

TRACY CITY COUNCIL
AND THE SUCCESSOR AGENCY TO
TRACY COMMUNITY DEVELOPMENT AGENCY

REGULAR MEETING AGENDA

Tuesday, July 5, 2016, 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.

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

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATION Parks and Recreation Month – Proclamation

1. CONSENT CALENDAR

- A. Adopt Council Minutes – Special Meeting minutes of June 7, 2016 and June 21, 2016.
- B. Designate Operation of the Public Transit System a Professional Service; Approve a Resolution Awarding a Three-Year Professional Services Agreement with Ride Right, LLC, for Services Relating to the City of Tracy's Tracer Public Transit System; Authorize the Mayor to Execute the Agreement; and Appropriate an Additional \$1,100,000 to the Transit Fund to Cover the Cost of the Agreement
- C. Adopt a Resolution of the Successor Agency to the Tracy Community Development Agency Approving the Long-Range Property Management Plan and Authorizing Staff and the Board of the Successor Agency to Execute all Documents and Instruments and to do any and all Other Things Which they May Deem Necessary or Advisable to Effectuate the Long-Range Property Management Plan, authorizing a Purchase and Sale Agreement Between the City of Tracy (City), the Successor Agency to the Community Development Agency of the City of Tracy (Agency), and Becker Commercial Properties; and Authorize the Mayor on Behalf of the City and the Chairman on Behalf of the Agency to Execute the Agreement and Related Documents
- D. Approval of a Deferred Improvement Agreement (DIA) for the Federal Express Ground Facility Project at the Cordes Ranch Business Park (AKA International Park of Commerce), Authorization for the Mayor to Execute the DIA, and Authorization for the City Clerk to Record the DIA with the San Joaquin County Recorder
- E. Authorize the Public Works Director to Execute all Documents Necessary to Allow the County to Apply for Various CalRecycle Programs and Grants on Behalf of the City
- F. Approve a Resolution Authorizing a Leave of Absence for Tracy Parks and Community Services Commissioner Gloria Saltzman
- G. Authorization for a General Services Agreement With Delta Wireless, Inc. for Police Communications Equipment Maintenance and Authorization for the Mayor to Sign the Agreement
- H. Authorize the Purchase of Four Patrol Vehicles (2017 Ford Explorer PPV) from Downtown Ford of Sacramento, California
- I. Waive Second Reading and Adopt Ordinance 1221 an Ordinance of the City of Tracy Amending Chapter 9.52 (Floodplain Regulations), Sections 9.52.050 and 9.52.060 of the Tracy Municipal Code

- J. Approve Professional Services Agreements (PSA) with Kleinfelder Inc., of Stockton California, River City Geoprosessionals, Inc., DBA Wallace Kuhl & Associates of Stockton, California, and BSK Associates, of Livermore, California, for a not to Exceed Amount of \$200,000 Per Year for Each Consultant, to Provide Materials Testing and Geotechnical Services for Fiscal Years 2016-2018 with the Option to Extend the Agreements an Additional Two Fiscal Years; Authorize the Mayor to Execute the Agreements; and Authorize the City Manager to Execute the Extensions if Needed
2. ITEMS FROM THE AUDIENCE
 3. PUBLIC HEARING TO CONSIDER A STREET NAME CHANGE FROM MOUNTAIN HOUSE PARKWAY TO "INTERNATIONAL PARKWAY" BETWEEN I-205 AND I-580 WITHIN THE CITY'S JURISDICTION
 4. PUBLIC HEARING TO DECLARE THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT "A" TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCES, AND ADOPT A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES
 5. PUBLIC HEARING TO AUTHORIZE IMPLEMENTATION OF PHASE II WATER RESTRICTION IN TRACY MUNICIPAL CODE 11.28 WATER MANAGEMENT
 6. PUBLIC HEARING TO CONSIDER APPROVING A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN TO CONSTRUCT AN APPROXIMATELY 16,900 SQUARE FOOT AUTOMOTIVE REPAIR FACILITY WITH ASSOCIATED PARKING AND LANDSCAPING LOCATED ON THE NORTH SIDE OF AUTO PLAZA DRIVE BETWEEN THE VOLKSWAGEN DEALERSHIP AND THE TRACY COLLISION AUTO BODY SHOP
 7. AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR THE CIVIC CENTER WATER TOWER REPAINTING PROJECT CIP 71080, AUTHORIZE A SUPPLEMENTAL APPROPRIATION OF BETWEEN \$9,800 AND \$59,850 FROM GENERAL FUND 301, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT
 8. INTRODUCE AN ORDINANCE AMENDING AND UPDATING THE PURCHASING ORDINANCE (CHAPTER 2.20) REGARDING (1) ASSISTANT CITY MANAGER AUTHORITY, (2) CITY ATTORNEY AUTHORITY, (3) AUTHORIZING THE CITY ENGINEER TO APPROVE PUBLIC IMPROVEMENT PLANS AND SPECIFICATIONS AND (4) REVISING SECTION 2.20.180 RELATING TO PUBLICATION
 9. REPORT REGARDING THE CITY OF TRACY'S BOARDS AND COMMISSIONS
 10. ITEMS FROM THE AUDIENCE
 11. COUNCIL ITEMS
 12. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 7, 2016, 6:30 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 6:30 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 none.
4. CLOSED SESSION

Real Property Negotiations (Gov. Code, § 54956.8)

Property acquisitions for the widening of MacArthur Drive.

Property Locations: APNs: 252-020-09, 252-020-14, 242-140-05

Negotiator for the City: Stephanie Garrabrant-Sierra, Assistant City Manager;
Andrew Malik, Development Services Director; and
Zabih Zaca, Senior Civil Engineer

Negotiating Parties: Tanya Rishel, Charlene Mae Torres, and
Manuel O. Fernandez

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

Labor Negotiations (Gov. Code, § 54957.6)

Employee Organizations: City of Tracy Department Directors

City's designated representatives: Troy Brown, City Manager

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Rickman motioned to recess the meeting to closed session at 6:31 p.m. Council Member Vargas 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 7:04 p.m.
7. REPORT OF FINAL ACTION – There was no report of final action.

8. ADJOURNMENT – Mayor Pro Tem Rickman motioned to adjourn the meeting, Council Member Vargas seconded the motion. Voice vote found all in favor; passed and so ordered. Time 7:04 p.m.

The agenda was posted at City Hall on June 1, 2016. The above are action minutes.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 21 2016, 5:45 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 5:45 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Mitracos, Vargas, Young, Mayor Pro Tem Rickman and Mayor Maciel present.
3. ITEMS FROM THE AUDIENCE – Chris Hewitt, representing Tracy Little League expressed support of the Legacy Fields project.

Steve Nicolaou praised Tracy Little League for demonstrating 100% commitment to the project and clarified for the record that Tracy Little League not only paid \$18,000 towards the project but have put forth a total of \$30,000 toward the project. Mr. Nicolaou concluded on behalf of future generations acknowledging staff and the City Council for their continued support with the Legacy Fields endeavor.

4. CLOSED SESSION

Real Property Negotiations (Gov. Code, § 54956.8)

Property	Naglee Road, Parcel B
Property Location:	An approximately 64,697± square foot portion of APN 212-90-39 located at the Southwest corner of Naglee Road and the I-205 off ramp in the City of Tracy.
Negotiator for the City:	Andrew Malik, Development Services Director Shelly Burcham, Economic Development Manager Barb Harb, Economic Development Management Analyst
Negotiating Parties:	Jon Becker, Becker Commercial Properties
Under Negotiation:	Price and terms of payment for the purchase and sale of the property.

Real Property Negotiations (Gov. Code, § 54956.8)

Property	Legacy Fields
Property Location:	Approximately 310 acres of APN: 212-150-04 located at postal address 4901 N. Tracy Blvd., Tracy, CA 95304
Negotiators for the City:	Don Scholl, Public Works Director Andre Pichly, Parks and Community Services Director Brian MacDonald, Management Analyst II

Negotiating Parties: Tracy Babe Ruth, The Land Group, Tracy Youth Soccer League, Tracy Little League

Under Negotiation: Price and Terms of Payment for the lease of the Property.

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

Significant exposure to litigation pursuant to paragraph (3) of subdivision (e) of Government Code section 54956.9. One case. This is based on correspondence received from Stephen K. Cassidy, Attorney for YRC, Inc., on April 4, 2016 and June 14, 2016, copies of which are available in the City Clerk's Office

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Rickman motioned to recess the meeting to closed session at 5:51 p.m. Council Member Vargas 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 7:20 p.m.
7. REPORT OF FINAL ACTION – Mayor Maciel reported final action regarding potential litigation with YRC, Inc. dba YRC Freight and IPT Acquisitions LLC.

Motion was made by Council Member Young, and seconded by Council Member Vargas to authorize the City Attorney to execute the Tolling Agreement discussed in closed session. Voice vote found all in favor; passed and so ordered.

Once the City Attorney signs the agreement, copies will be made available in the Office of the City Clerk.

8. ADJOURNMENT – Mayor Pro Tem Rickman motioned to adjourn the meeting, Council Member Vargas seconded the motion. Voice vote found all in favor; passed and so ordered. Time 7:20 p.m.

The agenda was posted at City Hall on June 15, 2016. The above are action minutes.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

DESIGNATE OPERATION OF THE PUBLIC TRANSIT SYSTEM A PROFESSIONAL SERVICE; APPROVE A RESOLUTION AWARDING A THREE-YEAR PROFESSIONAL SERVICES AGREEMENT WITH RIDE RIGHT, LLC, FOR SERVICES RELATING TO THE CITY OF TRACY'S TRACER PUBLIC TRANSIT SYSTEM; AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT; AND APPROPRIATE AN ADDITIONAL \$1,100,000 TO THE TRANSIT FUND TO COVER THE COST OF THE AGREEMENT

EXECUTIVE SUMMARY

On April 11, 2016, the City published a Request for Proposals to operate the City's TRACER public transit system. Three companies submitted proposals: MV Public Transportation, Inc., Ride Right, LLC, and First Transit, Inc. All submissions were responsive with proposals that meet the needs of the City of Tracy. After interviewing all three companies, staff recommends awarding a Professional Services Agreement to Ride Right, LLC. Funding for the operation of the City's Tracer Public Transit System is paid for through the Federal Transit Administration and the Transportation Development Act.

DISCUSSION

Since July 2001, the City of Tracy has contracted for certain operational components of the TRACER Fixed Route and Paratransit Bus services; primarily drivers, bus maintenance and dispatching. The fixed route system has grown from a two-route bi-directional system to four regular routes and two commuter routes with stops to key destinations throughout the City, serving over 140,000 passengers in Fiscal Year (FY) 2014/15. The paratransit service provided trips to over 17,000 passengers in FY 2014/15. The City currently has a fleet of four Compressed Natural Gas (CNG) 25' buses, six CNG 30' buses, three gasoline/electric hybrid 26' buses and two ADA accessible mini-vans.

On April 11, 2016, the City published a Request for Proposals (RFP) to operate the City's TRACER public transit system. The service requirements (Exhibit "A" to the RFP) primarily include providing drivers and dispatching of the TRACER Fixed Route and Paratransit Bus services and facilitating revenue service operations and maintenance of buses. MV Transportation, Ride Right, LLC, and First Transit submitted proposals to operate the service. All submissions were responsive with proposals that meet the needs of the City of Tracy.

The selection process for this RFP evaluated Proposals on a "Best Value" basis, which the Federal Transit Administration's (FTA) Best Practices Manual defines as follows:

"Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of

technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.

As a result, pricing is not the sole basis upon which proposals are evaluated. After interviewing all three companies, staff recommends selecting Ride Right, LLC, as the preferred company to provide services under the new agreement. Tracy Municipal Code (TMC) section 2.20.140 provides that, when procuring professional services, selection should be made based on “which proposer best meets the City's needs by demonstrating the competence and professional qualifications necessary for the satisfactory performance of the required services.” TMC section 2.20.30(c) allows the City Council to set which services it desires to be considered professional services by resolution. To comply with the FTA's Best Practices Manual's “Best Value” methodology, staff is requesting that the City Council designate operation of the public transit system as a professional service.

Ride Right currently operates in eleven states, including California, providing more than one million trips per year. Ride Right's mission is to help agencies meet the transportation needs of their communities, specifically transit dependent populations. They are committed to ensuring all passengers have an exceptional transportation experience. Ride Right has an excellent track record of providing high quality transit service and has organizational values and an employee-focused culture that aligns well with the City of Tracy. Their focus is on exceeding client expectations, being a cooperative partner, and providing quality service to customers.

As part of the agreement, there have been a few changes in the service provided in order to enhance the current operation. These enhancements include establishing a vehicle maintenance facility in Tracy, increasing staffing levels of both drivers and dispatchers, increasing wages for drivers and dispatchers, and providing additional buses to supplement the City's aging fleet. In addition, Ride Right has agreed to provide additional software to manage the Fixed Route system, which will integrate into the City's existing paratransit scheduling software.

These service changes will result in an increased cost to the Transit Fund. Staff is also asking that an additional \$1,100,000 be appropriated to the Transit Fund to cover the cost of the PSA. All expenses for the operation of the Tracer transit service are paid for through funds from the FTA, the Transportation Development Act (TDA) and passenger fares. There is no impact to the General Fund for this item.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no impact to the General Fund. Approval of this item will result in the addition of \$1,100,000 to Fund 571. Funding for the TRACER public transit service is provided through County, State and Federal revenue sources, and passenger fares.

RECOMMENDATION

Approve a resolution designating operation of the public transit system as a professional service for the purposes of Chapter 2.20 of the Tracy Municipal Code; awarding a three-year Professional Services Agreement with Ride Right, LLC, for services relating to the City of Tracy's TRACER public transit system, authorizing the Mayor to execute the agreement; and appropriating an additional \$1,100,000 to the Transit Fund to cover the cost of the agreement.

ATTACHMENT

A - Proposed Professional Services Agreement

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: André Pichly, Parks & Recreation Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

**CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF TRACY AND RIDE RIGHT, LLC**

This Agreement (hereafter "Agreement") is made this 5th day of July 2016, by and between the City of Tracy, a municipal corporation ("City"), and Ride Right, LLC, a Missouri Limited Liability Corporation ("Contractor").

RECITALS

1. **WHEREAS**, City issued a Request for Proposal ("RFP") for Public Transportation Services on April 11, 2016, and
2. **WHEREAS**, Contractor responded by submitting a proposal ("Proposal") dated May 6, 2016, and
3. **WHEREAS**, Contractor has the technical expertise necessary to provide certain required services of the City's public transportation system and submitted the most attractive proposal to City.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Scope of Services.** Contractor shall perform the services under the terms and time frames described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: General Manager. Contractor shall not replace its Authorized Representative, nor shall Contractor replace any of the personnel listed in Exhibit "A," nor shall Contractor use any subcontractors or subconsultants, without City's prior written consent.

2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

3. Compensation.

3.1 General. For services performed by Contractor under this Agreement, City shall pay Contractor on a time and expense basis, at the billing rates set forth in Exhibit “B,” attached and incorporated by reference. Contractor’s fee for this Agreement is Not to Exceed \$2,438,414 for the budget period of August 1, 2016 through June 30, 2017. For the period of July 1, 2017 through June 30, 2018, the “Not To Exceed” amount is \$2,496,448. For the period of July 1, 2018 through June 30, 2019, the “Not To Exceed” amount is \$2,596,944. Contractor’s billing rates shall cover all costs and expenses for Contractor’s performance of this Agreement.

