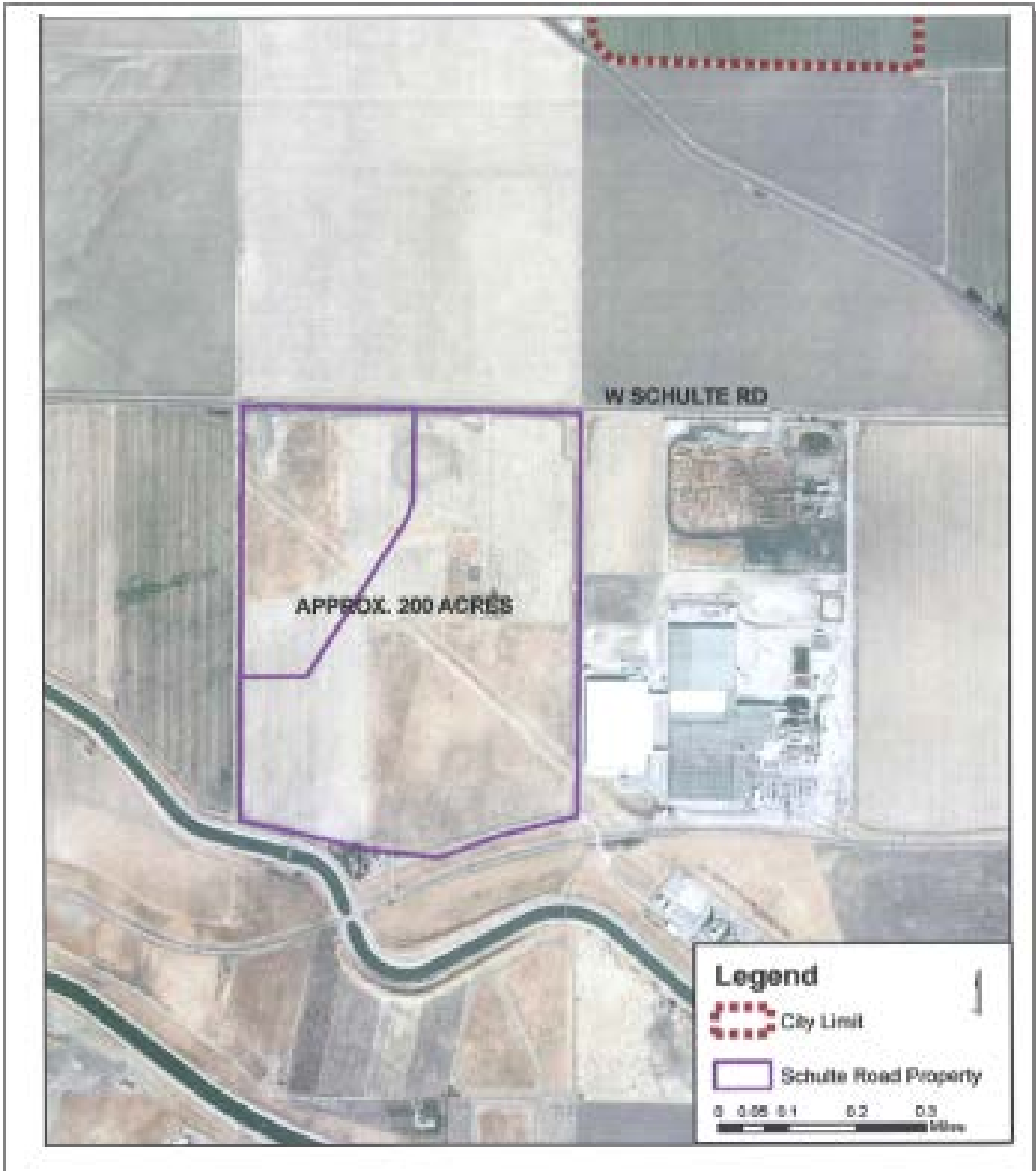
ATTACHMENTS

Attachment A - Location Map

Prepared by: Andrew Malik, Development Services Director

Reviewed by: Jenny Haruyama, Administrative Services Director
Maria A. Hurtado, Assistant City Manager

Approved by: Troy Brown, City Manager



RESOLUTION 2014-185

SUPPORTING THE CONCEPT OF TRANSFERRING THE USE RESTRICTIONS AND REVERSIONARY RIGHTS FROM THE CITY'S SCHULTE ROAD PROPERTY TO THE UNDEVELOPED 300 ACRE LEGACY FIELD PROPERTY

WHEREAS, On May 15, 2012, Congress enacted Public Law 112-119, authorizing GSA to offer the City of Tracy the option to acquire the 150 acres at appraised fair market value, thereby releasing any reversionary interest retained by the United States on the property, and

WHEREAS, GSA and staff have identified a concept whereby the use restrictions and reversionary rights recorded on the Schulte Road property could be transferred to other undeveloped park property in the City, and

WHEREAS, July 22, 2014, staff provided a tour of Legacy Fields to Clark Van Epps, GSA Regional Director and his support staff, and

WHEREAS, On September, 10, 2014, the City received a letter from GSA outlining certain requirements and documents necessary to proceed with the transfer concept, and

WHEREAS, There is no new impact to the General Fund. There currently is a balance of approximately \$565,000 in the Schulte Road CIP. If the transfer concept is ultimately approved by GSA and the City, any unused funds in the Schulte Road CIP would be returned to the RSP Fund 345;

NOW, THEREFORE, BE IT RESOLVED, That City Council supports the concept of transferring the use restrictions and reversionary rights from the City's Schulte Road property to the undeveloped 300 acre Legacy Field property

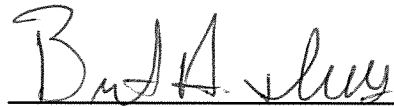
The foregoing Resolution 2014-185 was adopted by the Tracy City Council on the 21st day of October, 2014, by the following vote:

AYES: COUNCIL MEMBERS: MACIEL, MANNE, RICKMAN, YOUNG, IVES

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE



MAYOR

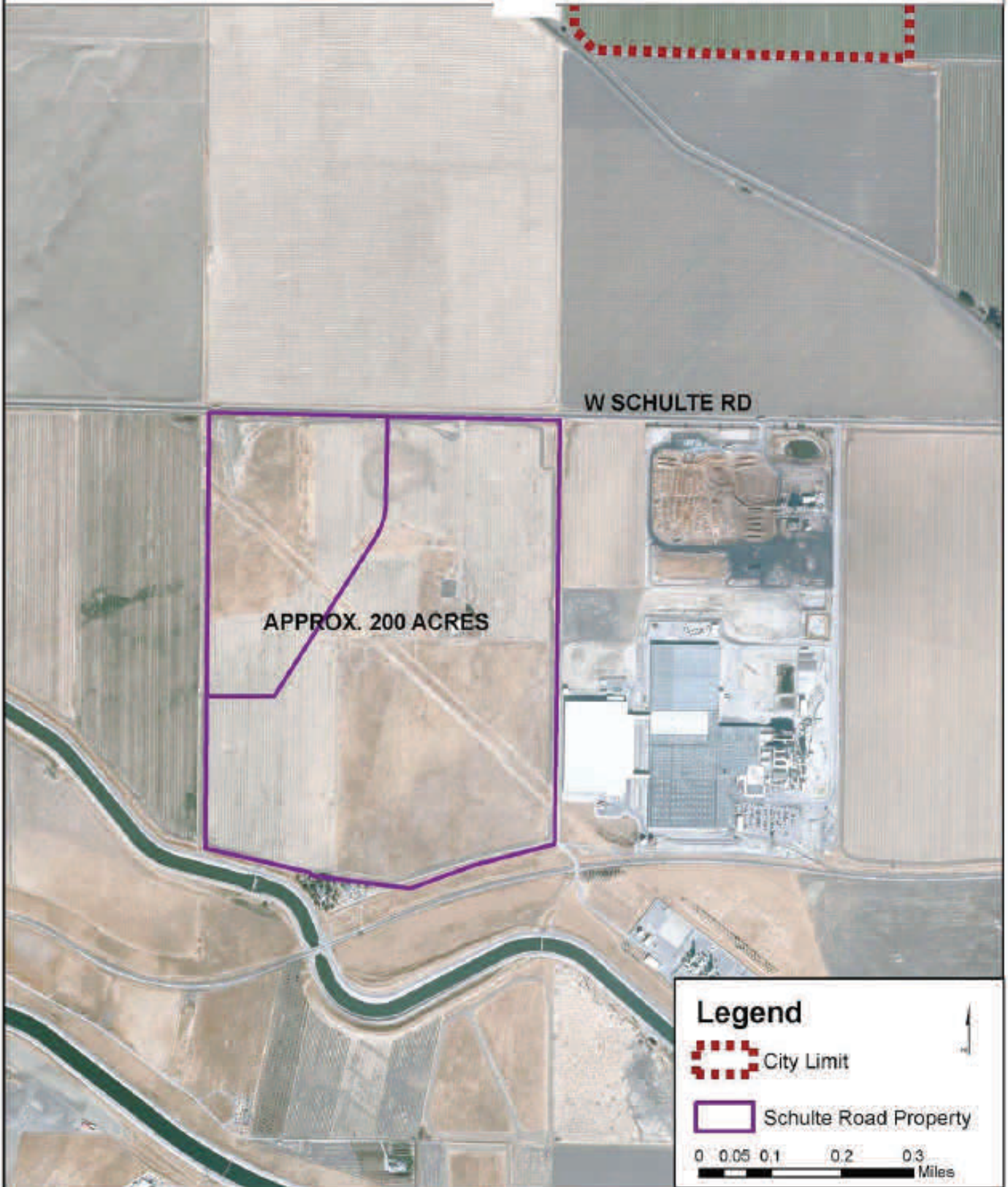
ATTEST:



INTERIM CITY CLERK

Schulte Road Property



Location Map - Attachment B



APPROX. 200 ACRES

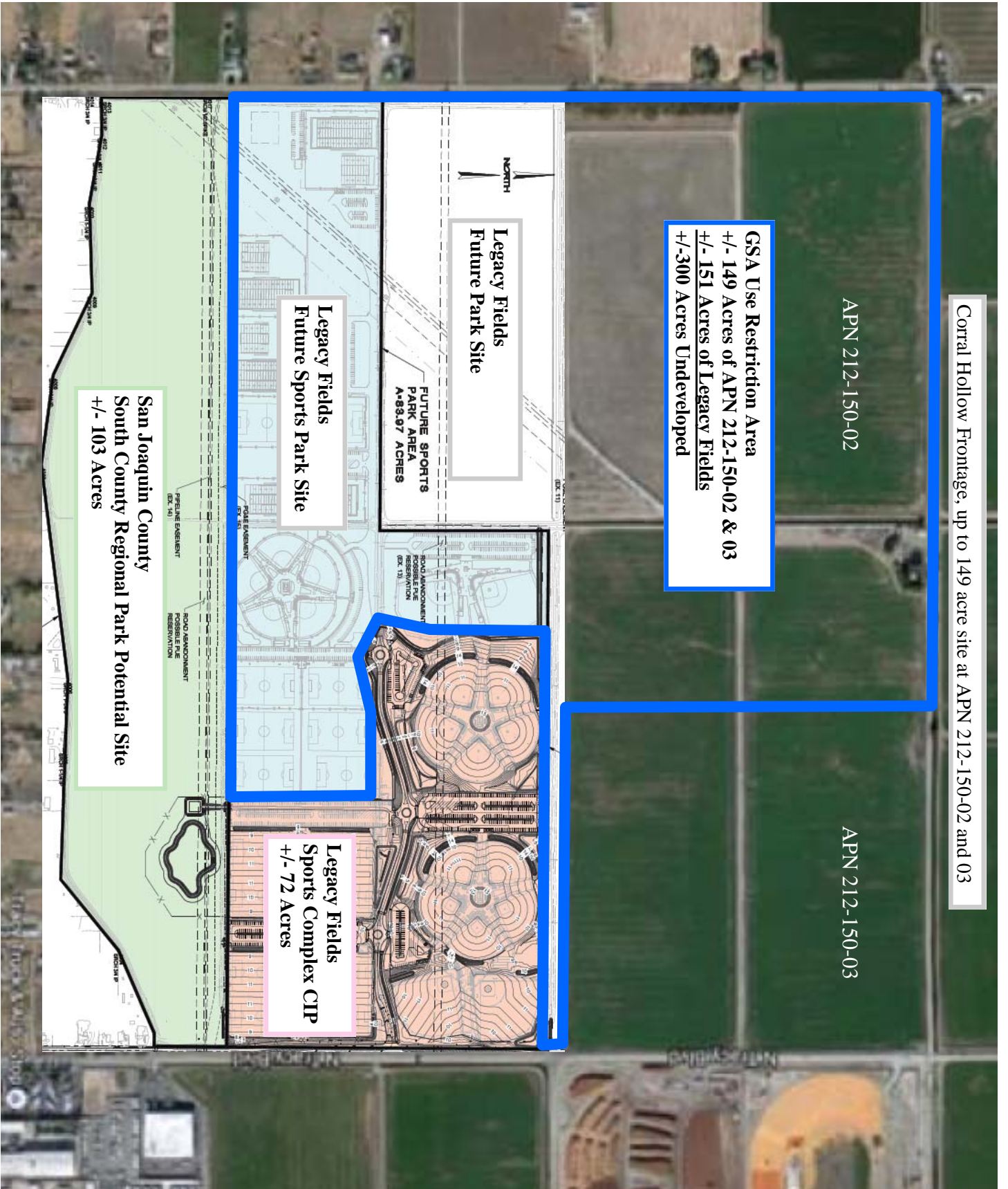
W SCHULTE RD

Legend

-  City Limit
-  Schulte Road Property

0 0.05 0.1 0.2 0.3
Miles

Attachment C Legacy Fields Detail Map



AGENDA ITEM 5

REQUEST

DISCUSS AND PROVIDE DIRECTION ON WHETHER TO HAVE STAFF BRING BACK A DRAFT LOBBYING ORDINANCE FOR POSSIBLE INTRODUCTION AND ADOPTION

EXECUTIVE SUMMARY

On March 3, 2015, the City Council directed staff to place an item on a future agenda to allow the City Council to discuss and provide direction on whether to adopt a lobbying ordinance. On May 5, 2015, the City Council discussed whether to adopt a lobbying ordinance. At that time, the City Council directed staff to bring this item back in six months to allow time for City Council Members to solicit public input.

DISCUSSION

On March 3, 2015, the City Council directed staff to place an item on a future agenda to allow the City Council to discuss and provide direction on whether to adopt a lobbying ordinance. On May 5, 2015, the City Council discussed whether to adopt a lobbying ordinance. A copy of the staff report from May 5, 2015 is attached. At that time, the City Council directed staff to bring this item back in six months to allow time for City Council Members to solicit public input.

STRATEGIC PLAN

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

FISCAL IMPACT

It is estimated that administration and enforcement of a lobbying ordinance would result in some costs for staff time.

RECOMMENDATION

That the City Council discuss and provide direction on whether to have staff bring back a draft lobbying ordinance for possible introduction and adoption.

Prepared by: Stephanie Garrabrant-Sierra, Assistant City Manager
Nora Pimentel, City Clerk
Daniel G. Sodergren, City Attorney

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Agenda Item 5
November 3, 2015
Page 2

ATTACHMENT:

May 5, 2015 staff report

May 5, 2015

AGENDA ITEM 7.A

REQUEST

DISCUSS AND PROVIDE DIRECTION ON WHETHER TO HAVE STAFF BRING BACK A DRAFT LOBBYING ORDINANCE FOR POSSIBLE INTRODUCTION AND ADOPTION

EXECUTIVE SUMMARY

On March 3, 2015, the City Council directed staff to place an item on a future agenda to allow the City Council to discuss and provide direction on whether to adopt a lobbying ordinance.

DISCUSSION

On March 3, 2015, the City Council directed staff to place an item on a future agenda to allow the City Council to discuss and provide direction on whether to adopt a lobbying ordinance.

A number of cities in California have adopted lobbying ordinances. Typically, lobbying ordinances require lobbyists to: register with the city; maintain a list of current clients; provide periodic reports on their activities; and refrain from certain types of activities. The attached paper from the Institute for Local Government ("ILG") (see Attachment A) has good information regarding lobbying ordinances. The ILG is the research and education affiliate of the California Association of Counties, the League of California Cities, and the California Special Districts Association. A sample lobbying ordinance is also attached (see Attachment B).

The need to adopt a lobbying ordinance will vary from city to city based on a number of factors, including the number of lobbyists in a given city and/or a real or perceived problem with the activities of certain lobbyists. However, usually only larger cities see the need to adopt a lobbying ordinance. Based on a survey of 25 cities with a similar population to Tracy (85,000), only one had a lobbying ordinance (the City of Carson). The City of Fairfield (population 110,000) adopted a lobbying ordinance in 2008 but repealed it in 2013 after discovering it was not needed. A copy of the staff report from the City of Fairfield is attached (see Attachment C). Nevertheless, exceptions exist. For example, the Cities of West Hollywood and Beverly Hills (both population 34,000) have lobbying ordinances.

The City Clerk's Office would be responsible for administering a lobbying ordinance if such an ordinance was adopted. Based on a survey of other cities, minimal staff time would likely be required to maintain a City lobbying ordinance. Likely, it would require an annual notification letter to be sent out some time in January/February to renew registration and pay annual registration fees. Depending on the number of registered lobbyists, staff time to process could potentially take from thirty minutes to two hours once a year. Follow-up work would be required after registration payments are made. Staff would have to process payments and maintain files. How much time this would require is not known at this time.

If such an ordinance was adopted, the Police Department would be responsible for enforcement pursuant to the penalty provisions of the Tracy Municipal Code (TMC) (see TMC Chapter 1.04).

As the ILG paper also points out, because of administrative and enforcement challenges unique to lobbying ordinances, some cities take alternative approaches to addressing lobbying activities. For example, some cities shift the burden of disclosure to the City Council, by adopting policies requiring Council Members to disclose their outside ("ex parte") communications made in connection with all legislative and administrative actions.

If the City Council chooses to pursue adoption of a lobbying ordinance, staff will bring back a draft ordinance for possible formal introduction and adoption at a future City Council meeting.

STRATEGIC PLAN

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

FISCAL IMPACT

It is estimated that administration and enforcement of a lobbying ordinance would result in some costs for staff time.

RECOMMENDATION

That the City Council discuss and provide direction on whether to have staff bring back a draft lobbying ordinance for possible introduction and adoption.

Prepared by: Andrew Malik, Interim Assistant City Manager
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Reviewed by: Andrew Malik, Acting Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

- A. ILG Paper
- B. Sample Ordinance
- C. City of Fairfield Staff Report
- D. 25 Comparison Cities Based on Similar Population



Everyday Ethics: Regulating Lobbying Activities

August and October, 2012

Question: *After a series of unfortunate experiences, our agency is considering whether to adopt regulations relating to lobbying the agency. What should we understand about regulating lobbyists?*

Answer: Let's start with a common scenario -- A local property owner wants to develop a vacant parcel of land. A group of neighbors hear about the project and arrange a meeting with local officials to express their concerns. The property owner, concerned about project approvals, hires a former elected official to advocate on behalf of the project. The local officials, after meeting with both sides, begin to form their opinions about the project."

While this scenario may sound familiar, it also raises a series complex issues about the role of "influence" in the public decision-making process. All U.S. citizens are guaranteed the right of free speech, the right to freely associate with like-minded persons, and the right to petition elected officials. But there are competing public interests involved, such as transparency, the fair exchange of ideas, and the integrity of the decision-making process.

Local lobbying laws attempt to reconcile these important rights and interests and raise the important and very practical questions the appropriate role of 'lobbying' in local governmental decision-making, and whether (and to what extent) local agencies should regulate lobbying.

This resource is a service of the Institute for Local Government (ILG) whose mission is to promote good government at the local level with practical, impartial, and easy-to-use resources for California communities. ILG is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities and the California State Association of Counties. For more information and to access the Institute's resources on Ethics, visit <http://www.ca-ilg.org/ethics-transparency>. The direct link to this resource is www.ca-ilg.org/post/local-regulation-lobbyists.

The Institute is grateful to Daniel D. Purnell is both a former local elected official and former executive director to the Oakland Public Ethics Commission. An Institute volunteer, Dan currently practices campaign and election law in California and can be reached through at www.purnell-law.com.

The Institute welcomes feedback on this resource:

- **Email:** jspeers@ca-ilg.org Subject: Everyday Ethics: Regulating Lobbying Activities
- **Mail:** 1400 K Street, Suite 205 • Sacramento, CA • 95814

The Whys of Lobbyist Regulation

Over the years, courts and commentators have articulated the potential harms that unregulated lobbying can have on governmental institutions. Corruption and the appearance of corruption (often in the form of bribery, “sweet-heart” contracts, poor decisions such as pork-barreling and earmarking) are identified hazards that government has an interest in avoiding. Other potential hazards include having the public voice “drowned out” by the voice of special interests, or having public decisions based on flawed or incorrect information.

Commentators have also recognized potential benefits from professional lobbying, such as providing necessary information to decision-makers, and by organizing various and numerous voices into an efficient, collective and comprehensive message.¹ Today, even local agencies retain lobbyists to represent their interests before other legislative and administrative bodies.

In California, the state² and a growing number of local jurisdictions³ have adopted lobbying laws. The California Supreme Court upheld the lobbyist registration and reporting requirements contained in the Political Reform Act of 1974, holding that those provisions, as well as the Act’s \$10 per month gift limit from lobbyists to state candidates and elective officials, “do not constitute substantial limitations on petition and speech rights.”⁴

(California law also acknowledges that local regulation of lobbying activities can apply equally to attorney lobbyists without creating issues under state law regulating attorney conduct.⁵)

History of Lobbying Regulation

Influencing government decisions is hardly a modern phenomenon. Shakespeare’s famous play “Julius Caesar” begins with Cassius’ maneuverings to convince Roman senators to replace a popular Julius Caesar with a reluctant (but ultimately murderous) Brutus.

The current term “lobbyist” reportedly originated from people who gathered in the lobbies of legislative chambers and, in the United States, the lobby of the Willard Hotel in Washington D.C. where its occasional guest, Ulysses S. Grant, and other U.S. officials, would serve as the targets of their many petitions and requests.⁶

The first major effort to regulate lobbying at the federal level came in the 1940s when Congress enacted the “Federal Regulation of Lobbying Act.”⁷ The Act imposed a registration requirement for people seeking to influence the passage or defeat of federal legislation, and imposed a quarterly reporting requirement of the money lobbyists received and expended for that purpose.

The United States Supreme Court, in a narrowly framed opinion, rejected a constitutional challenge to the Act, ruling in part that the Act’s registration and reporting requirements did not violate First Amendment rights “to speak, publish and petition the Government.”⁸

These laws share many common and essential elements and, at the same time, grapple in their own way with difficult-to-define terms and concepts.

Defining “Lobbyist” and “Lobbying”

Every lobbying law must make an attempt to clearly define either who qualifies as a lobbyist or what activities constitute “lobbying.” This is often the most difficult and contentious part of a lobbying law because these terms often determine how broadly (in terms of people affected and/or activities regulated) the law applies.

“Lobbyists” are frequently characterized as either “contract” lobbyists or “in-house” lobbyists.⁹ A “contract” lobbyist is someone who is hired on a specific project or contract basis.

Most laws establish a “time and money” test to define contract lobbyists, such as this language from Oakland’s ordinance:

Lobbyist’ means any individual who . . . receives or is entitled to receive one thousand dollars (\$1,000) or more in economic consideration in a calendar month, other than reimbursement for reasonable travel expenses. . .¹⁰

“In-house” lobbyists are people who lobby exclusively for their own employer. A common example of an “in-house” lobbyist is a governmental affairs representative for a company.

Definitions of “in-house” lobbyists attempt to establish a minimum threshold of activity that distinguishes in-house lobbyists from any other employee whose communications with public officials may be occasional or minimal. These definitions vary, but are often based on such factors as:

- The amount of time spent lobbying (for example, five hours lobbying per month);
- The number of “contacts” they make with public officials (for example, a minimum of 10 lobbying contacts per month); or
- If the employee spends a “significant” or “substantial” amount of time lobbying public officials.¹¹

The ultimate question is what constitutes the act “lobbying.” Basically, the act of lobbying is the act of communicating with public officials for the purpose of influencing certain types of decisions on behalf of another. The decisions sought to be influenced are usually characterized as either being legislative or administrative in nature.

How a local agency defines lobbying can sometimes be complex and/or be subject to certain exceptions. San Francisco's lobbying ordinance, for example, contains seventeen exceptions from its definition of what constitutes lobbying "contacts."¹² These include commonly found exceptions for

1. Public officials who lobby in the course of their official duties;
2. People submitting bids or applying for permits;
3. People negotiating contracts with designated representatives of the local agency; and
4. People providing testimony or information at the invitation of a public official.

Los Angeles exempts on public policy grounds representatives of non-profit organizations that receive government funding to represent the "interests of indigent persons."¹³ San Jose provides an even broader exemption for "uncompensated members of the board of directors of nonprofit organizations" and for "[c]ompensated officers or employees of a [501(c)(3)] nonprofit organization. . . whose attempts to influence governmental action are on behalf of the organization."¹⁴

Imposing Certain Transparency Obligations on Lobbyists

In addition to the basic definitions of lobbyist, lobbying, and the types of decisions to which lobbying can apply, local lobbying laws typically require lobbyists to

1. Register with the local agency;
2. Maintain a current list of clients;
3. Provide periodic reports on their activities; and
4. Refrain from certain types of activities.

Registration Requirements

Lobbying laws typically require persons to register with the local agency within a certain time period after qualifying as a lobbyist. Registration involves providing name, address and contact information for the lobbyist, client information and, in some jurisdictions, the nature of the client's business and the matters for which the client has hired the lobbyist to influence.

Reporting Requirements

One of the key components of local lobbying laws is the requirement that lobbyists periodically report on their activities. At the most basic level, almost all laws require an identification of the decision the lobbyist seeks to influence for each client during the reporting period.

Beyond that, jurisdictions vary in the type and detail of information lobbyists must provide. Examples of the type of information required by local agencies include:

1. The amount of payments made by lobbyists to public officials (usually known as “activity expenses”);
2. The amount of campaign contributions made or arranged by the lobbyist to local officeholders and candidates;
3. The amount of payments the lobbyist made to a non-profit or charitable organization at the behest of a public official or candidate;
4. Professional services the lobbyist provided to a public official or candidate, such as fundraising or campaign consulting services;
5. The amount of compensation received from clients;
6. Any employment the lobbyist provided to or arranged for a public official and/or the public official’s family;
7. The identity of the local department, office or individual who was lobbied; and
8. A description of the client’s position or arguments regarding the decision sought to be influenced.

The key is to determine what information is relevant or useful in providing insight into lobbying activities.