If the City exercises its option to extend, set forth in Exhibit “A”, for the period of July 1, 2019 through June 30, 2020, the “Not To Exceed” shall be \$2,662,933. If the City exercises its second option to extend, for the period of July 1, 2020 through June 30, 2021, the “Not To Exceed” amount shall be \$2,675,644. No payment shall be made to Contractor for any amount during the above time periods that is in excess of the Not to Exceed amount without the City’s prior written approval.

3.2 Invoices. Contractor shall submit monthly invoices by the tenth business day of each month to the City describing the services performed, including times, dates, and names of persons performing the service.

3.3 Payment. Within 30 days after the City’s receipt of invoice, City shall make payment to the Contractor based upon the services described on the invoice and approved by the City.

3.4 Rate Adjustments. The City or Contractor may request immediate re-negotiation of rates contained in Exhibit “B” of this Agreement in the event of the following occurrence during the term of this Agreement or any extensions thereof:

- A 16% or more increase or decrease in the number of revenue vehicle service hours provided.
- An increase in the mandated minimum wages, payroll taxes applicable to employees of Contractor that was not public knowledge or otherwise known by Contractor at the time Contractor submitted its Proposal to City.
- Changes in laws or regulations adopted by Federal, State, Regional or Local governmental bodies that result in increases or decreases in Contractor’s operating costs.

In the event of a Contractor cost increase or decrease as described in this Section, Contractor shall notify City in writing of the cost increase or decrease and Contractor and City shall meet to potentially negotiate a change to Contractor’s rates.

4. Indemnification. Contractor shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless

the City from and against any claims arising out of Contractor's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Contractor" means the Contractor, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance.

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

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

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

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

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

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

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

5.6 Notice of Cancellation. Contractor shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Contractor shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Contractor shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

5.9 Substitute Certificates. No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Contractor shall provide a substitute certificate of insurance.

5.10 Contractor's Obligation. Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary.

6. Independent Contractor Status; Conflicts of Interest. Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.

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

7. Termination. The City may terminate this Agreement by giving ten days written notice to Contractor. Upon termination, Contractor shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Contractor for this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

8. Ownership of Work. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's services, or upon demand from the

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

9. Miscellaneous.

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

To City:
Director of Parks & Recreation Department
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

To Contractor:
Ride Right, LLC
ATTN: Legal Department
16 Hawk Ridge Dr.
Lake St. Louis, MO 63367

With a copy to:
City Attorney
333 Civic Center Plaza
Tracy, CA 95376

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

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

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

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

9.5 Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

9.6 Jurisdiction and Venue. The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this

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

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation, limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

9.9. Business License. Before the City signs this Agreement, Contractor shall obtain a City of Tracy Business License.

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

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

9.11 Force Majeure. Neither party is liable for failure to perform the party's obligations if such failure is as a result of Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telephone service. Neither party is entitled to terminate this Agreement under Section 7 (Termination) in such circumstances.

If either party asserts Force Majeure as an excuse for failure to perform the party's obligation, then the nonperforming party must prove that the party took reasonable steps to minimize delay or damages caused by foreseeable events, that the party substantially fulfilled all non-excused obligations, and that the other party was timely notified of the likelihood or actual occurrence of an event described in this section.

10. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute

this Agreement on behalf of the respective legal entities of the Contractor and the City. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

City of Tracy

Contractor
Ride Right, LLC

Alaina Macia'

By: Michael Maciel

By: Alaina Macia'

Title: Mayor

Title: CEO

Date: _____

Date: 6/20/2014

Approved by City Council on

Federal Employer Tax ID No. 26-3937729

_____ by Resolution

By: _____

No. _____.

Title: _____

Attest:

Date: _____

Nora Pimentel, City Clerk

Approved as to form:

Bill Sartor, City Attorney

EXHIBIT “A”

SCOPE OF WORK

Contractor shall conduct the day-to-day operation of the City of Tracy’s TRACER Public Transit System, which includes the TRACER Fixed Route and Paratransit Bus services. The Fixed Route consists of six routes (A, B, C, D, E, F) which serve key destinations/activity centers in the City, and is available to the general public.

The Paratransit Bus service serves ADA certified individuals and senior residents 65 years of age and older.

Both services operate Monday through Friday, from 5:00 AM to 8:00 PM and on Saturdays from 9:00 AM to 7:00 PM. Although Sunday service is not provided through the Fixed Route and Paratransit services, the Paratransit Subsidized Taxi Service enables the City to provide 24-hour service to ADA and senior passengers, as it operates during the hours that the Fixed Route and Paratransit services are unavailable. Neither service operates on holidays. Holidays include New Year’s Day, Labor Day, Memorial Day, Independence Day, Thanksgiving Day, and Christmas Day.

Contractor shall be responsible for keeping the TRACER Public Transit services operating as designed and scheduled by the City of Tracy. During the course of the Agreement, the City reserves the right to adjust service hours, routes, schedules, fares, service area boundaries and operating rules so as to accommodate ridership increases, decreases, or changes in the local economy.

The City Council has the final control and authority to determine policy, including, but not limited to, funding levels, fare structure, the scope of services the system should provide, planning requirements, and all capital purchases. The City will perform an independent audit of the transit operations and reserves the right to perform an unscheduled cash count of farebox revenues or other inventory inspection at any time. The City will also be responsible for preparing the Annual State Controller’s and National Transit Database Reports.

1. **TERM.** The term of this Agreement shall be from the date it is fully executed by both Contractor and City through June 30, 2019.

1.1. **OPTION TO EXTEND.** This Agreement may be extended upon mutual written Agreement between City and Contractor for two additional periods of one-year each: July 1, 2019 through June 30, 2020 and July 1, 2020 through June 30, 2021.

2. Contractor's Responsibilities

The responsibilities of the Contractor shall include, but not be limited to, the following:

A. Personnel

Contractor shall:

(1) provide a full-time on-site General Manager who will manage the Tracy Public Transit System throughout the term of this Agreement, with full authority to independently make any decisions required for the safe and efficient operation of services;

(2) ensure that at least one dispatcher is on duty for each service type (Fixed Route and Paratransit) from at least one-half hour prior to the first scheduled pick up until the last scheduled pick up to ensure performance standards noted in this Agreement are met;

(3) provide Vehicle Operators for Fixed Route and Paratransit services, who possess a State of California Driver's License (Class B), required for the operation of the transit vehicles. Contractor shall conduct an adequate background check (including criminal background checks) to ensure that each Vehicle Operator holds and maintains at all times a valid license that meets the standards and has the qualifications to operate a vehicle in the required capacity, has not accumulated more than six points on his/her driver's license within the last four years, and has no convictions for misdemeanor or felony driving under the influence (DUI) and no failures to appear to Court; Vehicle Operators must also wear uniforms satisfactory to City. At a minimum, uniforms shall consist of identical shirt with a patch (to be determined), trousers (including work shorts), and professionally appearing clip/pin-on name tag indicating Vehicle Operator's name, at all times;

(4) participate in the "Pull Notice" program where by the DMV record for each driver is checked at least once every six months for accidents, vehicle code violations and status;

(5) hire all ancillary staff needed to properly operate the services in compliance with the Agreement, including but not limited to dispatch supervisor(s), dispatchers, supervisors, management personnel, mechanics and telephone receptionists. At a minimum, ancillary staffing levels will include:

- 1 General Manager
- 5 Dispatchers
- 4 Reservationists

- 2 Road Supervisors/Trainers
- 1 Lead Mechanic
- 3 Mechanics

The determination of wages and benefits for the employees is at the Contractor's sole discretion based on legal requirements, negotiated labor agreements or system needs with the exception of the following positions which shall be paid at a minimum the following rates:

- Drivers - \$16 per hour
- Dispatchers - \$15 per hour
- Reservationists - \$13 per hour

Compensation rates may be lower during initial training periods.

(6) provide a work plan for all ancillary staff detailing duties and responsibilities;

(7) seek and hire staff that have the skills and temperament to represent the City of Tracy in a professional manner, and work with clients, especially the elderly, frail, physically or cognitively impaired individuals; If City does not find an employee of Contractor to be acceptable, City shall first try to rectify the issue with the Contractor. City shall have final determination as to if an employee of Contractor is able to represent the City of Tracy in the manner outlined above;

(8) Upon written demand of the City, Contractor shall remove any employees within 24 hours of notice whom the City considers unsuitable for such work from activities associated with this agreement;

(9) provide increased personnel to meet enhanced service requirements or special requests from the City;

B. Operations

Contractor shall:

- (1) ensure that either the General Manager or one of the Road Supervisors is onsite to address any operational issues during all hours of operation;
- (2) ensure that one dispatcher is assigned to the fixed route system and one dispatcher is assigned to the paratransit system during all hours of operation;
- (3) ensure that dispatch maintains constant communication with on-street Vehicle Operators;

CITY OF TRACY – PROFESSIONAL SERVICES AGREEMENT

RIDE RIGHT, LLC

Page 11 of 44

- (4) ensure that all dispatchers receive certifications to drive transit vehicles and meet all other requirements and conditions of a driver within 90 days after the start of the contract period;
- (5) ensure that at least one staff member fluent in speaking Spanish is available during all business hours of the Tracy Transit Station;
- (6) provide one new desktop computer each for the General Manager, Paratransit Dispatcher, Fixed Route Dispatcher and for the yard office;
- (7) provide one new laptop computer each for the Training Supervisor/Road Supervisors. A tablet or other similar device that allows for the same functionality may be used upon verbal agreement from City;
- (8) purchase and maintain a GPS Tracking System as outlined in the submitted proposal by Contractor and ensure its use (provided, however, that Contractor shall not be held responsible if the provider of the GPS tracking system defaults, withdraws or is unable to financially sustain the Agreement that is executed by Contractor and the provider) provided that Contractor shall work diligently to obtain a replacement GPS Tracking System;
- (9) conduct pre-trip vehicle inspections at least fifteen minutes prior to the start of service each day, completing and maintaining checklists on a daily basis;
- (10) ensure accurate assignment of Vehicle Operators and dispatchers to work shifts, including ensuring availability for inspections and scheduling updates;
- (11) ensure that at least two stand-by drivers are available during all hours of operation;
- (12) ensure that at the beginning of each day of service, at least one bus, which has been pre-tripped and ready for service, is stationed at the Transit Station to be available for service as needed;
- (13) train staff on map-reading skills, and awareness of service area, and on Safety measures to comply with all Federal and State regulations regarding safety;
- (14) monitor transit operations, route and schedule adherence, and on-street /road supervision;
- (15) ensure that ***all*** staff present a neat appearance, including wearing city approved uniforms, and conduct themselves in a courteous and professional manner at all times;

(16) provide Vehicle Operator training, including sensitivity training, and implementation of safety programs;

(17) conduct drug and alcohol testing of all employees associated with transit operations, including new hires, in accordance with FTA 49 CFR Parts 653 and 654 Drug and Alcohol guidelines and the requirements of the Drug Free Workplace Act and the Omnibus Transportation Employee Testing Act of 1991. This will include random testing and testing of all employees involved in accidents;

(18) submit monthly random drug and alcohol test results on or before the tenth working day following the end of each month to the City;

(19) at Contractor's own expense, develop and implement a drug control program (includes alcohol abuse);

(20) maintain records regarding all transportation functions, including maintenance of work records;

(21) ensure confidentiality of eligibility files and other sensitive information;

(22) report vehicle problems as they occur and annotate daily vehicle logs specifying whether vehicles are in service and any maintenance issues, if any, keeping vehicles out of service;

(23) notify the City immediately when an operational event will affect the ability to provide service;

(24) maintain records regarding all accidents and passenger injuries;

(25) contact City within one hour of any noteworthy accident/incident, or any accident/incident involving bodily injury or death. Twenty-four hour notice is required for non-emergencies. All accident/incident reports must be submitted within one business day of the accident/incident;

(26) maintain a daily checklist for the fuel canopy, pumps and compressor at the CNG fueling station; Checklists and training will be provided by City;

(27) maintain daily ridership records for all services, including route information, number of passengers and passenger type;

(28) prepare a monthly report including, at a minimum, the number of revenue hours, revenue miles, fare revenue and ridership figures noting breakdown according to Regular, Seniors, Students, Disabled, Tickets, Free, with timed usage by each group, and any other information requested by the

City. Free ridership should also be broken down noting all groups, and Personal Care Attendants separately. With each invoice packet, include a signed cover sheet acknowledging that all information presented is truthful “to the best of your knowledge;”

(29) submit monthly performance summary reports for both fixed route and paratransit service showing the performance standards outlined in (53) and (54) below;

(30) submit monthly invoices and reports on or before the tenth working day following the end of each month to the City, for services rendered under the Agreement;

(31) answer customer service calls, documenting compliments and complaints, logging issues and resolving issues to meet requirements of the Federal Transit Administration;

(32) provide City with copies of all compliments and complaints or concerns within one business day of receipt;

(33) collect fare revenues, passes, and transfer tickets from all patrons by using the procedures established by City. Make daily deposits utilizing appropriate City form, and at a location specified by City. Contractor must ensure the safe passage of fare revenues to the City and report on the revenues collected and deposited on behalf of the City;

(34) indemnify, defend, and hold the City harmless for any responsibility for payment of any fines, penalties, or costs incurred by any of the Contractor’s employees;

(35) ensure that a sufficient number of transit brochures, tickets, forms and other City information are always available on-board every vehicle;

(36) maintain a vehicle locator system and relevant software;

(37) work in conjunction with the City to ensure that FTA and TDA conditions and assurances are met;

(38) assist the City with posting bus stop closure and route deviation signs as needed;

(39) assist the City with marketing efforts as required and requested;

(40) identify problems with radio communication devices and coordinate repairs;

CITY OF TRACY – PROFESSIONAL SERVICES AGREEMENT

RIDE RIGHT, LLC

Page 14 of 44

(41) maintain and use a computer system that verifies applicant status and eligibility, schedules and assigns trips, and supplies trip update and other reporting information;

(42) ensure that ADA certified individuals are given priority service. Seniors are accommodated on a space available basis on the Paratransit service;

(43) advise customers to call one to four days in advance to schedule trips. Develop a database for all customers, with an identification number. Request the following information from all customers for Paratransit trips: ID#, Name, Pick-up time, whether customer has a specific appointment time (medical etc.) to allow for the appropriate Pick-up time, Pick-up location, Drop off location, and a contact phone number, cell number if available.

(44) ensure that the Paratransit service is door-to-door and that passengers are assisted, by the Vehicle Operators, with any bags and/or packages;

(45) ensure that Vehicle Operators assist passengers to board and disembark vehicle. Passengers able to ambulate without devices, and passengers that use walkers and canes, can request to use the lift.