Prohibited Activities

In addition to periodic reporting of lobbyist activities, most ordinances contain a number of limitations on lobbying activities. Examples include:

1. Restrictions on the amount of gifts or activity expenses a lobbyist may confer on a public official;
2. Making false statements to public officials or creating fictitious statements of support or opposition to a pending governmental decision;¹⁵

3. Promising clients that the lobbyist can obtain a particular outcome and/or basing the lobbyist's fee on whether that outcome was achieved (in other words, no "contingent fee" arrangements);
4. Making or bundling campaign contributions;
5. Introducing measures for the sole purpose of creating future work for a lobbyist; and
6. Forbidding persons from acting as lobbyists without registering.

"Revolving Door" Regulations

Another provision addressed not so much to lobbyists but to local public officials is a prohibition on leaving public employment and returning to lobby their former agencies or co-workers. Known as "revolving door" laws, these prohibitions exist primarily because of the perceived advantage that a former local official may have in representing clients before his or her former agencies. Revolving door laws typically try to limit this advantage by imposing a "cooling-off" period of up to one or two years before a public official may lobby his or her former agency or co-workers.¹⁶

The doors can swing in the other direction, too; some jurisdictions prohibit registered lobbyists from serving on local boards and commissions.¹⁷

Penalties for Non-Compliance

Almost every lobbying ordinance contains some type of civil or criminal sanction for the violation of its provisions. Monetary penalties are common and many ordinances include a prohibition from working as a lobbyist, typically for up to one-year, if the lobbyist is found to have intentionally violated one or more of the law's provisions.

The Challenges of Effective Enforcement

Establishing a culture of effective administration and compliance presents one of the greatest challenges to a successful lobbyist registration program. It is not enough simply to prescribe penalties in the text of an ordinance. An effective lobbying program depends largely on active administration and workable compliance measures.

Getting Complete and Accurate Reports

Lobbying laws essentially operate on the honor system. Lobbyists are expected to register in a timely manner and truthfully report their activities. So how does a local agency ensure that these registration and reporting requirements are being met?

One of the ways to help ensure accurate reporting is by requiring lobbyists to verify under penalty of perjury that the information contained in the reports is both complete and accurate. Professional lobbyists are not likely to risk damaging their credibility by failing to make full and honest disclosures. However, a strict verification requirement can help remind lobbyists that their disclosures are important and the local agency takes them seriously.

Another way to ensure full disclosure is by developing a process for diligently reviewing information contained in lobbyist reports and cross-checking it against other sources. Given the large number of lobbyists, clients and decisions they seek to influence, even in moderately sized jurisdictions, chances are good that some reportable information may go unreported unless the lobbyist reports are reviewed carefully for errors and possible omissions.

Penalties for Noncompliance

Many lobbying laws provide for criminal misdemeanor penalties in the event of an intentional violation. But because of the high burden of proof in criminal prosecutions, not all claimed violations may receive the attention they arguably deserve. Consequently some jurisdictions also provide for civil penalties, such as monetary fines and suspension from practice, in addition to criminal sanctions.

Before any civil penalties can be imposed, however, alleged violations must first be investigated and, if necessary, submitted to a neutral fact-finder authorized to impose penalties. Investigating alleged violations of lobbying laws, often in the form of written complaints filed by members of the public, can be a complex, time-consuming activity. The process frequently involves interviewing parties and witnesses, obtaining records and ultimately analyzing whether enough facts exist to proceed with a formal hearing. If an investigation finds a reasonable basis for believing a violation has occurred, the local agency may conduct a formal hearing before a neutral hearing officer. While rare, such formal hearings can also be very time intensive and must conform to exacting procedural due-process requirements. These include adequate notice and a fair hearing

Assigning Responsibility for Enforcing and Administering the Law

Some jurisdictions have addressed the compliance issue, along with administrative issues, by creating a local body with limited powers of oversight and enforcement. For example, the cities of San Diego, Los Angeles, Oakland and San Francisco have delegated civil enforcement authority over their respective lobbying laws to local ethics commissions.

These commissions also have jurisdiction over other local ethics laws, such as campaign finance and government conduct ordinances. Staff to these appointed boards investigate alleged violations in addition to administering the law, including such activities as developing forms, creating educational material and managing filed documents. The

ethics commissions are authorized to sit as hearing panels to determine alleged violations of law and impose appropriate civil penalties.

Not every local jurisdiction has the resources or desire to create an ethics commission to take responsibility for ensuring lobbyist compliance. Before adopting any lobbying law, serious thought should be given to the resources that the local agency is prepared to commit for necessary administration and enforcement. Without credible enforcement, compliance can suffer. The initial and annual registration fees many jurisdictions charge to cover or defray the cost of administering and enforcing the ordinance cannot always anticipate the sometimes extensive costs for a complex investigation or a protracted enforcement proceeding.

Alternative and Complementary Laws

Given that lobbying laws can be challenging to administer and enforce, what alternative approaches can local agencies use? If one of the primary purposes of lobbying laws is to shed light on how public decisions are influenced and made, lobbyists are not the only source of pertinent information. Public officials can also serve as a source of information.

One option is to adopt “ex parte communication” rules that essentially take the burden of disclosure and shift it to or share it with the public officials being lobbied. This approach is unique because it expands a public official’s obligation to disclose his or her outside (“ex parte”) communications made in connection with quasi-judicial proceedings to include communications related to certain legislative or administrative actions as well.

For example, the City of San Jose’s municipal code includes the following language: “Before taking any legislative or administrative action, the mayor, each member of the city council ... and each member of the planning commission, civil service commission or appeals hearing board must disclose all scheduled meetings and telephone conversations with a registered lobbyist about the action. The disclosure may be made orally at the meeting before discussion of the action on the meeting agenda. The oral disclosure must identify the registered lobbyists, the date(s) of the scheduled meetings and telephone conversations and the substance of the communication ...”

Not all public officials will be particularly excited about having to track and record the names of lobbyists they speak with, much less having to announce publicly that they meet with lobbyists at all on legislative or administrative matters. Still, few people are in a better position to know who is trying to influence decision-makers’ actions than a public official. A requirement to disclose ex parte communications on legislative and administrative matters has the advantage of providing the public with information that is both immediate and relevant to the decision at hand. It can also provide an effective cross-check on subsequent lobbying reports.

Another source of information about lobbying activities is the online posting of public officials' calendars and appointment books. Such requirements are usually adopted in the context of local transparency ordinances. But in conjunction with a local lobbying law, such requirements can provide relevant information about meetings involving public officials and lobbyists. Some public agencies and officials already use software packages that include electronic calendaring functions that can be adapted to include the pertinent meeting information. This information can be posted and updated daily if desired.

The compulsory disclosure of meeting information is not without controversy. California courts have generally upheld disclosure requirements as part of the regulation of professional lobbyists. However, the courts have not addressed the specific issue of whether local agencies can compel uncompensated residents to register as lobbyists and provide information regarding their communications with public officials. Privacy and First Amendment issues could also arise if public officials are required to publicly identify and disclose the names of constituents with whom they meet or produce records containing similar information.

Legal issues aside, it would seem essential to consider as a matter of public policy whether a contemplated disclosure law — such as *ex parte* communications and public posting of appointment calendars — could chill public interest and participation for individual residents in the decision-making process.

Identifying the Right Approach for Your Agency

An unfortunate reality is that ethics laws are often adopted reactively following a public crisis or scandal. Lobbying laws are no exception and are sometimes susceptible to the political dynamic in which legal, ethical or practical considerations give way to an overriding desire to “do something.”

Part of the measured consideration of whether and how to regulate lobbying should include an assessment of:

- Which approach is pertinent and necessary within a particular jurisdiction; and
- How the information gathered will be put to use.

What Problem Does the Agency Need to Solve?

Looking at what other jurisdictions have done can be helpful in assessing which approach makes sense, but policy-makers are also well-advised to consider the dynamics within their particular community. Such considerations include:

- Are there relatively few or many lobbyists operating in the community?

- What types of interests do they represent, and what types of decisions tend to be influenced?
- How do lobbyists exercise influence: by directly urging certain public policy decisions, financing political campaigns and/or channeling money to favored causes or organizations?
- Which approach would best target the perceived need?

It may be helpful to consider other options, too, such as:

- A local campaign-financing ordinance that limits the amount and/or restricts the source of contributions; or
- A transparency ordinance that augments the local agency's duty to disclose information.

Taking the community's unique needs into account will help determine what type of information to seek from local lobbyists as well as what restrictions to place on lobbying activities.

How Will Any Information Collected Be Used?

The next question is what should be done with the information once it is obtained. This is a key element of a lobbying ordinance's effectiveness. Some jurisdictions use interactive online systems. These can be more convenient for both those reporting information and those wanting to access it. Some have useful search functions and other helpful features.

In jurisdictions without interactive systems, one option is to post a current list of lobbyists and their clients on the agency's website.

The goal is to present information in a way that allows the public and public officials to easily access key facts. Charts and tables can be beneficial tools in this regard. Sharing this information regularly with elected officials and staff can also be a good practice. Doing so can provide an important check to ensure that lobbyists are fully complying with disclosure requirements. Periodically transmitting such information can encourage recipients to contact the filing office if they notice any discrepancies or errors.