(46) ensure that Vehicle Operators assist all passengers using wheelchairs and ensure that they are properly secured while being transported;

(47) ensure that Vehicle Operators make contact with ADA certified passengers within ADA guidelines and standards, and ensure the highest degree of care when assisting customers;

(48) illustrate compliance with the Americans with Disabilities Act of 1990 and facilitate relevant staff training including but not limited to daily verification of lift devices documented on a daily vehicle inspection report (DVI) and ADA passenger rights and allowances;

(49) ensure that all dispatchers and reservationists receive ADA training within the first 30 days after the start of the contract period and receive refresher training at a minimum of once per year for the duration of the contract;

(50) process and provide certification for ADA and Senior Paratransit applications, including incurring all costs associated with accepting applications, verifying age (driver's license, passport and so forth) and/or disability information presented by a physician, medical facility or relevant agency, and issuing certification cards or rejecting applications;

(51) monitor route and schedule adherence, and provide on-street supervision;

(52) ensure that Contractor's personnel treat all passengers in a courteous and respectful manner consistent with the requirements of the ADA and the City. If the City determines that a pattern of customer relation complaints is established, Contractor shall be required to upgrade its customer relations training program and retrain its personnel as necessary to reduce complaints;

(53) not permit passengers to smoke, eat, or drink anything on board the vehicles at any time. Drivers are not to smoke or eat at anytime on the bus, however they may drink non-alcoholic beverages on the bus but only while the bus is stopped;

(54) not permit passengers to solicit on the vehicles with the exception of personnel specifically authorized to do so by the City;

(55) ensure that the wheelchair lift operation is in compliance with the procedures recommended by the manufacturer and required by the ADA;

(56) ensure that spare vehicles, including reserves, belonging to the City of Tracy, are not used by Contractor or its employees for road supervision purposes or any private use;

(57) provide information on debarment status or certification regarding debarment, suspension and other ineligible and voluntary exclusion;

(58) provide Assurance of Compliance, Certification and Verification to meet requirements of the Federal Transit Administration;

(59) provide Assurance of Compliance, Certification and Verification regarding Equal Employment Opportunity Policy, non-discriminatory hiring practices and all requirements imposed by the US Department of Transportation;

(60) unlock the Tracy Transit Station building during normal business hours as posted at the site;

(61) secure (lock) the Tracy Transit Station building at the end of the business hours as posted at the site;

(62) provide information and assistance as necessary to anyone who may enter the Tracy Transit Station including, but not limited to unlocking rooms for renters, facilitating tours of the building, showing rooms to potential renters, issuing keys, etc.;

(63) assist with daily cleaning of the Transit Station as necessary to ensure that the facility, including restrooms, is in a neat and presentable condition which involves periodic checking of the facility for any trash or debris;

(64) for the Fixed Route service, ensure that the following standards are met:

- a. 90% of scheduled fixed route departures shall be on-time or shall not be more than 5 minutes late;
- b. 0% of scheduled fixed route departures shall leave early;
- c. 0% of fixed route trips shall be missed;
- d. 0% of fixed route trips shall depart from timed stops earlier than the time listed on the schedule;
- e. there shall be a minimum of 100,000 miles between accidents;
- f. there shall be no more than one passenger complaint for every 5,000 Fixed Route passengers; and,
- g. there shall be a minimum of nine primary vehicles available every day, and one back up;
- h. if any of the above listed standards for fixed route service are not going to be met for a given month, that a plan to remedy the issues be presented along with the monthly reports;

(65) For the Paratransit Bus service, ensure that the following standards are met:

- a. 90% of Paratransit passengers must be picked up within +/- 10 minutes of the scheduled pick up time;
- b. 95% of paratransit passengers must be picked up within +/- 15 minutes of the scheduled pick up time;
- c. no passengers are picked up later than 30 minutes after the scheduled pick up time;
- d. passengers are contacted fifteen minutes prior to scheduled pick up to advise as to whether the route is on time, or to advise as to how late the route is. This gives the passenger the option of waiting or rescheduling the trip;

- e. that the Vehicle Operator is fully trained on the appropriate use of securements and utilizes them with each customer. Vehicle Operators must immediately contact dispatch if a customer refuses the securements. This refusal to co-operate should be noted in customer's database file;
- f. a maximum of one passenger complaint for every 2,000 Paratransit passengers;
- g. a minimum of 40,000 miles between accidents;
- h. that each staff person coming into contact with Paratransit customers is trained on ADA requirements for interacting with individuals with disabilities; and,
- i. that if any of the above listed standards for paratransit service are not going to be met for a given month, that a plan to remedy the issues be presented along with the monthly reports;

(66) upon the City's City Council authorizing this agreement, by resolution, Contractor is required to use its best efforts to enter into a contract as soon as practicable for with Greyhound Lines, Inc. to provide ticketing and package service at the Tracy Transit Station.

C. Maintenance: Contractor shall be responsible for all aspects of vehicle maintenance and upkeep for all existing and future TRACER buses including, but not limited, to the requirements listed below.

Contractor shall:

- (1) supply own maintenance facility capable of handling CNG and gasoline and hybrid vehicles that is located within five miles of the Tracy Transit Station, including maintenance staff at the minimum levels as outlined in section 1.A.5 above;
- (2) establish and follow a pre-trip/post-trip inspection program including but not limited to checking heating and air-conditioning systems, oil and other fluids, belts and hoses, customer seats, wheelchair positions and tie-downs, lights, doors including lifts, windshield wiper and washer system, emergency equipment including a first aid kit, brakes, tires and wheels, exhaust system, mirrors, glass, horn and body damage. A checklist should be established whereby Vehicle Operators can annotate any problems encountered during the inspections. A file should be maintained for each bus. The Vehicle Operators must conduct these inspections at least 15 minutes prior to the start of route, and upon return to the yard;
- (3) ensure that a maintenance mechanic is on site with the vehicles 30 minutes before the first pull out each day to troubleshoot and address any issues that may arise during pre-trip inspections;
- (4) maintain the vehicles in “Service Ready” condition at all times, including daily fueling and fluid checks, exterior and interior cleaning including washing, sweeping and mopping, fan belt, flat tires, replace worn windshield wipers, hoses, bulbs and lenses, batteries and fuses, preliminary road service, cycle wheelchair lifts and maintain tie-downs, currently certified fire extinguisher;
- (5) obtain timely maintenance and repairs, while maintaining total fleet availability consistent with service requirements;
- (6) ensure proper use, care, maintenance and towing of all revenue service vehicles to and from the Maintenance Contractor’s facility;
- (7) maintain an inventory of parts and fluids sufficient to assure timely repairs;
- (8) conduct Preventative Maintenance Inspections (PMIs), at least every forty-five days or 5,000 miles whichever comes first, to include replacement of engine oil and filters, checking body, doors and windows, seatbelts and seats, wheelchair securement positions and belts, wheelchair lift, interior climate

controls, interior and exterior lights, vehicle operator gauges and controls, brake system, drive train, steering system, suspension system, engine fluids, belts, hoses, transmission fluids, air filter/system, water pump, batteries, ignition system, engine electrical system, spark plugs, fuses, exhaust system, fuel system, emergency equipment, customer grab rails, damage to vehicles;

(9) maintain relevant PMI Inspection logs;

(10) submit to City copies of all PMI inspection logs within three business days of completion of the PMI;

(11) submit to City by 8:00 A.M. each day of operation, a daily list of vehicles that are out of service, specifying at a minimum, the following:

- reason the vehicle is out of service;
- length of time vehicle has been out of service;
- required repair to bring the vehicle back in service;
- estimated date the vehicle will be back in service;

(12) fuel vehicles at the City owned CNG or gasoline fueling station only, unless otherwise directed by the City;

(13) clean vehicles (inside and outside), including daily sweeping and garbage removal of interior of vehicles, weekly mopping and wiping of soiled surfaces of the interior of vehicles, washing of the exterior surface of each vehicle at least once per week;

(14) conduct mandatory California Highway Patrol inspections;

(15) make exterior repairs, including painting and bodywork upkeep;

(16) complete all required governmental and regulatory documents;

(17) not allow any vehicle into operation when its condition is unsafe or uncertain;

D. Vehicles: Contractor will provide at minimum, four vehicles to be used for transit service and two vehicles to be used for road supervision/driver shuttling.

(1) Vehicles used for road supervision/driver shuttling will not be older than five years from the date manufacture during any period of the contract. Vehicles provided for this purpose by the Contractor must have the following:

- i. TRACER logo
- ii. Must state "Road Supervisor" on the sides of the vehicle
- iii. Must be a four door vehicle

- (2) Vehicles used for transit service will not be older than five years from the date of manufacture during any period of the contract. All vehicles provided by Contractor must have the following:
- i. TRACER logo
 - ii. Bicycle rack that hold a minimum of two bicycles
 - iii. ADA Accessibility (low floor preferred)
 - iv. Electronic destination signs
 - v. Minimum of four security cameras with DVR capability
 - vi. Farebox
 - vii. Vehicles may be used for either fixed route or paratransit service and must fall within the range of being a minimum of 25-foot long and a maximum of 35-foot long

E. Federal Requirements: Contractor agrees to abide by the terms and conditions required by the Federal Transit Administration (FTA) as outlined below, in addition to any other requirements as may be imposed by the FTA. Additionally the following forms that were submitted by Contractor as part of their submitted proposal are attached hereto as part of this agreement:

- Form B (Non-Collusion Affidavit)
- Form C (Certification of Eligibility)
- Form D (Debarment and Suspension Certification)
- Form E (Lobbying Certification)
- Form F (DBE/EEO Certification)
- Form H (Drug and Alcohol Certification)

FLY AMERICA REQUIREMENTS
49 U.S.C. § 40118
41 CFR Part 301-10

Fly America Requirements

Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

CHARTER BUS REQUIREMENTS
49 U.S.C. 5323(d)
49 CFR Part 604

Charter Service Operations - Contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

SCHOOL BUS REQUIREMENTS
49 U.S.C. 5323(F)
49 CFR Part 605

School Bus Operations - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

ENERGY CONSERVATION REQUIREMENTS
42 U.S.C. 6321 et seq.
49 CFR Part 18

Energy Conservation - Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

CLEAN WATER REQUIREMENTS
33 U.S.C. 1251

Clean Water - (1) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. Contractor agrees to report each violation to the

City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

LOBBYING
31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal Agreement, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

ACCESS TO RECORDS AND REPORTS
49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

Access to Records - The following access to records requirements apply to this Agreement:

1. Where the City is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), Contractor agrees to provide the City, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor

access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

3. Contractor agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the City, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

4. FTA does not require the inclusion of these requirements in subcontracts.

Sources of Authority:

1 49 USC 5325 (a)

2 49 CFR 633.17

3 18 CFR 18.36 (i)

FEDERAL CHANGES **49 CFR Part 18**

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between City and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor's failure to so comply shall constitute a material breach of this Agreement.

CLEAN AIR **42 U.S.C. 7401 et seq** **40 CFR 15.61** **49 CFR Part 18**

Clean Air - (1) Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

RECYCLED PRODUCTS
42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873

Recovered Materials - Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

(1) The City and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the City, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS
AND RELATED ACTS
31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Agreement, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

(2) Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a Agreement connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor, to the extent the Federal Government deems appropriate.

(3) Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**TERMINATION
49 U.S.C. Part 18
FTA Circular 4220.1E**

- a. Termination for Convenience (General Provision) The City may terminate this Agreement, in whole or in part, at any time by written notice to Contractor when it is in the City's best interest. Contractor shall be paid its costs, including Agreement close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the City to be paid Contractor. If Contractor has any property in its possession belonging to the City, Contractor will account for the same, and dispose of it in the manner the City directs.
- b. Termination for Default If Contractor does not deliver supplies in accordance with the Agreement delivery schedule, or, if the Agreement is for services, Contractor fails to perform in the manner called for in the Agreement, or if Contractor fails to comply with any other provisions of the Agreement, the City of Tracy may terminate this Agreement for default. Termination shall be effected by serving a notice of termination on Contractor setting forth the manner in which Contractor is in default.

Contractor will only be paid the Agreement price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Agreement.

If it is later determined by the City that Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of Contractor, the City of Tracy, after setting up a new delivery of performance schedule, may allow Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure The City in its sole discretion may, in the case of a termination for breach or default, allow Contractor ten calendar days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Agreement within ten days after receipt by Contractor of written notice from the City setting forth the nature of said breach or default, the City shall have the right to terminate the Agreement without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by the City shall not limit the City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

e. Termination for Convenience (Professional or Transit Service Contracts) The City of Tracy by written notice, may terminate this Agreement, in whole or in part, when it is in the Government's interest. If this Agreement is terminated, the Recipient shall be liable only for payment under the payment provisions of this Agreement for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If Contractor fails to deliver supplies or to perform the services within the time specified in this Agreement or any extension or if Contractor fails to comply with any other provisions of this Agreement, the City of Tracy may terminate this Agreement for default. The City of Tracy shall terminate by delivering to Contractor a Notice of Termination specifying the nature of the default. Contractor will only be paid the Agreement price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this Agreement.

If, after termination for failure to fulfill Agreement obligations, it is determined that Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Suspension and Debarment

Contractor agrees to comply, and assures the compliance of each third party contractor and subcontractor at any tier, with Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. § 6101 note, and U.S. DOT regulations, “Government wide Debarment and Suspension (Nonprocurement),” within 49 C.F.R. Part 29.

PRIVACY ACT
5 U.S.C. 552

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to Contractor and its employees that administer any system of records on behalf of the Federal Government under any Agreement:

(1) Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, Contractor agrees to obtain the express consent of the Federal Government before Contractor or its employees operate a system of records on behalf of the Federal Government. Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

(2) Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

CIVIL RIGHTS REQUIREMENTS
29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying Agreement:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition,

Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Agreement:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

(3) Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

FTA Circular 4220.1E

Disputes - Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of City. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the City's City Manager. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City's City Manager shall be binding upon Contractor and Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the City, Contractor shall continue performance under this Agreement while matters in dispute are being resolved.

Claims for Damages - Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages thereof shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between the City and Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

Rights and Remedies - The duties and obligations imposed by the Agreement Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City, or Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS
49 U.S.C. § 5310, § 5311, and § 5333
29 CFR Part 215

Transit Employee Protective Provisions. (1) Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, Contractor agrees to carry out the transit operations work on the underlying Agreement in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Agreement and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying Agreement. Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any Agreement financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the Agreement involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying Agreement, Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. Contractor agrees to perform transit operations in connection with the underlying Agreement in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the Agreement involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

**DISADVANTAGED BUSINESS ENTERPRISE (DBE)
49 CFR Part 26**

Disadvantaged Business Enterprises

a. This Agreement is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall Anticipated DBE Level of Participation is 6%. A separate Agreement goal **has not** been established for this procurement.

b. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Agreement. Failure by Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the City deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The City shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the Agreement work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the Agreement work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to Contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by Contractor; deficient subcontractor performance and/or

noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

e. Contractor must promptly notify the City whenever a DBE subcontractor performing work related to this Agreement is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION TERMS FTA Circular 4220.1E

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding Agreement provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause City to be in violation of the FTA terms and conditions.

DRUG AND ALCOHOL TESTING 49 U.S.C. §5331 49 CFR Parts 653 and 654

Drug and Alcohol Testing - Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 40 and 655, produce any documentation necessary to establish its compliance with Parts 40 and 655 and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or the City of Tracy, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 40 and 655 and review the testing process. Contractor agrees further to certify annually its compliance with Parts 40 and 655 before July 1 and to submit the Management Information System (MIS) reports by July 1st to City of Tracy Transportation Division and FTA. To certify compliance Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

F. Liquidated Damages: Due to the nature of the services to be rendered, the Contractor and the City agree that it is extremely difficult to ascertain actual damages that may result from failure on the part of the Contractor to perform any of its contractual obligations. As a result, City and Contractor have negotiated certain liquidated damages to address specific actions, and/or inactions, and/or failures to perform on the part of Contractor; the negotiated liquidated damages set forth herein represent the parties' agreement that the liquidated damages stated herein are reasonable and represent the best efforts of both parties to relate the liquidated damages to the actual the City will incur. This section applies only to those performance failures expressly stated herein, to the extent provided for herein, and shall not impair the City's ability to pursue an action to recover damages for any other breach or damage as allowed by Contract and under the law. The City reserves its right to pursue damages arising from matters not expressly addressed herein. Further, the liquidated damages provided for herein shall not serve to release Contractor for its other obligations under this Contract, including, without limitation, Contractor's obligation to defend and indemnify the City from any and all liability resulting in the acts or omissions stated herein.

Liquidated damages shall be assessed by City upon discovery of Contractor's actions, and/or inactions, and/or failures to perform those matters stated herein. The assessed liquidated damages shall be sent to the Contractor for response. Once the response is received, a determination on chargeability shall be made by the City's Transit System Manager. The decision by the City is final with respect to any assessment of liquidated damages. All liquidated damages that are not responded to by the Contractor within 30 days shall automatically be charged to the Contractor on its subsequent monthly bill. The City may then offset the amount owed to Contractor by the amount Contractor owes to City for the liquidated damages. If the amount of the liquidated damages owed to the City exceeds the amount due to Contractor, then Contractor must immediately remit payment to the City. The City's Transit Manager may rely on information supplied by the Contractor, by the public, by City staff, or by any other means available in determining assessment of liquidated damages.

(1) General

- a. Failure to timely submit report(s). Liquidated damages may be assessed by City, at City's sole discretion, at a rate of Five Hundred Dollars (\$500) per occurrence if Contractor fails to timely submit to the City any report required under this Contract on or before the 10th business day of the subsequent month. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, potential loss of revenue, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency. This liquidated damage applies only to late reports; complete failure to submit a report, even if untimely, may result in

additional damages to the City and the City reserves all rights to pursue additional damages resulting from Contractor's failure to submit a report.

- b. Changes to Key Staff Positions. Liquidated damages may be assessed by the City, at City's sole discretion, for replacement of the following key staff Positions: General Manager;

For purposes of this section, "replacement" shall mean any situation that requires Contractor to assign an individual to one of the positions above to replace the individual previously assigned to the position, regardless of the cause or need for such replacement; the liquidated damages assigned to this action regardless of whether the previously assigned personnel was termination, with or without cause, resigned, transferred, retired, or for any other cause that resulted in the need to replace the assigned personnel. The City and Contractor acknowledge and agree that Contractor's stated commitment to continuity in personnel was a key consideration in City agreeing to enter into this Contract, and that any change in key staff positions detrimentally affects the City's transit operations. Further, the Contract was awarded to Contractor, in part, on Contractor's staffing plan and its proposed personnel that will fill Key Staff Positions. Thus, the purpose of these liquidated damages is to compensate the City for, among other things, the damage to the City resulting from the turnover in Key Staff Positions, such as operational delays, loss of historical operational knowledge personal and unique to the outgoing individual, additional training that may be required or needed, the new personnel's lack of experience with the City's transit operation, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to adjust to the new personnel, including training and outreach.

In the event of a vacancy, Contractor must take all diligent actions to fill vacancies immediately with qualified personnel. No Key Staff Positions shall be filled without prior written approval of the City. The resume and qualifications of the proposed replacement shall be submitted to the City for approval. The City shall have up to ten working days following receipt of these qualifications to respond to Contractor concerning acceptance of the candidate for the vacant position. The candidate(s) for replacement shall be orally interviewed by the City unless the City opts not to conduct an interview.

If an acceptable replacement is not found within ten days after departure of the Key Staff Position, Contractor shall assign a senior management official or other supervisor approved by the City to serve in an interim capacity until a suitable permanent replacement is found. The City retains the right of prior approval over each interim and/or

permanent replacement. Contractor shall undertake all reasonable efforts in good faith to maintain quality and continuity in its selections of the Key Staff Positions.

In addition to the foregoing, Contractor shall pay to the City the total compensation of the vacated Key Staff Position's compensation, including benefits, for each day the position remains without a full-time permanent replacement. For example, if the total compensation for the position is \$100,000 per year, and the position is vacant for 30 days, Contractor shall pay City the amount of \$8,219.10 (\$273.97 daily compensation amount x 30 days); this amount compensates City for the loss under the Contract given that the compensation paid to Contractor assumes full staffing of all Key Staff Positions. In addition, the Contractor shall also pay up to \$500 per day, at City's sole discretion, for each day that the position remains without a full-time permanent replacement and ongoing until the full-time permanent replacement is fully trained in the City's operation and can competently perform, in the City's reasonable judgment, to the level of its predecessor for a period 90 days, in City's sole discretion. This additional amount serves to compensate the City for its damages for having to dedicate additional City resources to administer the Contract and otherwise participate in the transit operations that would not have been expended but for the vacancy to the Key Staff Position.

(2) Fixed Route

- a. Missed trips. Liquidated damages may be assessed, at City's sole discretion, at the rate of Five Hundred Dollars (\$500.00) per one-way trip missed; this liquidated damage excludes late trips that result from causes beyond control of the Contractor or due to vehicle manufacturing deficiencies. The purpose of this liquidated damage amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency.
- b. Failure to stop and pick up passengers. Liquidated damages may be assessed by City, at City's sole discretion, upon verification, at the rate of Five Hundred Dollars (\$500) per occurrence for passing up any passenger (failure to stop and pick up) at a designated stop. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency.

- c. Late trips. If the on time performance of the Fixed Route falls below the standards as outlined in section B.64, liquidated damages may be assessed by City, at City's sole discretion, at the rate of One Hundred Dollars (\$100) for late trips; this provision shall apply to the first stop of each route and not to successive stops and shall exclude late trips that result from causes beyond the control of the Contractor. On-time performance is defined as 0 minutes early to 5 minutes 0 seconds late; a late trip is any trip that fails to arrive and stop at the first stop of each route within the 0 minutes to 5 minute 0 seconds time frame. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency.
- d. Monthly on-time performance. Liquidated damages may be assessed by City, at City's sole discretion, if the average monthly on-time performance falls outside the acceptable measures stated below. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency. Monthly on-time performance shall be verified by use of Contractor Reports, On Time Performance software/tracking, and/or random samplings on routes operated by the Contractor, compared to the actual published times. The City always reserves the right to dictate the method and/or process by which Contractor shall measure on-time performance. If at any-time the average monthly on-time performance reported by Contractor does not match the random sampling of the City, an assessment of 2% of the Fixed Route monthly variable costs shall apply.

If Contractor's average monthly on-time performance is:

- i. Less than 80% then this is considered unacceptable and an assessment of 2% of the Fixed Route monthly variable costs shall apply.
- ii. Less than 90% then this is considered poor and an assessment of 1% of the Fixed Route monthly variable cost shall apply.

For example if Contractor's average monthly on-time performance is 89% as reported to the City and the Contractor's variable costs for that month are \$200,000, Contractor would be assessed 1% of \$200,000 or \$2,000.

On-time performance rates shall be rounded to the nearest whole percentage.

(3) ADA/Paratransit

- a. Late pick-up. If the on time performance of the Paratransit service falls below the standards as outlined in section B.55, liquidated damages may be assessed by the City, at the City's sole discretion, at the rate of One Hundred Dollars (\$100) per occurrence where Contractor fails to pick up any ADA Paratransit/Senior Transportation passenger within 15 minutes of the scheduled pick-up time. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency.
- b. Missed pickup. Liquidated damages may be assessed by the City, at the City's sole discretion, at the rate of Five Hundred Dollars (\$500) per occurrence where Contractor misses a scheduled pickup for ADA Paratransit/Senior Transportation passenger. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency.
- c. Failure to secure a passenger. Liquidated damages may be assessed by the City, at the City's sole discretion, at the rate of Five Hundred Dollars (\$500) per occurrence where a Paratransit driver fails to properly secure a passenger in a mobility device, including, but not exclusive of wheelchairs, prior to being transported on a vehicle. Liquidated damages shall be verified by an investigation, customer complaint, or observation by the City. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency. Notwithstanding the foregoing, if a passenger using a mobility device is not properly secured and as a result is injured, the Contractor shall be responsible with all damages and liability associated with the injury; the purpose of this liquidated damage is only to compensate City for failing to perform where the failure does

not otherwise result in additional personal injury, property damage, or another damage resulting from the performance failure.

(4) Maintenance

- a. Failure to clean vehicles. Liquidated damages may be assessed by City, at City's sole discretion, at the rate of One Hundred Dollars (\$100) per day for each incident where the exterior and/or interior of the vehicle are not clean. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency.

An incident shall mean any vehicle inspected while in revenue service or during a pre-planned inspection/audit by authorized City personnel; which is found to not meet the expectations for cleanliness.

- b. Failure to conduct preventative maintenance. Liquidated damages may be assessed by City, at City's sole discretion, at the rate of Five Hundred Dollars (\$500) per occurrence, per day, per bus for failure to follow the preventive maintenance program of the City and as mandated by the Federal Transit Administration (FTA). The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency. Failure shall be defined as when the bus is in need of the next scheduled maintenance procedure, yet the bus is in revenue service and the odometer indicates that the bus has gone beyond 10% of the scheduled interval. Adherence to the preventive maintenance program is to be reported in the monthly report.
- c. Failed CHP Inspection. Liquidated damages may be assessed by City, at City's sole discretion, at the rate of Five Thousand Dollars (\$5,000) if the Contractor fails (to pass) receive a Satisfactory Rating from the California Highway Patrol (CHP) Inspection. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency. If the Contractor fails to receive a Satisfactory Rating in the subsequent CHP inspection (i.e. fails two

inspections in a row), a liquidated damage may be assessed at the rate of Ten Thousand Dollars (\$10,000). If the Contractor fails another subsequent CHP inspection, which would be the third failure in a row, liquidated damages may be assessed at the rate of Twenty Thousand Dollars (\$20,000) and may result in termination of the contract. These liquidated damages shall be in addition to any fines, penalties and any other costs to the City to actually cure the deficiencies resulting in a failure to receive (pass) a satisfactory rating from the CHP Inspection.

- d. Failure to report damage or vandalism or trash on bus stop sign or shelter. Liquidated damages may be assessed by City, at City's sole discretion, at the rate of One Hundred Dollars (\$100) per day for each incident where a damaged bus stop sign or bus shelter is not reported or notified within 24 hours. The purpose of this liquidated damages amount is to compensate the City for, among other things, the damage to the City resulting from loss of the public's goodwill and confidence in the City's transit system, loss of revenue and ridership, loss of City's expectation value and benefit of its bargain, and need for additional City resources and staff time to address performance deficiency.

2. City's Responsibilities

The City's responsibilities (currently administered through the Parks and Community Services Department) are as follows:

A. Administration

- (1) Oversight of the operating Agreement, including invoice and reporting audits, budget monitoring, fare box and revenue verification, route designation and revisions, Agreement liaison, ensuring compliance with City, State and Federal mandates;
- (2) Determining passenger fare rates and the method of collecting and depositing fares;
- (3) Making provisions for on-board communication systems;
- (4) Implementing all aspects of planning, including short and long term service changes;
- (5) Seeing to aspects of marketing, employing Contractor's assistance when needed, including design, print, obtain and distribute transit brochures, tickets, transfers and marketing materials;
- (6) Completing required governmental and regulatory documents;

- (7) Completing grant documents and funding applications and requesting applicable County, State and Federal reimbursements;
- (8) Setting goals, objectives and standards;
- (9) Writing specifications related to capital purchases;
- (10) Implementing bus signage measures and bus stop improvements including shelters and benches;
- (11) Ensuring that bus stops are located approximately every 3 to 5 blocks and/or at major intersections or activity centers;
- (12) Providing fire and theft insurance for the City facility;
- (13) Installing radio communication devices and providing for maintenance and repair of radio communication systems;
- (14) Mailing of paratransit applications and certifications;
- (15) Facilitating Transit route designations and revisions;
- (16) Providing access to Routematch scheduling software for paratransit operations;

B. Vehicles: The City shall provide Contractor with all revenue vehicles required for Fixed Route and Paratransit services with the exception of the four vehicles required by section 1.D of this agreement. The City currently owns fifteen vehicles: four CNG Cutaways, six CNG MST IIs, three low-floor gasoline hybrid Cutaways, and two ADA accessible minivans. The City will provide:

- Reserve vehicles
- Fare boxes (electronic or manual as warranted)
- Designation signs
- Mobile Radio Units
- Vehicle Licenses
- Internal racks for marketing materials
- External decals and logos
- Fuel and fuel cards
- Fluids & waste oil dumping area
- Supplies for CNG checks

C. Facilities: The City will provide the Contractor with space for operations to include:

CITY OF TRACY – PROFESSIONAL SERVICES AGREEMENT

RIDE RIGHT, LLC

Page 41 of 44

- Dispatch Room
- Supervisor's Office
- Drivers' Break Room
- Restrooms
- Yard for TRACER vehicle storage
- Office space at Yard

EXHIBIT "B"

RATES

	August 1, 2016 - June 30, 2017	July 1, 2017 - June 30, 2018	July 1, 2018 - June 30, 2019
Fixed Monthly Expense	\$ 108,547	\$ 112,812	\$ 114,787
Cost Per Vehicle Hour	\$ 35.77	\$ 35.99	\$ 36.13
TOTAL AGREEMENT PRICE	\$ 2,438,414	\$ 2,496,448	\$ 2,596,944

PROJECTED VEHICLE HOURS*	July 1, 2011 - June 30, 2012	July 1, 2012 - June 30, 2013	July 1, 2013 - June 30, 2014
Fixed Route Vehicle Hours	24,000 ± 15%	24,000 ± 15%	25,000 ± 15%
Paratransit Vehicle Hours	7,750 ± 15%	7,750 ± 15%	8,750 ± 15%

* Actual hours may vary based on City Council action in levels of service.

	July 1, 2019 - June 30, 2020 (Extension)	July 1, 2020 - June 30, 2021 (Extension)
Fixed Monthly Expense	\$ 116,739	\$ 118,759
Cost Per Vehicle Hour	\$ 37.39	\$ 37.05
TOTAL AGREEMENT PRICE	\$ 2,662,933	\$ 2,675,644

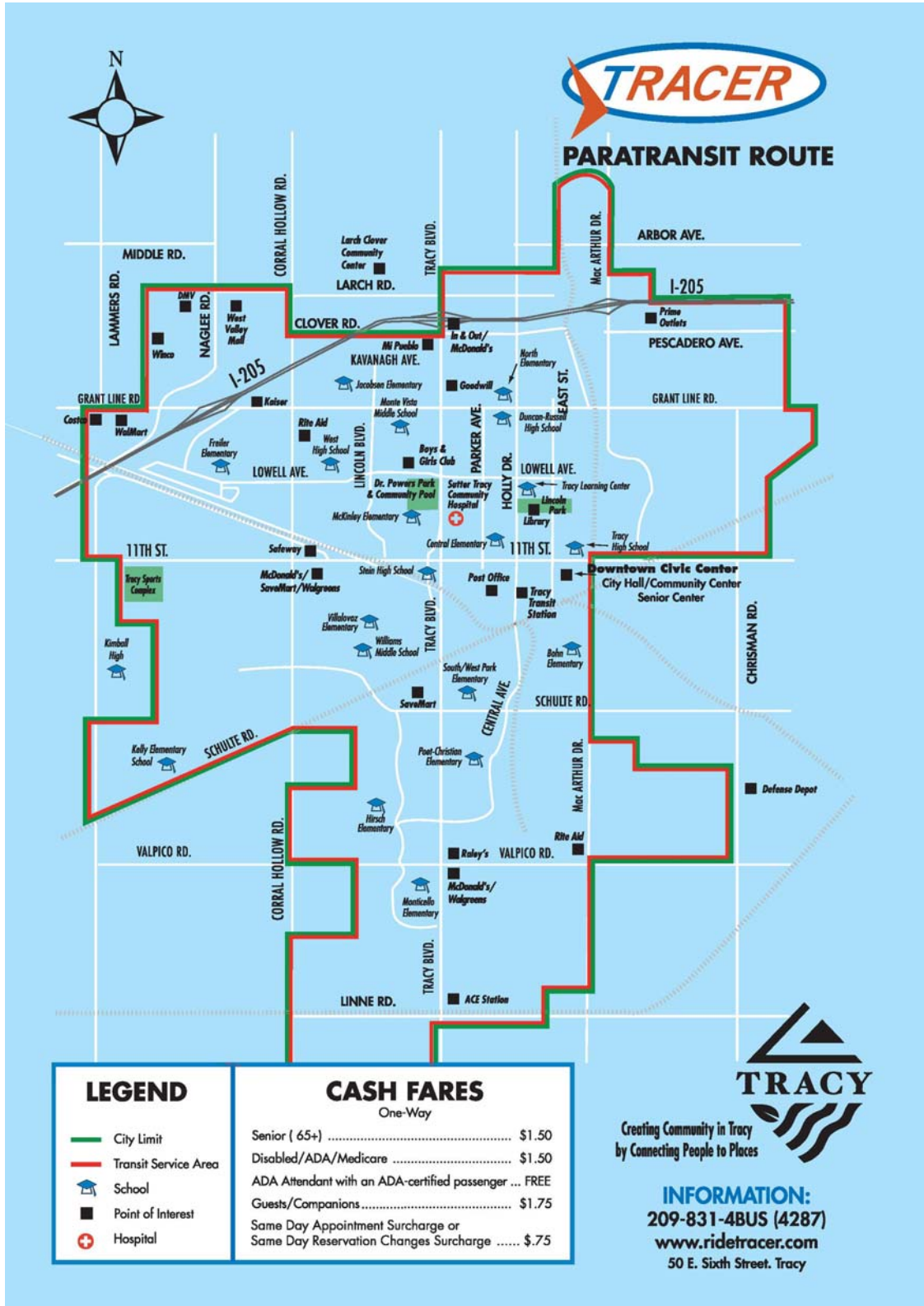
PROJECTED VEHICLE HOURS*	July 1, 2019 - June 30, 2020	July 1, 2020 - June 30, 2021
Fixed Route Vehicle Hours	25,000 ± 15%	25,000 ± 15%
Paratransit Vehicle Hours	8,750 ± 15%	8,750 ± 15%

* Actual hours may vary based on City Council action in levels of service.