Measuring Lobbying Ordinance Effectiveness

Tracking and analyzing the number of lobbyists and clients registered, the issues lobbied upon and the number of staff hours expended to administer and enforce the ordinance can provide valuable and useful information. The ultimate success of a

lobbyist registration program, however, will ultimately rely on community perceptions. Has the law improved transparency and public confidence in the decision-making process? Does it help community members better understand lobbyists' role in influencing public policy? Have problematic activities diminished?

While there may not always be consensus about whether these subjective standards have been achieved, a publicly noticed discussion — as part of a governing board, ethics commission or committee meeting — can produce valuable insights as to the effectiveness of the local ordinance and produce ideas for future amendments. At the very least, a well-administered lobbying law can and should provide elected officials and the public essential insight into the role of professional influence on the people's business.

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References and Resources

¹ See, for example, Lanny Davis, *Huffington Post*, November 17, 2008.

² See Cal. Gov't Code § 81000 and following (Political Reform Act of 1974).

³ The following cities and counties have adopted some form of lobbyist registration (not inclusive): Fairfield, Fresno, Irvine, Long Beach, Los Angeles, Malibu, Milpitas, Oakland, Orange, Richmond, Sacramento, San Diego, San Francisco, San Jose, San Louis Obispo, Santa Ana, Santa Rosa, Santa Clarita, Los Angeles County, Orange County, San Diego County.

⁴ *Fair Political Practices Comm. v. Superior Court*, 25 Cal. 3d 33, 49 (1979).

⁵ See Cal. Bus. & Prof. Code § 6009, which reads:

(a) Notwithstanding any other provision of law, a city, county, or city and county may require attorneys who qualify as lobbyists, as defined by the local jurisdiction, to register and disclose their lobbying activities directed toward the local agencies of those jurisdictions, in the same manner and to the same extent such registration and disclosure is required of nonattorney lobbyists. Any prohibitions against specified activities by lobbyists enacted by a city, county, or city and county shall also apply to attorneys who qualify as lobbyists.

(b) For purposes of this section, information about a lobbyist that may be required to be disclosed is:

- (1) The name, business address, and telephone number of the lobbyist, of any lobbying firm of which the lobbyist is a partner, owner, officer, or employee; and of any persons or lobbying firms paid to lobby by the lobbyist.
- (2) The name, business address, and business telephone number of each client who pays the lobbyist to lobby; the specific matter and agency lobbied, itemized by client; and the amount of money paid to the lobbyist for lobbying and the total expenses of the lobbyist for lobbying, itemized by client.
- (3) All gifts or payments made by the lobbyist to officials in the jurisdiction, itemized by the name of the official, the amount, date, and description of the gift or payment, and the names of the person making the gift or payment and the person receiving the gift or payment.
- (4) All campaign contributions made, arranged, or delivered by the lobbyist to officials in the jurisdiction, specified by amount, date, and name of the official receiving the contribution.

⁶ James Burns and Thomas Cronin, "Government By The People" (2000) Prentis Hall, 18th ed., pg. 216.

⁷ 2 U.S.C. §§ 261-270 (repealed).

⁸ *United States v. Harriss*, 347 U.S. 612 (1954).

⁹ There are other categories of lobbyists too, such as “expenditure” or “grassroots” lobbyists. These lobbyists are typically defined as persons who spend a specified sum of money to present their clients’ views to the the public or to a specific segment of the public (community groups, industries or professions) and encourage them to contact officials and advocate for or against a particular project or proposal.

¹⁰ Oakland Municipal Code Section 3.20.030(D), available at <http://library.municode.com/index.aspx?clientId=16308>.

¹¹ Some jurisdictions also impose filing and reporting obligations on “lobbyist employers” (that is, the entities that employ individual lobbyists).

¹² City of San Francisco Campaign and Government Conduct Code, Art. II, Chpt. 1, Section 2.100 and following; available at <http://www.sfethtics.org/ethics/2009/12/lobbyist-ordinance-2010.html>.

¹³ Los Angeles Municipal Code Ch. IV, Art. 8, Section 48.03(E), available at <http://www.amlegal.com/library/ca/losangeles.shtml>.

¹⁴ San Jose Municipal Code, Section 12.12.020(I) and (M), respectively, available at [http://sanjose.amlegal.com/nxt/gateway.dll/California/sanjose_ca/sanjosemunicipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanjose_ca](http://sanjose.amlegal.com/nxt/gateway.dll/California/sanjose_ca/sanjosemunicipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:sanjose_ca).

¹⁵ Note that rules pending before the California Supreme Court regarding attorney conduct do *not* require attorneys who serve as lobbyists to accord the same standards of veracity to nonjudicial tribunals. Compare California Proposed Rules of Professional Conduct Rule 3.3 (prohibiting false statements, failures to disclose authority, and false evidence to courts) with Rule 3.9 (requiring only that the attorney disclose that he or she is appearing in a representative capacity in communicating with administrative or legislative bodies). Contrast Proposed California Rule 3.9 with the American Bar Association Model Rule 3.9 (applying rule 3.3 to non-adjudicative proceedings and noting in comment 2 to Rule 3.9 (“ . . . legislatures and administrative agencies have a right to expect lawyers to deal with them as they deal with courts.”)).

¹⁶ See, for example, Cal. Gov’t Code § 87406.3. For more information on state revolving door laws, see <http://www.ca-ilg.org/document/revolving-door-restrictions-local-officials>.

¹⁷ Los Angeles City Charter, Art. V, Section 501(d)(2), available at <http://www.amlegal.com/library/ca/losangeles.shtml>.

ORDINANCE NO. 3954

ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA, CALIFORNIA,
AMENDING THE SANTA ROSA CITY CODE BY ADDING A NEW CHAPTER 10.35 OF
TITLE 10 RELATING TO THE REGULATION OF LOBBYING ACTIVITIES

THE PEOPLE OF THE CITY OF SANTA ROSA DO ENACT AS FOLLOWS:

Section 1. A new Chapter 10-35 entitled "Regulation of Lobbying Activities" is hereby added to Title 10 of the Santa Rosa City Code.

Title 10 of the Santa Rosa City Code is hereby amended by adding Chapter 10-35 – Regulation of Lobbying Activities -- to read as follows:

"Chapter 10.35 REGULATION OF LOBBYING ACTIVITIES

- 10-35.010 Declaration of policy.
- 10-35.020 Definitions.
- 10-35.030 Registration as Lobbyist.
- 10-35.040 Applicability.
- 10-35.050 Notice of Registration Required .
- 10-35.060 Prohibited Acts.
- 10-35.070 Filing Under Penalty of Perjury.
- 10-35.080 Filing and Preservation of Reports.
- 10-35.090 Revolving Door Prohibition.
- 10-35.100 Enforcement.
- 10-35.010. Declaration of policy.**

The Council of the City of Santa Rosa declares and finds as follows:

- (A) City government functions to serve the needs of all citizens.
- (B) The citizens of the City have a right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests.
- (C) All persons engaged in compensated lobbying activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations,

restrictions and requirements, regardless of their background, training or other professional qualifications or license.

(D) Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to the maintenance of citizen confidence in the integrity of City government.

(E) It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions or attempt to deceive a City official through false communications; do not place a City official under personal obligation to themselves or their clients; and do not represent that they can control the actions of any City official.

(F) It is in the public interest to adopt this Chapter to ensure adequate and effective disclosure of information about efforts to lobby City government.

10-35.020 Definitions.

Whenever used in this chapter, the following words and phrases shall be construed as defined in this section:

The following words and phrases shall have the meanings set forth below, unless the context requires otherwise. Other terms used in this division shall have the meanings set forth in the California Political Reform Act of 1974, as amended, and in the regulations of the California Fair Political Practices Commission, as amended, if defined therein.

A. *City official* means the Mayor, Vice Mayor, members of the City Council, the City Manager, the Deputy City Manager, Assistant City Managers, Department Directors, Deputy Department Directors, the Police Chief, Police Captains, the Fire Chief, Fire Captains, the City Attorney, the City Clerk, the Zoning Administrator and members of the Planning Commission, the Board of Public Utilities, the Redevelopment Agency Board, the Housing Authority Board, and any other commission or board that is advisory in nature.

B. *Client* means any person on whose behalf lobbying is conducted. In the case of a coalition or association that employs or retains persons to conduct lobbying activities, the client is the coalition or association and not its individual members.

C. *Compensation* means money or any other thing of value that is received, or is to be received, in return for, or in connection with, lobbying services rendered, or to be rendered, including reimbursement of expenses incurred in lobbying. Compensation includes the financial gain that a person may realize as a result of the determination of a municipal question, including gains in the form of a contingent fee. If a lobbyist engages in both lobbying activities and other activities on behalf of a person, compensation for lobbying includes all amounts received from that person, if for the purpose of evading the obligations imposed by this division, the lobbyist has structured the receipt of compensation in a way that unreasonably minimizes the value of the lobbying activities. Compensation which has not yet been received is considered to be received on the date that it is earned, if that date is ascertainable; otherwise, it is received on the date on

which the contract or agreement for compensation is made, or on the date lobbying commences, whichever is first. Compensation does not include any amounts previously reported.

D. *Contact* means all oral and written (including electronic) communications directed to a City official, including but not limited to telephone calls and messages, voicemail and answer machine messages, e-mail messages, mail, personally delivered material, meetings, and conversations.

E. *Lobbyist* means a person who engages in lobbying, whether directly or through the acts of another for compensation. If an agent engages in lobbying for a principal, both the agent and the principal are lobbyists.

F. *Lobby* or *lobbying*, except as provided below, means any oral or written communication (including an electronic communication) to a City official, made directly or indirectly by any person in an effort to influence or persuade an official to favor or oppose, recommend or not recommend, vote for or against, or take or refrain from taking action on any municipal question. The term "lobby or lobbying" does not include a communication:

1. Merely requesting information or inquiring about the facts or status of any municipal question, matter, or procedure, and not attempting to influence a City official;
2. Made by a public official or employee (including, but not limited to, an official or employee of the City of Santa Rosa) acting in his or her official capacity;
3. Made in the course of, or in connection with the gathering, preparation or dissemination of news, information or commentary to the public, or in connection with a municipal question's possible effect upon or relevance to the media's right or ability to engage in such conduct.
4. Made in a speech, article, publication, or other material that is distributed and made available to the public, or through radio, television, cable television, or any other medium of mass communication;
5. Made in writing as a petition for official action and required to be a public record pursuant to established City procedures;
6. Made in writing to provide information in response to an oral or written request by a City official for specific information, the content of which is compelled by law;
7. Made in response to a public notice soliciting communications from the public and directed to the official specifically designated in the notice to receive such communications;
8. Made on behalf of an individual with regard to that individual's employment or benefits;
9. Made by a fact witness or expert witness at an official proceeding; or
10. Made by a person solely on behalf of that individual or his or her relative.

G. *Lobbying firm* means:

1. A self-employed lobbyist, or
2. A person that has one or more employees who are lobbyists on behalf of a client or clients other than that person.

H. *Municipal question* means a public policy issue of a discretionary nature pending before the City Council or another City body identified in the definition of City official, including but not limited to proposed action, or proposals for action, in the form of ordinances, resolutions, motions, recommendations, reports, regulations, policies, nominations, appointments, sanctions, and bids, including the adoption of specifications, awards, grants, or contracts. The term "municipal question" does not include the day-to-day application, administration, or execution of City programs and policies such as permitting, zoning and planning matters, but does include the amendment, modification or revision to the City's General Plan or Zoning Ordinance.

I. *Person* means an individual, business entity, trust, corporation, association, firm, partnership, committee, club, or any other organization or group of persons acting in concert.

J. *Registrant* means a person required to register under Section 10-35.030.

K. *Relative* means father, step-father, mother, step-mother, grandmother, grandfather, grandchild, brother, step-brother, sister, step-sister, spouse, aunt, uncle, cousin, child or step-child, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law.

L. *Changed Information* means any changes, additions or deletions to information required under Section 10-35.030.

10-35.030 Registration as Lobbyist

A. Except as provided in Section 10.35.040, any lobbyist shall register with the City Clerk by filing a written statement containing the following information:

1. The lobbyist's full name, business address and telephone number;
2. The name, business address and telephone number of any individual or entity by whom the lobbyist is employed, retained or engaged for compensation to perform lobbying services in the city;
3. The legislative or administrative action for the city as to which the lobbyist has been engaged.

B. Such registration shall be filed on an annual basis between January 1 and January 31, each year or upon initial employment if that occurs after the annual filing period. Should the registration be filed upon initial employment after the annual filing period, such registration shall be filed within fifteen (15) days of such initial employment.

C. Should a lobbyist have a change to its registration information, including but not limited to the legislative or administrative action for the city as to which the lobbyist has been engaged, or the addition or loss of a client, after the annual registration period, such lobbyist shall file an amended registration with the City Clerk within fifteen (15) days of such change with the changed information.

10-35.040 Applicability.

The provisions of Section 10-35.030 shall not apply:

- A. To a public official acting in his official capacity;
- B. To any newspaper or other regularly published periodical, radio or television station (including any individual who owns, publishes, or is employed by any such newspaper or periodical, radio or television station) which in the ordinary course of business publishes news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge action upon municipal legislation, if such newspaper, periodical, radio or television station or individual engages in no further or other activities in connection with action upon such municipal legislation;
- C. To a person invited by the City Council or any of its committees, or by any board or commission, or any committee or a board or commission, or by any officer or employee of the city charged by law with the duty of conducting a hearing and making a decision as to a pending or proposed matter, for the purpose of giving testimony in aid of the body or person extending the invitation;
- D. To a person who is a professional licensed by a state licensing organization, including, but not limited to, attorneys, architects and engineers retained by a client and whose attempts to influence governmental action are limited to (1) Publicly appearing at a public meeting, public hearing, or other official proceeding open to the public; (2) Preparing or submitting documents or writings in connection with the governmental action for use at a public meeting, public hearing, or other public proceeding open to the public; and (3) contacting city or redevelopment agency employees or agents working under the direction of the City Manger, the City Attorney or Executive Director relating to (1) and (2) above.
- E. A regular employee of an organization, communicating to the City during the course of their employment on behalf of their employer, would not be considered a lobbyist if the communication was on behalf of the employer's own project.
- F. To designated representatives of a recognized employee organization whose activities are limited to communicating with City Officials or their representatives regarding (1) wages, hours and other terms or conditions of employment, or (2) the administration, implementation or interpretation of an existing employment agreement
- G. To a non-profit organization unless the non-profit organization is lobbying for a specific project, issue or person for which the organization has received compensation or a contribution to lobby for or against a specific project, issue or person.

10-35.050 Notice of Registration Required.

The City Clerk, if approved by the City Attorney, shall issue a "notice of registration required" upon the written request of the Council, the City Attorney, or any board or commission, or any officer or employee of the City charged by law with conducting a hearing and making a decision on a matter pending or proposed. Any person who in good faith and on reasonable grounds believes that he is not required to comply with the provisions of Section 10-35.030 by reason of his being exempt under Section 10-35.040 or Section 1-36.060 shall not be deemed to have violated the provisions of Section 10-35.030 if, within 15 days after notice from the City Clerk, the person either complies or furnishes satisfactory evidence to the City Clerk that the person is exempt from registration.

10-35.060 Prohibited Acts.

It is unlawful for any person or entity to act as a lobbyist in the City without having registered in compliance with this chapter, or knowingly to employ a person or entity to serve as a lobbyist when such person is not registered pursuant to this chapter.

10-35.070 Filing Under Penalty of Perjury.

Any person desiring to register as a lobbyist shall file under penalty of perjury on forms prescribed by the City Clerk, the information required by Section 10.35.030.

10-35.080 Filing and Preservation of Reports.

- A. The filings required by this chapter shall be filed under oath with the City Clerk on forms prescribed by the City Clerk and may be filed:
 1. In person; or
 2. Be deemed properly filed when deposited in an established post office within the prescribed time, duly stamped, and directed to the City Clerk, at City Hall; but in the event it is not received, copies of such statement shall be promptly filed upon notice from the City Clerk of its nonreceipt; or
 3. Electronically (on-line) by forwarding to the City Clerk a copy of the prescribed form via electronic mail together with a facsimile copy of the form showing execution by the lobbyist. Such electronic filing shall be effective upon receipt by the City of the filing fee. The original signed form must be provided within ten days of electronic transmission.
- B. All reports and statements required under this chapter which are filed with the City Clerk shall be preserved pursuant to the city's records retention schedule, shall constitute part of the public records of his or her office, and shall be open to public inspection.
- C. The clerk may charge a fee to cover the actual costs of processing such reports or amendments in an amount established by resolution.

10-35.100 Revolving Door Prohibition.

No former member of the City Council, former member of the Planning Commission, Board of Public Utilities, Design Review Board, Cultural Heritage Board, Redevelopment Agency or Housing Authority, or former City employee may serve as a lobbyist with respect to matters before the City within one year of leaving office or employment with the City.

10-35.113 Enforcement.

Persons or entities who knowingly violate this chapter may be subject to penalties as set forth in Chapter I-28.010.”

Section 2. Environmental Determination. The Council finds that the adoption and implementation of this ordinance is exempt from the provisions of the California Environmental Quality Act in that the Council finds there is no possibility that the implementation of this ordinance may have a significant effect on the environment.

Section 3. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is for any reason held to be invalid, the validity of the remaining portions of this ordinance shall not be affected.

Section 4. Effective Date. This ordinance shall take effect on January 1, 2011.

IN COUNCIL DULY PASSED AND ADOPTED this 12th day of October, 2010.

AYES: (6) Mayor Gorin, Vice Mayor Wysocky, Councilmembers Bender, Sawyer, Jacobi, and Olivares

NOES: (0)

ABSENT: (1) Councilmember Vas Dupre

ABSTAIN: (0)

ATTEST: Susan Stoneman, City Clerk APPROVED: Susan Gorin, Mayor

APPROVED AS TO FORM:

Caroline Fowler, City Attorney



Agenda Item No. 13

Agenda Report

DATE: April 16, 2013

TO: The Mayor and City Council

FROM: Sean P. Quinn, City Manager *[Signature]*
David White, Assistant City Manager/Director of Finance *[Signature]*

SUBJECT: Ordinance Repealing Chapter 5C of the Fairfield City Code
Relating to Lobbyist Registration and Activities

RECOMMENDED ACTION

Waive further reading of the ordinance in full and approve reading by title only.
Approve first reading of the ordinance.