EXHIBIT "C"

CITY OF TRACY SERVICE AREA AND FIXED ROUTE PATTERNS

Service Area:



Fixed Route Pattern:

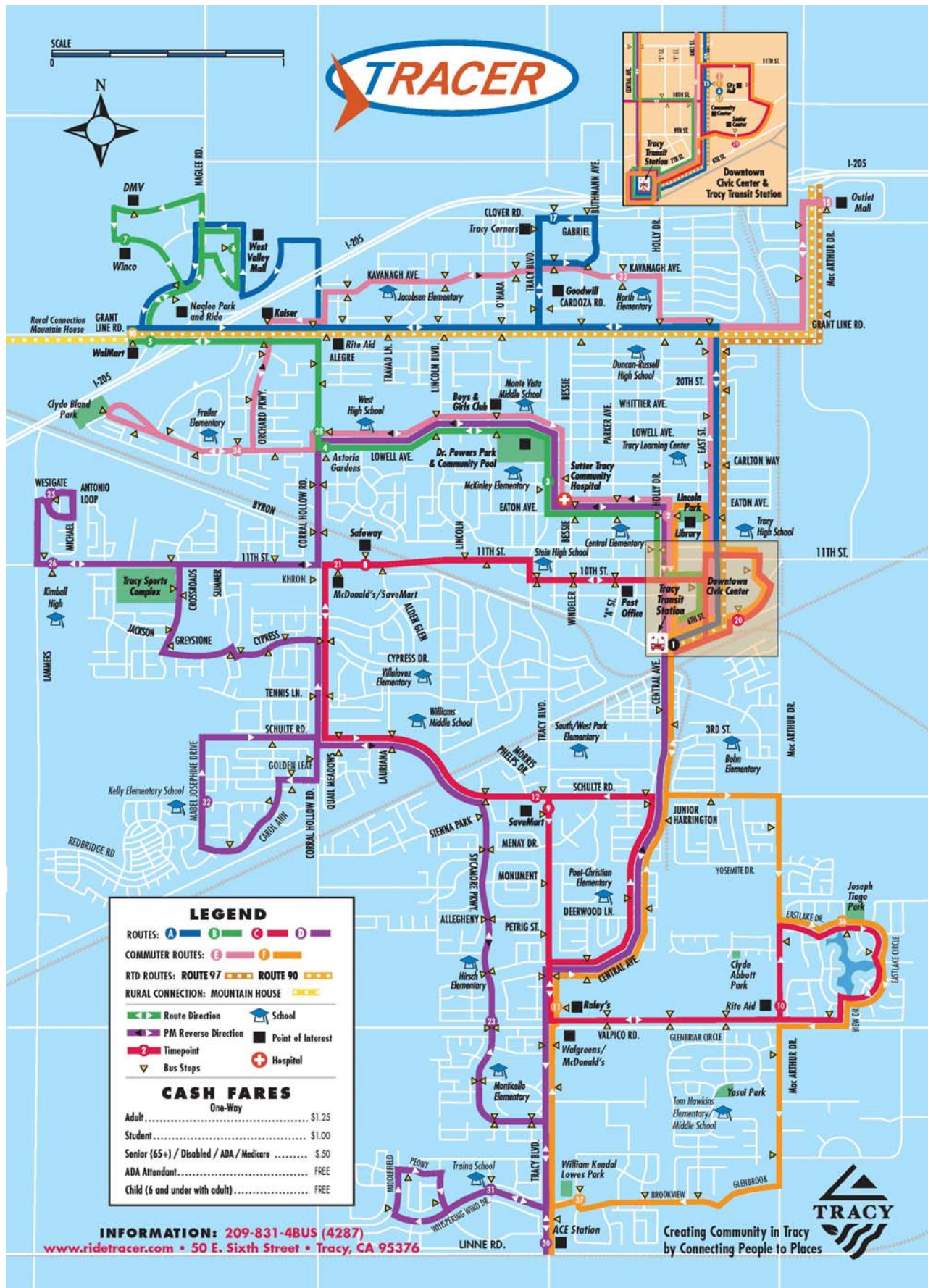


EXHIBIT "D"
FEDERAL REQUIREMENTS FORMS

Form B

NON-COLLUSION AFFIDAVIT FOR PROPOSER

STATE OF ~~CALIFORNIA~~ Missouri
COUNTY OF St. Charles

Alaina Maciá declares and says:

1. That he/she is the (owner, partner, representative, or agent) of Ride Right, LLC, hereinafter referred to as (CONTRACTOR) or (subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for certain work in the City of Tracy, State of California.
3. That his/her proposal is genuine and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest, including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or indirectly, with any other proposer, firm, or person to submit a collusive or sham proposal in connection with such contract or to refrain to submitting a proposal in connection with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or connivance with any other proposer, firm, or person to fix the price or prices in said proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any advantage against the City of Tracy or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful Contract on the part of the proposer or any of its agents, owners, representatives, employees, or parties in interest, including this affiliate.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Dated this 3rd day of May, 2016, at Lake St. Louis, ~~California~~ Missouri.

Signed: Alaina Macia'

Title: President and CEO

Form C

CERTIFICATION OF ELIGIBILITY (LABOR STANDARDS)

The Ride Right, LLC (Name of Proposer) hereby certifies that it is not included on the United States Comptroller Generals Consolidated List of Persons or Firms currently Debarred for Violations of Various Public Contracts Incorporating Labor Standard Provisions.

Signed *Alama Nacca'*

Title President and CEO

Date May 3, 2016

Form D

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

1. By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, City of Tracy may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to City of Tracy if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact City of Tracy for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by City of Tracy.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction", without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Debarment, Suspension, and Other Responsibility Matters
Page 2

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, City of Tracy may pursue available remedies including suspension and/or debarment.
10. The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
11. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

SIGNATURE *Alama Nacia'* DATE May 3, 2016

TITLE President and CEO COMPANY NAME Ride Right, LLC

Form E

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, Alaina Maciá, hereby certify on behalf of Ride Right, LLC, that:

1. No Federal appropriated funds have been paid or will be paid, by on or behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative Contract.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative Contract, the undersigned shall complete and submit Standard Form LLL--Disclosure Form to Report Lobbying, in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, loans, and cooperative Contracts) which exceed \$100,000, and that all such subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. §1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this 3rd day of May, of 20 16.

Signature of Authorized Official Alaina Maciá

Title of Authorized Official President and CEO

Form F

CERTIFICATION

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM/
EQUAL EMPLOYMENT OPPORTUNITY**

PROPOSER: Ride Right, LLC

In accordance with Title 49, Code of Federal Regulations, Part 23, California Public Contracts Code Section 10115, and other applicable Disadvantaged Business Enterprise (DBE) and Equal Employment Opportunity (EEO) rules and regulations, the CONTRACTOR declares that it had made an effort to comply with established DBE goals, and that it has made a good faith effort meet established EEO goals, as evidenced below:

1. CONTRACTOR'S overall DBE participation rate: .16%

2. Names/Locations of DBE's contracted by CONTRACTOR:
JCM & Associates, Inc. (Blue Goose Uniforms)
5443 E. Washington Blvd
Commerce, CA 90040

3. Names/Locations of DBE's selected by CONTRACTOR:
JCM & Associates, Inc. (Blue Goose Uniforms)
5443 E. Washington Blvd
Commerce, CA 90040

4. CONTRACTOR'S workforce breakdown by race and gender:
 Total employees (as of 5/4/16): 709

JOB CATEGORIES	EMPLOYEES									
	Male					Female				
	Wht	Blk	Hsp	Asn	Nat	Wht	Blk	Hsp	Asn	Nat
Officials & Managers	16	4	3			11	4	3		
Professional	1	1	2							
Technical										
Sales										
Office/Clerical	20	14	3			39	58	2		
Craftsmen										
Laborers	8	2	2			1	1			
Service	153	117	27	1	4	64	135	10		3

DBE/EEO Certification
Page 2

Note: The above DBE/EEO Affidavit is part of the CONTRACTOR'S Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this DBE/EEO Affidavit.

By: Alaina Nacia'

Title: President and CEO Date: 5/3/16

Form H

CERTIFICATION REGARDING ALCOHOL MISUSE AND PROHIBITED DRUG USE

1. As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," at 49 CFR part 655, subpart I, the undersigned certifies that is has established and implemented an alcohol misuse and anti-drug program, and has complied with or will comply with all applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and prohibited Drug Use in Transit Operations," 49 CFR part 655.
2. The undersigned shall at all times comply with all applicable FTA regulations, policies, procedures and directives.

Signature *Alaina Maciá*
Name Alaina Maciá
Title President and CEO
Date May 3, 2016
Company Name Ride Right, LLC

RESOLUTION 2016-_____

DESIGNATING OPERATION OF THE PUBLIC TRANSIT SYSTEM AS A PROFESSIONAL SERVICE; AWARDING A THREE-YEAR PROFESSIONAL SERVICES AGREEMENT WITH RIDE RIGHT, LLC, FOR SERVICES RELATING TO THE CITY OF TRACY'S TRACER PUBLIC TRANSIT SYSTEM; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZING AN APPROPRIATION OF \$1,100,000 TO THE TRANSIT FUND TO COVER THE COST OF THE AGREEMENT

WHEREAS, Since July 2001, the City of Tracy has contracted for operation of the TRACER Fixed Route and Paratransit Bus services, and

WHEREAS, A Request For Proposals was issued on April 11, 2016, and three bids were received and opened on May 6, 2016, and

WHEREAS, Ride Right, LLC, of Lake St. Louis, Missouri, was a responsive and qualified bidder with a proposal that meets the needs of the City of Tracy, and

WHEREAS, A panel of interviewers found that the proposal by Ride Right, LLC, offered the best value to the City of Tracy, and

WHEREAS, Additional service levels specified in the agreement require additional funding to be appropriated to the Transit Fund to cover the costs;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby designates operation of the public transit system as a professional service for the purposes of Tracy Municipal Code Chapter 2.20; awards a three-year Professional Services Agreement to Ride Right, LLC, for services relating to the City of Tracy's TRACER public transit system; authorizes the Mayor to execute the agreement; and authorizes an appropriation of \$1,100,000 to the Transit Fund.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the City Council of the City of Tracy on the 5th day of July, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.C

REQUEST

ADOPT A RESOLUTION OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY APPROVING THE LONG-RANGE PROPERTY MANAGEMENT PLAN AND AUTHORIZING STAFF AND THE BOARD OF THE SUCCESSOR AGENCY TO EXECUTE ALL DOCUMENTS AND INSTRUMENTS AND TO DO ANY AND ALL OTHER THINGS WHICH THEY MAY DEEM NECESSARY OR ADVISABLE TO EFFECTUATE THE LONG-RANGE PROPERTY MANAGEMENT PLAN, ; AUTHORIZING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TRACY (CITY), THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (AGENCY), AND BECKER COMMERCIAL PROPERTIES; AND AUTHORIZE THE MAYOR ON BEHALF OF THE CITY AND THE CHAIRMAN ON BEHALF OF THE AGENCY TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

EXECUTIVE SUMMARY

The City of Tracy and the Successor Agency to the City of Tracy Community Development Agency are joint owners of a 1.45± acre real property located to the immediate east of 2512 Naglee Road, shown on Attachment A as Parcel B. Becker Commercial Properties (BCP), a retail developer, is currently marketing the property under an Exclusive Negotiating Rights Agreement (ENRA) with the City for the purpose of developing an 8,000 square foot, multi-tenant building.

State legislation implementing the dissolution of Redevelopment in California requires the disposal of all real property owned by the former Redevelopment Agency. The disposal process is to be carried out pursuant to a Long Range Property Management Plan (LRPMP) and approved by the Successor Agency Oversight Board and the California Department of Finance. The attached LRPMP (Attachment B) has already been approved by both agencies.

DISCUSSION

Prior to the dissolution of all California Redevelopment Agencies, the subject property was jointly owned by the City of Tracy and the Community Development Agency of the City of Tracy (CDA). On February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former CDA were transferred to the Successor Agency pursuant to Health and Safety Code Section 34175(b).

In accordance with Health and Safety Code Section 34191.5, the Successor Agency prepared and submitted to the Department of Finance on December 3, 2015, a Long-range Property Management Plan providing for the disposition and use of real property assets of the former Agency. On December 8, 2015, the Department of Finance issued a Finding of Completion, and on December 30, 2015, the City of Tracy received approval of the Long-range Property Management Plan, allowing for the sale of the subject property. Fifty-percent of the proceeds received by the City of Tracy will be placed in the City's General Fund and the remaining fifty-percent received by the Successor Agency will be remitted to the County Auditor Controller for distribution to the

other taxing entities such as city and county schools, the Mosquito Abatement District, and special districts.

BCP has been marketing the property under an Exclusive Negotiating Rights Agreement (ENRA) with the purpose of developing an 8,000 square foot, multi-tenant building. BCP has received fully executed Letters of Intent from two fast-casual restaurant uses, which plan to develop and occupy the site with an as-yet determined third retail tenant (Attachment C). For development of the property to move forward, it must be conveyed to the new property owner upon the execution of a purchase and sale agreement (Attachment D).

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

Staff believes this is a good use for the site. Both proposed restaurant uses are unique users to Tracy and do not have a high parking requirement, which would complement the Panera Bread and Chipotle Mexican Grill uses approved for development on the neighboring Parcel A.

STRATEGIC PLAN

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

FISCAL IMPACT

Proceeds from the property sale will be equally split between the City of Tracy and the Successor Agency to the City of Tracy Community Development Agency. Funds received by the Successor Agency will be remitted to the County Auditor Controller for distribution to the other taxing entities and the funds received by the City of Tracy will be placed in the City's General Fund.