STATEMENT OF ISSUE

Staff is requesting the City Council to repeal Chapter 5C of the Fairfield City Code pertaining to lobbyist registration and activities as the definition of a lobbyist is unclear, making it difficult to enforce this chapter. In addition, the public has not shown any interest in the information required by Chapter 5C to be filed with the City, resulting in an unproductive use of staff time.

DISCUSSION

On March 4, 2008, the City Council adopted a lobbying ordinance instituting registration and reporting requirements for lobbyists who are compensated to influence any action by the City. Registration requires disclosure of the lobbyist's identity and the matter that the lobbyist is attempting to influence. The ordinance prohibits misrepresentations, fraudulent and certain other improper actions by lobbyists, and requires that lobbyists re-register each year, and file semi-annual statements with the City Clerk, reporting the compensation received for lobbying activities within the City. Each lobbyist is required to list all sources of compensation for lobbying activities and the amount of compensation received from each source.

DATE: April 16, 2013
SUBJECT: Ordinance Repealing Chapter 5C from the Fairfield City Code
Relating to Lobbyist Registration and Activities

The lobbyist ordinance went into effect on April 3, 2008. On April 15, 2008, the Council adopted Resolution 2008-90 establishing an annual lobbyist registration fee of \$100 to offset the processing costs for registration and reporting.

In 2008, 3 people registered as lobbyists. In 2009, 2010, 2011 and 2012, 2 people registered as lobbyists and have continued to file semi-annual reports with the Clerk's office. Overseeing the program requires City Clerk staff to maintain a roster of registered lobbyists, send out letters to current registered lobbyists advising them of the annual registration requirements and payment of fees, and 6 months later, request they file their semi-annual reports. Since implementation of the program in 2008, the City Clerk's office has never received a request from the public to provide the names of registered lobbyists or copies of their semi-annual reports.

Section 5C.2 defines a Lobbyist as, "Lobbyist' shall mean any individual, organization or business entity that is employed or retained or who contracts for economic or other consideration to communicate with any officer, employee, or elected official of the City of Fairfield for the purpose of influencing a legislative or administrative action on behalf of any other person." Staff believes the delineation between consultants and lobbyists is unclear, and as a result, registrations are minimal and the requirements of Chapter 5C are difficult to enforce. As an example, engineering and architectural firms are often hired to design a project and to handle the entitlement process. They are often advocates for the project, but generally they would not be considered lobbyists as that term is commonly used.

The proposed ordinance repeals and deletes Chapter 5C in its entirety from the Fairfield City Code. Should Council adopt the ordinance, a resolution rescinding Resolution 2008-90 will be brought before Council in order to eliminate the fee associated with lobbyist registrations.

FINANCIAL IMPACT

The financial impact of deleting Chapter 5C from the City Code is minimal. Since 2009, fees collected have been \$200 per year. Repealing the ordinance will save staff time.

PUBLIC CONTACT/ADVISORY BODY RECOMMENDATION

None.

ALTERNATIVE ACTION

Council could choose to continue the lobbyist registration program.

PAGE 3

Agenda Item No. 13

DATE: April 16, 2013
SUBJECT: Ordinance Repealing Chapter 5C from the Fairfield City Code
Relating to Lobbyist Registration and Activities

DOCUMENTS ATTACHED

Attachment 1: Proposed Ordinance
Attachment 2: Ordinance 2008-05
Attachment 3: Resolution 2008-90

STAFF CONTACT

David White, Assistant City Manager/Director of Finance
(707) 428-7398
dwhite@fairfield.ca.gov

Coordinated with: City Attorney

CITY OF FAIRFIELD
ORDINANCE NO. 2013-06

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD
REPEALING CHAPTER 5C OF THE FAIRFIELD CITY CODE RELATING TO
LOBBYIST REGISTRATION AND ACTIVITIES**

WHEREAS, on March 4, 2008, the City Council adopted a lobbying ordinance instituting registration and reporting requirements for lobbyists who are compensated to influence any action by the City; and

WHEREAS, the total number of lobbyists who have registered with the City Clerk's office has been 2 per year since 2009; and

WHEREAS, the delineation between consultants and lobbyists is unclear in practice and, as a result, the lobbying ordinance is difficult to enforce; and

WHEREAS, there have been no citizen requests to provide names of registered lobbyists or copies of their semi-annual reporting statements since the adoption of the lobbying ordinance.

THE CITY COUNCIL OF THE CITY OF FAIRFIELD DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 5C in its entirety is hereby repealed and deleted from the Fairfield City Code.

SECTION 2. This Ordinance shall be effective 30 days following its adoption by the City Council. A summary of this Ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the City Councilmembers voting for and against it.

INTRODUCED at a regular meeting of the City Council of the City of Fairfield on the 16th day of April, 2013, and

PASSED AND ADOPTED this ____ day of _____, 2013, by the following vote:

AYES: Councilmembers: _____

NOES: Councilmembers: _____

ABSENT: Councilmembers: _____

ABSTAIN: Councilmembers: _____

MAYOR

ATTEST:

CITY CLERK

CITY OF FAIRFIELD

ORDINANCE NO. 2008 - 05

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF FAIRFIELD ADDING A NEW CHAPTER 5C TO THE FAIRFIELD CITY
CODE REGULATING LOBBYING

THE CITY COUNCIL OF THE CITY OF FAIRFIELD DOES ORDAIN AS
FOLLOWS:

SECTION 1. A new Chapter 5C is hereby added to the Fairfield City Code to read as follows:

“Section 5C.1 Findings. The City Council finds as follows:

- A. City Government functions to serve the needs of all citizens.
- B. The citizens of the City of Fairfield have a right to know the identity of interests which attempt to influence decisions of City government, as well as the means employed by those interests.
- C. All persons engaged in compensated lobbying activities aimed at influencing decisions by City government must, when so engaged, be subject to the same regulations, restrictions and requirements, regardless of their background, training or other professional qualifications or license.
- D. Complete public disclosure of the full range of activities by and financing of lobbyists and those who employ their services is essential to the maintenance of citizen confidence in the integrity of local government.
- E. It is in the public interest to ensure that lobbyists do not misrepresent facts, their positions, or attempt to deceive officials through false communications, do not place City officials under personal obligation to themselves or their clients, and do not represent that they can control the actions of City officials.

Section 5C.2 Lobbying – Defined. “Lobbyist” shall mean any individual, organization, or business entity that is employed or retained or who contracts for economic or other consideration to communicate with any officer, employee, or elected official of the City of Fairfield for the purpose of influencing a legislative or administrative action on behalf of any other person.

Section 5C.3 Exemptions.

The following persons are exempt from the requirements of this Article:

- A. Any public official acting in his or her official capacity, and any government employee acting within the scope of his or her employment.

- B. A newspaper or other regularly published periodical, website, radio or television station or network, including any individual who owns, publishes or is employed by such newspaper, website, periodical or station or network, when, in the ordinary course of its business, it publishes or broadcasts news, editorials or other comments, or paid advertising, which directly or indirectly attempts to influence action on municipal legislation. This exemption does not apply to any other action by any such newspaper, periodical, station or network, or by any such person, to attempt to influence municipal legislation, if such activity is otherwise regulated by this Article.
- C. A person acting without any compensation or consideration other than reimbursement or payment of reasonable travel expenses.
- D. A person or organization that contracts with the City to provide consulting services to the City related to an election.
- E. A person or organization who contracts with the City to represent the City in matters before any other governmental body.
- F. A person who is employed by a business entity or organization who advocates on behalf of that entity or organization, rather than a third party, and who clearly identifies his or her employment by that entity or organization in all dealings with the City.

Section 5C.4 Prohibitions

No lobbyist subject to the requirements of this Article shall:

- A. Do any act with the purpose and intent of placing any City official under personal obligation to the lobbyist, the lobbying firm, or to the lobbyist's or firm's employer or client.
- B. Fraudulently deceive or attempt to deceive any City official with regard to any material fact pertinent to any pending or proposed municipal legislation.
- C. Cause or influence the introduction of any municipal legislation for the purpose of thereafter being employed or retained to secure its passage or defeat.
- D. Cause any communication to be sent to any City official in the name of any nonexistent person or in the name of any existing person without the consent of such person.

Section 5C.5 Registration and Reporting Statements

- A. **Registration Statement.** Prior to conducting any activities for the purpose of influencing any action by the City of Fairfield, any lobbyist shall register with the City Clerk by filing a written statement containing:

1. The lobbyist's full name, business address and telephone number;
2. The name, business address and telephone number of any individual or entity by whom the lobbyist is employed or with whom he or she contracts to perform lobbying services in the City; and
3. A description of the subject matter of the lobbyist's engagement.