RECOMMENDATION

That City Council:

- 1) Adopt a Resolution of the Successor Agency to the Tracy Community Development Agency authorizing staff and the Board of the Successor Agency to execute all documents and instruments, and to do any and all other things, which they may deem necessary or advisable to effectuate the Long-Range Property Management Plan and approve the Long-Range Property Management Plan; and
- 2) Authorize a purchase and sale agreement between the City of Tracy, the Successor Agency to the City of Tracy Community Development Agency, and Becker

Commercial Properties, and authorize the Mayor on behalf of the City and the Chairman on behalf of the Agency to execute the agreement and related documents.

Prepared by: Barbara Harb, Economic Development Management Analyst

Reviewed by: Shelley Burcham, Economic Development Manager
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Location Map

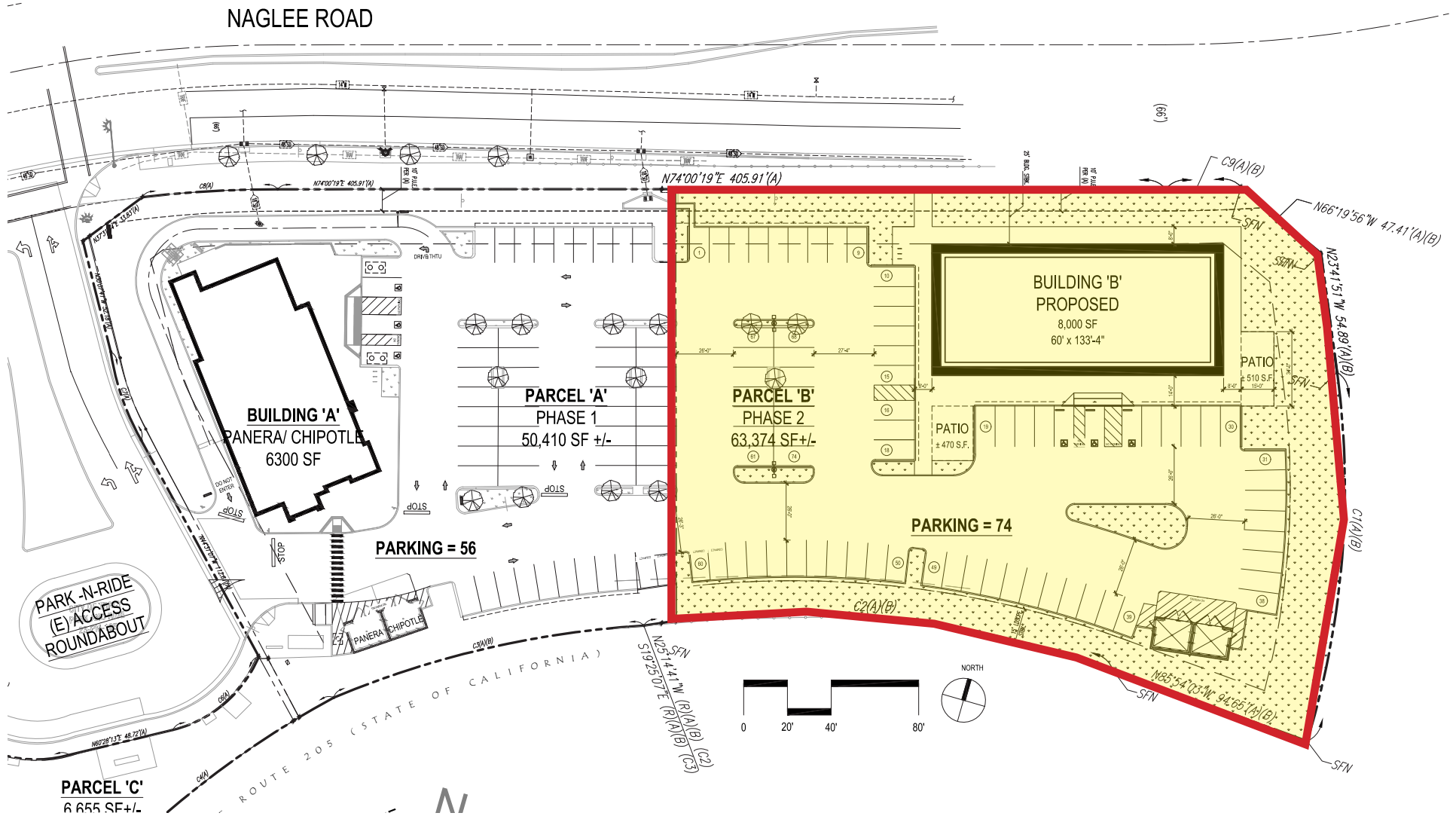
Attachment B – Long-Range Property Management Plan

Attachment C – Confirming Letters of Interest

Attachment D – Purchase and Sale Agreement between BCP Tracy, LLC, the City of Tracy, and the Successor Agency to the City of Tracy Community Development Agency

Proposed Phase 2 Site Redevelopment Plan Naglee Rd

ATTACHMENT A



PHASE 2 SITE REDEVELOPMENT PLAN, OPTION 4

DATE: JANUARY 14, 2016

OWNER: Becker Commercial Properties
Jon Becker, Principal
PO Box 590, Wilton, CA. 95693
Phone: 916-714-9151, Email: jon.becker@bcprop.net

GRANT LINE ROAD/ INTERSTATE HWY. 205
PARK AND RIDE, PHASE 2
TRACY, CA. 95304

VMI architecture
Design · Planning · Interiors
637 5th Avenue San Rafael, CA 94901
415-451-2500 · 415-451-2595 fax
www.vmearch.com



LONG-RANGE PROPERTY MANAGEMENT PLAN CHECKLIST

Instructions: Please use this checklist as a guide to ensure you have completed all the required components of your Long-Range Property Management Plan. Upon completion of your Long-Range Property Management Plan, email a PDF version of this document and your plan to:

Redevelopment_Administration@dof.ca.gov

The subject line should state “[Agency Name] Long-Range Property Management Plan”. The Department of Finance (Finance) will contact the requesting agency for any additional information that may be necessary during our review of your Long-Range Property Management Plan. Questions related to the Long-Range Property Management Plan process should be directed to (916) 445-1546 or by email to Redevelopment_Administration@dof.ca.gov.

Pursuant to Health and Safety Code 34191.5, within six months after receiving a Finding of Completion from Finance, the Successor Agency is required to submit for approval to the Oversight Board and Finance a Long-Range Property Management Plan that addresses the disposition and use of the real properties of the former redevelopment agency.

GENERAL INFORMATION:

Agency Name: **Successor Agency to the Community Development Agency of the City of Tracy**

Date Finding of Completion Received: Pending

Date Oversight Board Approved LRPMP: 12/01/2015

Long-Range Property Management Plan Requirements

For each property the plan includes the date of acquisition, value of property at time of acquisition, and an estimate of the current value.

Yes No

For each property the plan includes the purpose for which the property was acquired.

Yes No

For each property the plan includes the parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.

Yes No

For each property the plan includes an estimate of the current value of the parcel including, if available, any appraisal information.

Yes No

For each property the plan includes an estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.

Yes No

For each property the plan includes the history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.

Yes No

For each property the plan includes a description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.

Yes No

For each property the plan includes a brief history of previous development proposals and activity, including the rental or lease of the property.

Yes No

For each property the plan identifies the use or disposition of the property, which could include 1) the retention of the property for governmental use, 2) the retention of the property for future development, 3) the sale of the property, or 4) the use of the property to fulfill an enforceable obligation.

Yes No

The plan separately identifies and list properties dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation.

Yes No

ADDITIONAL INFORMATION

- If applicable, please provide any additional pertinent information that we should be aware of during our review of your Long-Range Property Management Plan.

Agency Contact Information

Name: Robert Harmon

Name: Andrew Malik

Title: Senior Accountant

Title: Development Services Director

Phone: (209) 831-6828

Phone: (209) 831-6423

Email: Robert.Harmon@ci.tracy.ca.us

Email: Andrew.Malik@ci.tracy.ca.us

Date: 11/20/2015

Date: 11/20/2015

Department of Finance Local Government Unit Use Only

DETERMINATION ON LRPMP: APPROVED DENIED

APPROVED/DENIED BY: _____ DATE: _____

APPROVAL OR DENIAL LETTER PROVIDED: YES DATE AGENCY NOTIFIED: _____

RESOLUTION OB2015-003

RESOLUTION OF THE OVERSIGHT BOARD TO THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY APPROVING A LONG-RANGE PROPERTY MANAGEMENT PLAN PURSUANT TO HEALTH AND SAFETY CODE SECTION 34191.5

WHEREAS, the California state legislature enacted Assembly Bill X1 26 (the Dissolution Act") to dissolve Redevelopment Agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et.seq.); and

WHEREAS, pursuant to Health and Safety Code Section 34175(b) and the California Supreme Court's decision in California Redevelopment Association, et al. v. Ana Matosantos, et al. (53 Cal.4th 231(2011)), on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former Community Development Agency of the City of Tracy (the "Agency") transferred to the control of the Successor Agency to the Community Development Agency of the City of Tracy (the "Successor Agency") by operation of law; and

WHEREAS, pursuant to AB 1484 ("AB 1484"), enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City; and

WHEREAS, in accordance with Health and Safety Code Section 34191.5, the Successor Agency has prepared a Long-Range Property Management Plan that provides for the disposition and use of real property assets of the former Agency; and

WHEREAS, pursuant to Health and Safety Code Section 34191.5(b), the Successor Agency must submit the Long-Range Property Management Plan to the Oversight Board and the California Department of Finance (the "DOF"); and

WHEREAS, pursuant to Health and Safety Code Section 34191.3, once approved by the Oversight Board and the DOF, the Long-Range Property Management Plan will govern, and supersede all other provisions relating to, the disposition and use of the real property assets of the Successor Agency; and

WHEREAS, as of the date of the adoption of this Resolution, the Successor Agency has not yet received a finding of completion from the DOF pursuant to Health and Safety Code Section 34179.7; and

WHEREAS, the accompanying staff report provides supporting information upon which the action set forth in this Resolution is based.

NOW, THEREFORE, BE IT RESOLVED, That the Oversight Board of the Successor Agency to the Tracy Community Development Agency hereby finds, determines, resolves, and orders as follows:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Oversight Board hereby finds and determines that the Long-Range Property Management Plan is created in accordance with Health and Safety Code Section

34191.5(b), and is subject only to the DOF's issuance of a finding of completion to the Successor Agency, pursuant to Health and Safety Code Section 34179.7.

Section 3. The Successor Agency is hereby authorized and directed to complete and submit the Long-Range Property Management Plan, with such changes therein as the officer executing the document may require or approve.

Section 4. The Successor Agency, as necessary, implement the disposition and use of the real property assets of the Former Community Development Agency of the City of Tracy in accordance with the terms approved in the Long-Range Property Management Plan and this Resolution.

Section 5. The staff of the Successor Agency is hereby directed to provide DOF written notice and information regarding the action taken by the Oversight Board pursuant to this Resolution. Such notice and information shall be provided by electronic means and in a manner of DOF's choosing.

Section 6. The staff and the Board of the Successor Agency are hereby authorized and directed, jointly and severally, to execute such documents and instruments and to do any and all other things which they may deem necessary or advisable to effectuate this Resolution.

Section 7. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

ADOPTED, December 1, 2015 by the Oversight Board of the Successor Agency of the Tracy Community Development Agency.

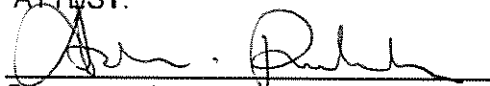
AYES: BORWICK, KHAN, MACIEL, THOMAS, SENSIBAUGH

NOES: NONE

ABSTAIN: NONE

ABSENT: MILLER, PUENTES-GRIFFITH


Chair

ATTEST:

Successor Agency Secretary



Think Inside the Triangle™

**SUCCESSOR AGENCY TO THE CITY OF TRACY
COMMUNITY DEVELOPMENT AGENCY**

LONG-RANGE PROPERTY MANAGEMENT PLAN

November 20, 2015

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Table of Contents

Introduction	1
Summary of Property Owned by the Successor Agency	3
Property Inventory	3
Properties that will be used for government purpose	4
Parking Lots	4
Remnant Parcel & Easement.....	5
Properties for Liquidation	5
3055 N Corral Hollow Rd.....	6
Park & Ride Lot.....	6
Discussion of Properties	6
Parking Lots	7
Remnant – 3055 Corral Hollow Rd	7
Remnant – Old Naglee Rd	7
APN 212-290-28	8
Park & Ride Parcel	8
Sewer Easement.....	10
Environmental Remediation	10

Tables, Exhibits & Figures

Table 1 – Summary of Property Owned by the Successor Agency.....	3
Exhibit A – Legal Descriptions Of The Properties	A-1
Exhibit B – Department of Finance LRPMP Inventory	B-1
Exhibit C – APN 212-040-28 - Final Order of Condemnation.....	C-1
Exhibit D – APN 212-040-28 – Plot of Legal Description	D-1
Exhibit E – APN 212-290-44 – Old Naglee Rd	E-1

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Long Range Property Management Plan Successor Agency to the City of Tracy Community Development Agency

Introduction

As part of the dissolution process of former redevelopment agencies, State Assembly Bill 26 (ABX1 26) required successor agencies to dispose of real property assets owned by former redevelopment agencies “expeditiously and in a manner aimed at maximizing value.” State Assembly Bill 1484 (AB 1484) clarified how successor agencies should dispose of these assets with direction to prepare a Long Range Property Management Plan (LRPMP) governing the disposition and use of the former Agency owned properties to be submitted to their Oversight Board and the State Department of Finance (DOF) within six months of receiving a Finding of Completion. The Successor Agency to the City of Tracy Community Development Agency (Successor Agency) has not yet received its Finding of Completion; however, the dissolution statutes require that all LRPMP’s be approved by the DOF no later than December 31, 2015.

Section 34191.5 of the Health and Safety Code, which was added by AB 1484, requires that the LRPMP include an inventory and site history of each of the former Agency owned properties as well as a plan for the future use or disposition of each site. AB 1484 allows for four permissible uses of the properties, including: the retention of the property for governmental use, the retention of the property for future development, the use of the property to fulfill an enforceable obligation (either through sale of the property or revenue received), or the sale of the property. SB 107 further modifies this by allowing the retention of government use parking lots.

This document is the Long Range Property Management Plan for the Successor Agency to the City of Tracy Community Development Agency and incorporates the following:

- An inventory of all properties in the Property Trust Fund. The inventory consist of all of the following information:
 - The date of the acquisition of the property and the value of the property at that time, and an estimate of the current value of the property.
 - The purpose for which the property was acquired.
 - Parcel data, including address, lot size, and current zoning in the former agency redevelopment plan or specific, community, or general plan.
 - An estimate of the current value of the parcel including, if available, any appraisal information.

- An estimate of any lease, rental, or any other revenues generated by the property, and a description of the contractual requirements for the disposition of those funds.
- The history of environmental contamination, including designation as a brownfield site, any related environmental studies, and history of any remediation efforts.
- A description of the property's potential for transit-oriented development and the advancement of the planning objectives of the successor agency.
- A brief history of previous development proposals and activity, including the rental or lease of property.
- Addresses the use or disposition of all of the properties in the Property Trust Fund. Permissible uses include the retention of the property for governmental use, the retention of the property for future development, the sale of the property, or the use of the property to fulfill an enforceable obligation. The LRPMP shall separately identify and list properties in the Property Trust Fund dedicated to governmental use purposes and properties retained for purposes of fulfilling an enforceable obligation. With respect to the use or disposition of all other properties, all of the following shall apply:
 - If the LRPMP directs the use of the property for a project identified in an approved redevelopment plan, the property shall transfer to the City.
 - If the LRPMP directs the liquidation of the property or the use of revenues generated from the property for any purpose other than to fulfill an enforceable obligation or other than that specified immediately above, the proceeds from the sale shall be distributed as property tax to the taxing entities.

According to Health and Safety Code 34180(f), if a city wishes to retain any properties or other assets for future redevelopment activities, it must reach a compensation agreement with the other taxing entities to provide payments to them in proportion to their shares of the base property tax, as determined pursuant to Section 34188, for the value of the property retained.

This plan contains no properties which the City desires to retain for future development or that require negotiating a Compensation Agreement.

Summary of Property Owned by the Successor Agency

The Successor Agency owns and controls various properties within the City of Tracy. Each site and the required information under AB 1484 will be discussed in greater detail in the “Summary” matrix. For three properties, the Successor Agency shares an undivided interest in the property with the City of Tracy. In those cases, the Successor Agency’s interest is deemed to be 50%. Table 1 below is an overview of the classification of the Successor Agency’s properties:

Table 1

Property/Parcel				AB 1484 Classification			
				Governmental Purpose Use	Enforceable Obligation Use	Approved Redevelopment Plan Use	Liquidation /Maximize Value of Proceeds Use
Ref #	APN	Description	Address				
1	235-056-15	Improved Public Parking Lot	15 W 9th St	X			
2	235-056-16	Improved Public Parking Lot	31 W 9th St	X			
3	235-056-17	Improved Public Parking Lot	41 W 9th St	X			
4	235-056-19	Improved Public Parking Lot	50 W Gillette Alley	X			
5	235-056-21	Improved Public Parking Lot	71 W 9th St	X			
6	235-056-22	Improved Public Parking Lot	918 “B” St	X			
7	212-040-28	Vacant Land/Sewer Easement *	Naglee Rd ROW	X			
8	212-290-44	Remnant Parcel 1	Abandoned Old Naglee Rd	X			
9	212-260-09	Remnant Parcel 2	3055 N Corral Hollow Rd				X
10	212-290-39	Park-N-Ride Lot *	(Parcels “A” & “B”)				X
* City of Tracy and Successor Agency shared property interest							

Property Inventory

Health and Safety Code Section 34191.5 requires that the Long Range Property Management Plan include an inventory of all properties owned by the Former Community Development Agency of the City of Tracy, which are held in a Property Trust Fund. The Successor Agency to the City of Tracy Community Development Agency has possession of ten (10) parcels that were referenced in the previous section and have been included in this plan. The properties have been placed into different categories based upon the specifics of the property and approach to its disposition. Several of these parcels have been combined into a single property (e.g. parking lot) and the combined parcels are treated as a group. Exhibit B contains the specific inventory with additional relevant information.

A. Properties that will be retained by the City for government purpose. These properties have no commercial value and include remnant pieces, landscape areas, ROW, slope area, and properties that are governmental use, and also include parking lots. The staff recommends that these properties be conveyed to the City at no cost. There are eight (8) properties listed under this category. These have been further categorized into two groups: parking lots and remnant parcels.

City parking lots are considered governmental use and will continue to be used as such. These parking lots generate no revenue, as the City provides free downtown parking and these are dedicated solely to public parking. The City has been responsible for all maintenance, upkeep and insurance since the dissolution of the Community Development Agency.

The balance of the government use parcels are remnant parcels. Due to the roadway uses, undevelopable nature, irregular shape, and inadequate sizes of the remnant parcels, it is not possible to determine a marketable value for the parcels. The Successor Agency proposes to transfer title of these properties to the City to be used for storage or other uses.

Parking Lots

The City parking lot consists of six (6) parcels combined to form two adjoining parking lots on a single city block. The parcels were purchased both separately and in a group over a period of 18 years for the purpose of providing free parking for retail, commercial and institutional businesses. The block is bounded by 9th St, B St and Gillette Alley with commercial buildings on the remaining side (N. Central). Two residences remain, abutting into the parcel on the 9th St side. The Successor Agency proposes transferring all six (6) parcels to the City of Tracy for government use. The City intends to continue to use these properties solely as public parking lots.

1. 15 W 9th St (APN 235-056-15) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
2. 31 W 9th St (APN 235-056-16) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
3. 41W 9thSt (APN 235-056-17) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.

4. 50 W Gillette Aly (APN 235-056-19) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
5. 71 W 9th St (APN 235-056-21) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.
6. 918 B St (APN 235-056-22) – Downtown public park parking lot which provides free public parking to commercial, retail and institutional businesses in the downtown Tracy area.

Remnant Parcels & Easements for Public Use

The remnant parcels consist of two (2) remnants from previous redevelopment activity and are not considered feasible for further development do to their roadway uses, irregular shape, inadequate size, location and accessibility. It is not possible to determine a marketable value for the parcels.

7. No address listed (APN 212-040-28) – This is vacant land with a sewer easement. The Successor Agency and the City of Tracy share an undivided interest in this property acquired through a condemnation and bankruptcy. The disposition of the Successor Agency’s interest in this property is discussed in detail in the Discussion of Properties section on page 8.
8. No address listed (APN 212-290-44) – Remnant parcel. This parcel was created with the abandonment of Old Naglee Rd. The parcel is both landlocked and also set-aside for the future expansion of the I-205 Naglee Rd Interchange. As such, this property has no market value is not considered developable. The Successor Agency proposes ratifying the transfer of this property to the City of Tracy and subsequently to the State of California for government use for the Interchange expansion.

B. Properties for Liquidation. The Successor Agency proposes to liquidate several properties. Those properties are to be sold under Exclusive Negotiating Rights Agreements (ENRA), marketed through direct contact with interested parties or through the use of brokers. Proposals would be evaluated based upon acceptable development plans. There are two (2) parcels listed under this category that represent three (3) properties. The City has a negotiated sale pending on one of these properties. A second property will be sold after an appraisal is obtained. Two of these properties have an undivided interest with the City of Tracy.

9. 3055 N Corral Hollow Rd (APN 212-260-09) – Remnant parcel. This parcel is land-locked and due to the roadway uses, undevelopable nature, irregular shape, and inadequate size of this parcel, it is not possible to determine a marketable value for the parcel. The Successor Agency proposes to attempt to sell the property to an adjacent landowner.

10. Park-N-Ride Lot (APN 212-290-39):

Parcel “A” – This is a remnant parcel leftover from prior redevelopment activity and a Condemnation order (see APN 212-290-28). The Successor Agency and the City of Tracy share an undivided interest in the property. The parcel currently contains one-half of a Park-N-Ride commuter parking lot. The Successor Agency proposes to liquidate in coordination with the City, the Successor Agency’s interest in this parcel. This property has been appraised and the City currently has an offer for the appraised value. The City has entered into an ENRA with a developer to purchase this parcel for use as a restaurant. The Successor Agency proposes to subdivide this parcel and sell Parcel “A” for the \$550,000 appraised value upon approval of this plan. If that sale cannot be fulfilled, the City and the Successor Agency propose to seek a buyer that would both maximize the value of the property and provide the most benefit to the surrounding area. Upon the sale of the parcel, the net proceeds of sales would be split equally between the Successor Agency and the City of Tracy. The Successor Agency share would be distributed to the taxing entities.

Parcel “B” – This is a remnant parcel leftover from prior redevelopment activity and a Condemnation order (see APN 212-290-28). The Successor Agency and the City of Tracy share an undivided interest in the property. The parcel currently contains a Park-N-Ride commuter parking lot. The Successor Agency proposes to subdivide this parcel and liquidate in coordination with the City, the Successor Agency’s interest in Parcel “B” which contains one-half of the Park-N-Ride lot. Because of the commercial nature of this parcel and the surrounding area, the City and the Successor Agency propose to seek a buyer that would both maximize the value of the property and provide the most benefit to the surrounding area. Upon the sale of the parcel, the net proceeds of sale would be split equally between the Successor Agency and the City of Tracy. The Successor Agency share would be distributed to the taxing entities.

Discussion and Disposition of Properties

In researching each specific parcel, and in discussion with City staff, several abnormalities, ambiguities and peculiarities have surfaced regarding specific properties. This section discusses

each property, which may be a group of multiple parcels, the property history, where significant, specific issues with that property, and staff recommendations on the resolution and disposition of the property.

Parking Lots (Properties 1 – 6)

APN 235-056-15, APN 235-056-16, APN 235-056-17,
APN 235-056-19, APN 235-056-21, APN 235-056-22

The CDA acquired six (6) mostly contiguous parcels (Table 1) between 1990 and 2004 which comprise the majority of a city block. These properties, taken as a whole, comprise the largest city-owned parking lot in the Downtown Business Improvement District. The purpose was to acquire properties to provide free parking for retail, commercial and institutional customers in an area immediately adjacent to shopping, restaurants and financial institutions in an effort to revitalize the downtown area. Parking is unmetered so these do not generate any revenue.

Disposition – These properties will be transferred to the City of Tracy for continued Government Use.

Remnant – Old Naglee Rd (APN 212-290-44)

This parcel represents “Old Naglee Rd” which was abandoned by the City for the development of the Grant Line Rd/Naglee Rd I-205 Freeway Interchange. This parcel is needed by CalTrans for the future expansion of this interchange. The parcel is essentially land-locked and had been excluded from any development plans due to its planned use as a future freeway interchange right-of-way.

On September 28, 2012, following the transfer of the Property to the City and prior to the State Controller’s Office (SCO) audit of the Other Funds and Accounts Due Diligence Review (OFADDR). This property was transferred to the State of California for the purpose outlined above. In the SCO audit, the City was ordered to return all properties transferred to the City.

Disposition – Ratify the transfer of the property to the City and the City’s subsequent transfer to the State of California for Government Use and authorize staff to prepare any necessary documents ratifying said transfers.

Remnant – 3055 Corral Hollow Rd (APN 212-260-09)

This is a remnant parcel leftover from a ROW access purchase for the I-205 freeway. The parcel is land-locked and, due to the roadway uses, undevelopable nature, irregular shape, and inadequate size of this parcel, it is not possible to determine a market value for the parcel. This property could have value in the future if a) one of the adjoining property owners is willing to purchase it, or b) future development occurs in this area.

Disposition – Liquidate the parcel to an adjacent landowner or offer to highest bidder with the net proceeds of sale to be disbursed to the local taxing agencies.

APN 212-040-28

In September 1996, The City of Tracy and the CDA were awarded joint title through a Final Order of Condemnation (FOC) from the U.S. Bankruptcy Court, Eastern District of California Case No. 92-94652-A-11. The Successor Agency believes that this FOC awarded both title to real property through the reference to APN 212-040-28 and to a sewer easement across said real property.

The legal description in the attached order had been interpreted by City staff and is attached as Exhibit D. Staff believes that this covers an area between the newly aligned Naglee Rd and several parcels that the CDA previously owned or currently owns, more specifically, the Park & Ride lots. However, prior to the Final Order of Condemnation, this property was subdivided into multiple parcels and this specific APN no longer existed.

With the exception of the Park & Ride lot, City staff does not believe that there is any remaining property contained in this order that has not been addressed elsewhere in the report or has not been disposed of the former CDA.

- **Park & Ride Parcel**

The CDA and the City acquired APN 212-290-39 in 1994 as part of the overall I-205/Naglee Rd redevelopment. This parcel was subsequently improved as a Park & Ride lot due to its proximity to the I-205/grant Line Rd freeway Interchange. The CDA planned future development as the area built-out. As of this date, the parcel remains a Park & Ride commuter lot.

As the area built out and the value of the property increased, the City began exploring commercial uses for this parcel and subsequently entered into an Exclusive Negotiating Rights Agreement (ENRA) for approximately one-half of the

parcel, deemed Parcel “A”.

In January 2015, the City had the parcel appraised and has since been working with a development interest on the acquisition of the parcel. The City has proposed dividing the parcel into Parcel “A” and Parcel “B” as it determined that this would provide maximum value in an expeditious manner while supporting the City’s planning objectives for the area. As title is vested in both the City of Tracy and the former CDA, the City has taken the lead in developing and liquidating the property.

Parcel “A” has been appraised for \$550,000 and the city has a sale pending for this property, subject to final approval and authorization to execute the transfer pursuant to this plan.

The City and the Successor Agency believe that Parcel “B” can be sold in an expeditious manner through an ENRA and has some interested parties. By using an ENRA, the value of the parcel can be maximized while supporting the planning and redevelopment objectives of the City. The property could also be auctioned; however, while an auction would be faster, it is unlikely to maximize the value of the property.

Disposition – In order to maximize value and provide for the most expeditious liquidation of the property, the disposition of APN 212-290-39 is being addressed in multiple parts:

- Parcel Split – City staff, at the direction of the Successor Agency, will separately transfer Parcel “A” comprising approximately 42% and Parcel “B” comprising approximately 58% of APN 212-290-39.
- Parcel “A” – Parcel “A” has a negotiated sale pending for the appraised value of \$550,000 and will be sold by the City and Successor Agency. As the City and the Successor Agency have an undivided interest in the property, the net sales proceeds will be split equally between both entities with the Successor Agency share distributed to the local taxing agencies.
- Parcel “B” – The City, acting in coordination with the Successor Agency, shall seek to enter into an ENRA agreement with a qualified developer to maximize the value of parcel and the subsequent sale of the parcel at or near its appraised value. As the City and the Successor Agency have an undivided interest in the property, the sales net proceeds will be split equally between both entities with the Successor Agency share distributed to the local taxing

agencies.

- **Sewer Easement**

As discussed in APN 212-040-28 above, the CDA and the City received title to a sewer easement. This easement is critical for the City to provide utility services to the area and is vital to the health and safety of the community.

Disposition – Transfer title of the Successor’s interest in the sewer easement to the City of Tracy for continued Government Use.

Environmental Remediation

Health and Safety Code Section 34191.5 requires that the Long Range Property Management Plan include any environment contamination studies and/or remediation and designation of a brownfield site. None of the properties in this plan have any history of environment contamination or remediation or have been designated as a brownfield site.