B. Reporting Statement. Every six months, the lobbyist shall file a written statement with the City Clerk reporting the compensation received for lobbying activities within the City of Fairfield. The Report shall list all sources of compensation for lobbying activities, and the amount of compensation received from each source. The Reporting Statement shall be filed according to the following schedule:

1. By July 31 of each year, the lobbyist shall submit a Reporting Statement reflecting the compensation received between January 1 and June 30 in the same year.
2. By January 31 of each year, the lobbyist shall submit a Reporting Statement reflecting the compensation received between July 1 and December 31 in the immediately preceding year.

Section 5C.6 Registration Fee.

The City Clerk may charge a fee for the filing, amendment, and/or renewal of a registration, the amount of which shall be determined by resolution of the City Council.

Section 5C.7 Registration – Time.

Every lobbyist required to file a registration statement under this chapter shall register with the City Clerk no later than ten days after being engaged as a lobbyist, and shall renew the registration annually as required by this Chapter.

Section 5C.8 Registration – Duration.

Registration shall be renewed with the City Clerk on an annual basis between July 15th and July 31st of each year. Registration shall be valid for one year.

Section 5C.9 Amendment of Registration Information.

If any change occurs concerning any of the registration information required to be filed by this Chapter, the lobbyist shall file an amendment reflecting the change within ten days of the change.

Section 5C.10 **Notice of Termination**

Lobbyists may file a notice of termination with the City Clerk within ten days after ceasing all activity which required registration.

Section 5C.11 **Penalties.**

- A. Any person who violates any of the provisions of this Chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed \$1,000 per violation. As an alternative to the criminal enforcement of this Chapter, any person who violates any of the provisions of this Chapter shall be subject to the issuance of an Administrative Citation pursuant to Sections 1.10 to 1.18 of this Code. Notwithstanding the provisions of Section 1.12(d), the amount of the fine to be assessed for a violation of this Chapter shall be \$1,000 per violation.
- B. In any judicial proceeding to enforce the provisions of this Chapter, if a court determines that a violation was intentional, the court may order that the defendant be prohibited from acting as a lobbyist or otherwise attempting to influence municipal legislation for one year.
- C. If two or more persons are responsible for any violation, they shall be jointly and severally liable.”

SECTION 2. If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council of the City of Fairfield hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. Pursuant to 14 California Code of Regulations § 15061(b)(3), this Ordinance is categorically exempt from the California Environmental Quality Act in that the City Council of the City of Fairfield finds there is no possibility that the implementation of this Ordinance will have significant effects on the environment.

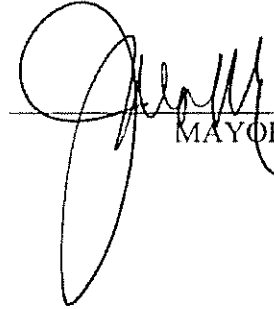
SECTION 4. This Ordinance shall be effective 30 days following its adoption by the City Council. A summary of this Ordinance shall, within fifteen (15) days after passage, be published in accordance with Section 36933 of the Government Code of the State of California with the names of the City Councilmembers voting for and against it.

INTRODUCED at a regular meeting of the Fairfield City Council of the City of Fairfield on the 19th day of Feb., 2008 and

PASSED AND ADOPTED this 4th day of March, 2008, by the following vote:

AYES: Councilmembers
NOES: Councilmembers
ABSENT: Councilmembers
ABSTAIN: Councilmembers

Price/Mraz/Kardos/Timm/Garcia
None
Price, Timm
None


MAYOR

ATTEST:

Arlitta K. Contreras
City Clerk

ATTACHMENT 3

CITY OF FAIRFIELD

RESOLUTION NO. 2008-90

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FAIRFIELD ESTABLISHING A LOBBYING REGISTRATION FEE

WHEREAS, on March 4, 2008, the City Council adopted an ordinance adding a new chapter 5C to the Fairfield City Code regulating lobbying, which went into effect on April 3, 2008; and

WHEREAS, the ordinance requires lobbyists to file an annual registration statement with the City Clerk prior to conducting any activities for influencing any action by the City of Fairfield; and

WHEREAS, the ordinance also requires lobbyists to file a semiannual reporting statement with the City Clerk reporting the compensation received for lobbying activities within the City of Fairfield; and

WHEREAS, the ordinance authorizes the City Clerk to charge a fee to offset the processing costs for the statements; and

WHEREAS, the City Council has proposed such a fee at a public meeting noticed as required by law; and

WHEREAS, the proposed fee shall be effective April 15, 2008.

NOW, THEREFORE BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FAIRFIELD that:

1. The City Council hereby establishes an annual lobbyist fee of \$100.00, to cover the costs of processing lobbyist registration statements and lobbyist reporting statements, to be collected at the time of filing registration statements.
-

PASSED and adopted this 15th day of April, 2008 by the following vote:

AYES:	Councilmembers	<u>Price/Mraz/Kardos/Timm/Garcia</u>
NOES:	Councilmembers	<u>None</u>
ABSENT:	Councilmembers	<u>None</u>
ABSTAIN:	Councilmembers	<u>None</u>

Nancy T. Price
Mayor

ATTEST:

Arlitta K. Cortright
City Clerk

25 Comparison Cities Based on Similar Population

	<i>City</i>	<i>County</i>	<i>Total Population</i>
1.	Vista	San Diego	96,122
2.	South Gate	Los Angeles	96,057
3.	Mission Viejo	Orange	95,334
4.	Vacaville	Solano	93,613
5.	Carson	Los Angeles	92,636
6.	Santa Monica	Los Angeles	92,185
7.	Westminster	Orange	91,652
8.	Hesperia	San Bernardino	91,506
9.	Redding	Shasta	91,207
10.	Santa Barbara	Santa Barbara	90,385
11.	San Marcos	San Diego	90,179
12.	Chico	Butte	88,389
13.	San Leandro	Alameda	87,691
14.	Newport Beach	Orange	86,874
15.	Hawthorne	Los Angeles	86,644
16.	Whittier	Los Angeles	86,538
17.	Livermore	Alameda	84,852
18.	Alhambra	Los Angeles	84,697
19.	Citrus Heights	Sacramento	84,544
20.	Menifee	Riverside	83,716
21.	Indio	Riverside	82,398
22.	Buena Park	Orange	82,344
23.	Chino	San Bernardino	81,747
24.	Hemet	Riverside	81,537
25.	Lakewood	Los Angeles	81,224

AGENDA ITEM 6

REQUEST

APPOINT A REPRESENTATIVE TO THE TRI-VALLEY REGIONAL RAIL ADVISORY GROUP

EXECUTIVE SUMMARY

Appoint a representative to attend the Tri-Valley Regional Rail Advisory Group. The Advisory Group will be composed of an elected representative for the City of Livermore, Pleasanton, Dublin and Tracy, the counties of Alameda and San Joaquin, and the transportation agencies LAVTA, ACE and BART.

DISCUSSION

The City recently received a letter from the Livermore Amador Valley Transit Authority (LAVTA) Board of Directors stating that a Tri-Valley Regional Rail Advisory Group has been established. This group was created for the purpose of ensuring that regional rail planning in the Tri-Valley leads to project implementation that is fast, cost effect and responsive to community goals and objectives. Members of this Advisory Group will consist of an elected representative for the City of Livermore, Pleasanton, Dublin and Tracy, the counties of Alameda and San Joaquin, and the transportation agencies LAVTA, ACE and BART

The next step for member agencies of the Advisory Group will be to select a representative that will attend the Advisory Group meetings, which are envisioned to take place bi-monthly at the LAVTA administrative offices in Livermore.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact associated with this action.

RECOMMENDATION

That the City Council, by motion, appoint a representative to the Tri-Valley Regional Rail Advisory Group.

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachments: Letter from Livermore Amador Valley Transit Authority dated October 10, 2015



Livermore Amador Valley Transit Authority

October 10, 2015

Honorable Mayor Michael Maciel
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

Dear Mayor Maciel,

Recently the Livermore Amador Valley Transit Authority ("LAVTA") Board of Directors established the Tri-Valley Regional Rail Advisory Group for the purpose of ensuring that regional rail planning in the Tri-Valley leads to project implementation that is fast, cost-effective and responsive to community goals and objectives. Areas of focus will include the review of plans for the interregional rail connection to ACE, the Phase 1 BART to Isabel Avenue/I-580, and improved rail connectivity throughout the Bay Area and Northern California Mega Region.

The Advisory Group will be composed of an elected representative from the cities of Livermore, Pleasanton, Dublin and Tracy, the counties of Alameda and San Joaquin, and the transportation agencies LAVTA, ACE and BART.

The next step for member agencies of the Advisory Group will be to select a representative that will attend the Advisory Group meetings, which are envisioned to take place bi-monthly at the LAVTA administrative offices in Livermore. It would be optimal if you could forward to the LAVTA Executive Director Michael Tree the name of your representative by November 15, 2015. Michael's e-mail address is mtree@lavta.org. I will then work with the selected representatives to schedule the first meeting.

Should you have any questions, please give me a call at 925-828-2827 or e-mail me at don.biddle@dublin.ca.gov. I look forward to working with you.

Sincerely,

A handwritten signature in blue ink that reads "Don Biddle".

Don Biddle
Chairman of the Board

cc: Troy Brown, City Manager