EXHIBIT A

LEGAL DESCRIPTIONS OF THE PROPERTIES

Summary of Parcels

<u>Parcel</u>	<u>APN</u>	<u>SITUS ADDRESS</u>	<u>ACRES</u>	<u>DESCRIPTION</u>
1	235-056-15	15 W 9th St	0.373	Improved as Downtown Parking
2	235-056-16	31 W 9th St	0.162	Improved as Downtown Parking
3	235-056-17	41W 9thSt	0.155	Improved as Downtown Parking
4	235-056-19	50 W Gillette Aly	0.057	Improved as Downtown Parking
5	235-056-21	71 W 9th St	0.186	Improved as Downtown Parking
6	235-056-22	918 B St	0.373	Improved as Downtown Parking
7	212-040-28	None Listed	9.880	Land/Sewer Easement
8	212-290-44	None Listed	0.759	Remnant Parcel/Old Naglee Rd
9	212-260-09	3055 N Corral Hollow Rd	0.461	Remnant Parcel
10a	212-290-39	None Listed	1.154	50% Interest in Park & Ride Lot (Parcel "A")
10b	212-290-39	None Listed	1.626	50% Interest in Park & Ride Lot (Parcel "B")

PARCEL 1 (235-056-15) (Figure 1):

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

LOTS 14, 15 16 AND 17, BLOCK 58, AS SHOWN AND SO DESIGNATED ON THE OFFICIAL MAP OR PLAT THEREOF FILED FOR RECORD ON JUNE 29, 1892 IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 2 (235-056-16) (Figure 1):

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

LOT 13, E. 16 2/3 OF LOT 12, IN BLOCK 58, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892, IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 3 (235-056-17) (Figure 1):

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

THE EAST 8 1/3 FEET OF LOT 10, AND THE WEST 8 1/3 FEET OF LOT 12, IN BLOCK 58, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892, IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 4 (235-056-19) (Figure 2):

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

THE NORTHERLY 50 FEET OF EACH LOTS 7 AND 8 IN BLOCK 58 SHOWN ON THE OFFICIAL MAP OR PLAT THEREOF FILED FOR RECORD ON JUNE 29, 1892 IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 5 (235-056-21) (Figure 2):

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

THE EAST 8 1/3 FEET OF LOT 10, AND THE WEST 8 1/3 FEET OF LOT 12, IN BLOCK 58, AS SHOWN UPON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892, IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

PARCEL 6 (235-056-22) (Figure 3):

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

LOTS 1, 2, 3 AND 41N BLOCK 58 AS SHOWN AND SO DESIGNATED ON THAT CERTAIN MAP ENTITLED "MAP OF THE TOWN OF TRACY" FILED FOR RECORD ON JUNE 29, 1892 IN VOLUME 2 OF MAPS AND PLATS, AT PAGE 63 OF THE SAN JOAQUIN COUNTY RECORDS.

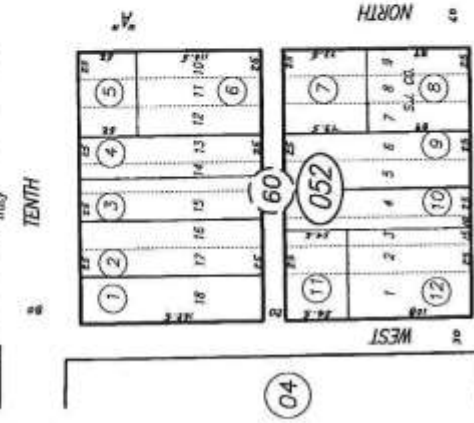
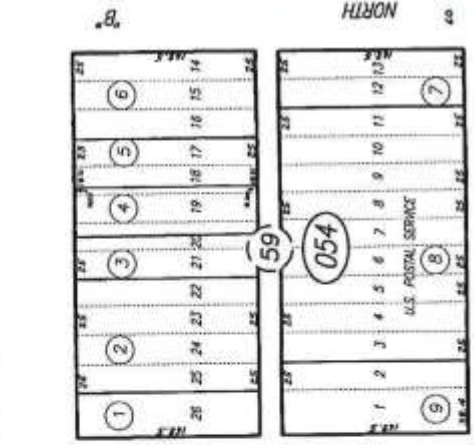
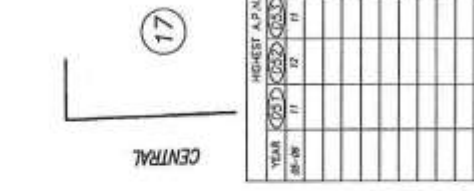
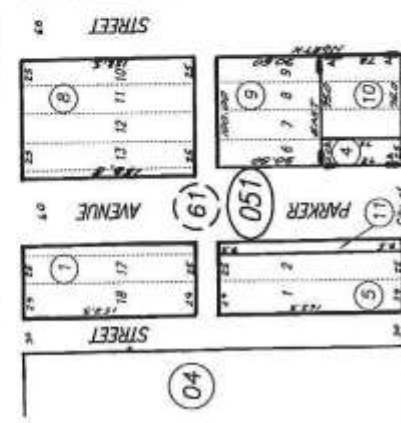
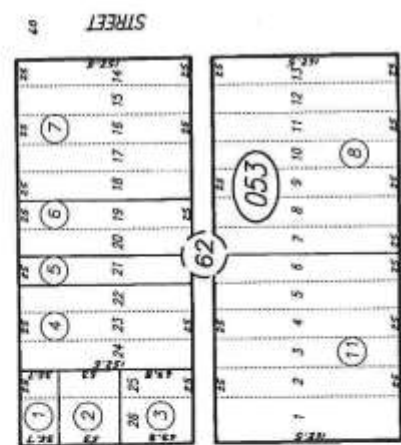
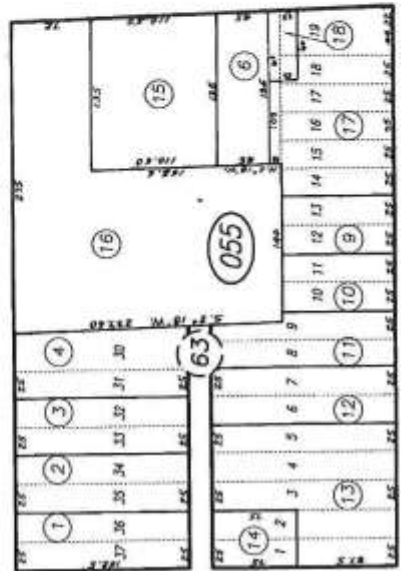
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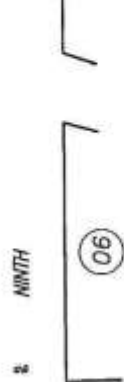
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POR. TRACY



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CITY OF TRACY Assessor's Map Bk. 235 Pg. 05 County of San Joaquin, Calif.



- APN
- 235-056-15
 - 235-056-16
 - 235-056-17
 - 235-056-19
 - 235-056-21
 - 235-056-22



Figure 1 - 15, 31 & 41 W 9th St.



Figure 2 - 71 W 9th St & 818 B St



Figure 3 - 50 W Gillette Alley

PARCEL 7 (212-040-28):

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

THAT PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, AS PER MAP RECORDED IN VOLUME 5, PAGE 18, OF BOOK OF MAPS AND PLATS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, DESCRIBED AS FOLLOWS:

BEGINNING at the intersection of the westerly line of said Lot 39 and the northerly line of Naglee Road as described as Parcel 5 in the Final Order of Condemnation recorded September 26, 1969 in Book 3338, Page 327, of Official Records in said office of the County Recorder, thence along said westerly line N. $0^{\circ}02'45''$ W, 396.84 feet to the beginning of a curve concave to the southeast having a radius of 661.00 feet; thence leaving said line from a tangent line bearing N. $58^{\circ}01'49''$ E., northeasterly 184.30 feet along said curve through a central angle of $15^{\circ}58'30''$; thence N. $74^{\circ}00'19''$ E, 405.89 feet to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence northeasterly 17.25 feet along said curve through a central angle of $1^{\circ}50'00''$ to the beginning of a curve concave to the northwest having a radius of 35.00 feet; thence northerly 62.02 feet along said curve through a central angle of $101^{\circ}31'52''$; thence N. $29^{\circ}21'33''$ W., 50.62 feet; thence N. $60^{\circ}38'27''$ E, 134.50 feet; thence S. $29^{\circ}21'33''$ E., 50.00 feet to the beginning of a curve concave to the north having a radius of 35.00 feet; thence easterly 62.23 feet along said curve through a central angle of $101^{\circ}52'46''$ to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence easterly 180.50 feet along said curve through a central angle of $19^{\circ}11'12''$ to the southerly line of Parcel B as per map recorded in Book 19, Page 122 of Surveys in the office of said County Recorder; thence along said line N. $89^{\circ}57'15''$ E., 141.84 feet to the beginning of a Curve concave to the northwest having a radius of 666.00 feet; thence leaving said line from a tangent line bearing S. $23^{\circ}31'57''$ W. southwesterly 306.71 feet along said curve through a central angle of $26^{\circ}23'12''$ to Point A; thence on a non-tangent line S. $11^{\circ}06'19''$ W., 43.87 feet; thence S. $27^{\circ}41'51''$ E. 176.30 feet to the beginning of a curve concave to the northeast having a radius of 314.96 feet; thence southeasterly 20.20 feet along said curve through a central angle of $3^{\circ}40'30''$ to said northerly line of Naglee Road the beginning of a curve concave to the northwest having a radius of 570.00 feet; thence along said line from a tangent line bearing S. $35^{\circ}32'38''$ W., southwesterly 345.3 feet along said curve through a central angle of $34^{\circ}42'42''$; thence S. $70^{\circ}15'20''$ W., 405.62 feet to the beginning of a curve concave to the north having a radius of 570.00 feet; thence westerly 200.21 feet along said curve through a central angle of $20^{\circ}07'30''$; thence N. $89^{\circ}37'10''$ W., 72.10 feet to the point of beginning.

Containing an area of 430,263 square feet (9.58 acres) more or less

PARCEL 8 (212-290-44) (Figure 6):

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

A PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE RANCHO EL PESCADERO ACCORDING TO THE OFFICIAL MAP, FILED IN VOLUME 5 OF MAPS AND PLATS, AT PAGE 18 OF THE SAN JOAQUIN COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PARCEL THAT IS SHOWN AND DESCRIBED AS ASSESSOR'S PARCEL NUMBER 212-290-44.

PARCEL 9 (APN 212-260-09):

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

THAT PORTION OF LOTS 39 AND 40 OF NAGLEE BURK TRACT PER MAP FILED IN BOOK 5 OF MAPS AND PLATS, AT PAGE 18, OF THE SAN JOAQUIN COUNTY RECORDS, DESCRIBED AS FOLLOWS:

CONTAINING MORE OR LESS 2.78 ACRES (121,096 SQUARE FEET)

PARCEL 10 (APN 212-290-39) (Figures 4, 5):

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

A PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE RANCHO EL PESCADERO ACCORDING TO THE OFFICIAL MAP, FILED IN VOLUME 5 OF MAPS AND PLATS, AT PAGE 18 OF THE SAN JOAQUIN COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL THAT PARCEL THAT IS SHOWN AND DESCRIBED AS ASSESSOR'S PARCEL NUMBER 212-290-39.

THIS MAP IS FOR ASSESSMENT USE ONLY

POR. NAGLEE BURK TRACT



- A - R. S. Bk. 19 Pg. 122
- B - P. M. Bk. 09 Pg. 047
- C - P. M. Bk. 21 Pg. 026
- D - P. M. Bk. 22 Pg. 044
- E - P. M. Bk. 22 Pg. 076
- F - P. M. Bk. 23 Pg. 125

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Figure 4 - Park-N-Ride (Entrance view)



Figure 5 - Park-N-Ride (Street view)



Figure 6 - Remnant Parcel

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Exhibit B – Department of Finance LRPMP Inventory

	Property No.	1	2	3	4	5	6	7	8	9	10		
HSC 34191.5 (c)(1)(C)	Address or Description	15 W 9th St	31 W 9th St	41 W 9th St	50 W Gillette Ally	71 W 9th St	918 N B St	Sewer Easement	Old Naglee Rd	3055 N Corral Hollow Rd	Park & Ride Parcel "A"	Park & Ride Parcel "B"	
	APN	235-056-15	235-056-16	235-056-17	235-056-19	235-056-21	235-056-22	212-040-28	212-290-44	212-260-09	212-290-41 from 212-290-39	212-290-39 (Remainder)	
	Property Type	Improved Public Parking						Public Utility Easement	Remnant Parcel		Vacant Lot/Land		
HSC 34191.5 (c)(2)	Permissible Use	Governmental Use								Sale of Property			
	If Sale of Property, specify intended use of sale proceeds	N/A								Distribute to Taxing Entities	Properties share an undivided interest between Successor Agency & City of Tracy; Distribute 50% share to Taxing Entities		
	Permissible Use Detail	Transfer property to City of Tracy for Government Use (Parking Lots)						Transfer property to City of Tracy for Government Use		Liquidate property for taxing entities			
HSC 34191.5 (c)(1)(A)	Acquisition Date	09/30/2004	09/30/2004	09/30/2004	03/29/2007	07/10/1990	7/25/1990	9/3/1996	10/25/1994	05/24/1995	10/25/1994	10/25/1994	
	Value at Time of Acquisition	976,000			70,000	540,000	750,000	0	0	0	0	0	
	Estimated Current Value	3,422,470						0	0	0	550,000	600,000	
	Date of Estimated Current Value	06/30/15						06/30/2015	06/30/15	06/30/2015	01/23/2015	10/01/2015	
	Estimated Current Value Basis	Book						Book	Book	Book	Appraised	Staff Estimate	
SALE OF PROPERTY <i>(If applicable)</i>	Proposed Sale Value	0						0	0	0	550,000	600,000	
	Proposed Sale Date	N/A						N/A	N/A	06/30/2016	01/01/2016	01/01/2017	
HSC 34191.5 (c)(1)(B)	Purpose for which property was acquired	Public Parking						Sewer line easement	Remnant parcel from Condemnation	Right of Way Acquisition Remnant	Remnant parcel from Condemnation		
HSC 34191.5 (c)(1)(C)	Lot Size	0.373	0.162	0.155	0.057	0.186	0.373	9.88	0.709	0.461	1.154	1.154	
		Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	Acres	
	Current Zoning	Gov't						Unknown	Unknown	Unknown	PUD/Freeway Commercial		

	Property No.	1	2	3	4	5	6	7	8	9	10	
HSC 34191.5 (c)(1)(D)	Estimate of Current Parcel Value	0						0	0	0	550,000	550,000
HSC 34191.5 (c)(1)(E)	Annual Estimate of Income/Revenue	\$0 - the City of Tracy provides free, unmetered parking.						0	0	0	0	0
	Are there any contractual requirements for use of income/revenue?	No						No	No	No	No	No
HSC 34191.5 (c)(1)(F)	Has there been historic environmental contamination, studies, and/or remediation, and designation as a brownfield site for the property?	No	No	No	No	No	No	No	No	No	No	No
HSC 34191.5 (c)(1)(G)	Does the property have the potential as a transit oriented development?	No						No	No	No	No	No
	Were there advancements to the successor agency's planning objectives?	Yes						No	No	No	Yes	Yes
HSC 34191.5 (c)(1)(H)	Does the property have a history of previous development proposals and activity?	No						No	No	No	Yes	Yes

Property No.	1	2	3	4	5	6	7	8	9	10
Other Property Info							<p>Sewer easement and narrow band of property acquired through condemnation & bankruptcy.</p> <p>The City and the Successor Agency have an undivided interest in the property.</p>	<p>This parcel created from the split of 212-290-44 which was originally acquired through condemnation proceedings during the construction of the I-205/Grant line Rd Interchange project.</p> <p>Abandoned 'Old Naglee Rd'. CalTrans requires this property for the future expansion of the I-205/Grant Line Rd expansion project.</p>	<p>Parcel is a land-locked remnant left over from the I-205/Grant Line Rd Interchange project.</p>	<p>These parcels created from split of 212-290-44 which were all originally acquired through condemnation proceedings during the construction of the I-205/Grant Line Rd Interchange project.</p> <p>The City and the Successor Agency have an undivided interest in the property.</p>

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C 96100070 O

1 GARY R. RINEHART, SBN 34787
TODD A. AMSPOKER, SBN 111245
2 RINEHART & AMSPOKER
2201 Broadway, Suite 805
3 Oakland, California 94612
Telephone: (510) 763-5100

FILED

SEP 5 1996

4 Attorneys for plaintiffs
5 City of Tracy and Tracy
Community Development Agency

U.S. Bankruptcy Court

7 UNITED STATES BANKRUPTCY COURT
8 EASTERN DISTRICT OF CALIFORNIA
9 (MODESTO DIVISION)

10

11 In re

No. 92-94652-A-11

12 M. Y. ASSOCIATES, INC. dba Y.M.
13 ASSOCIATES,

Adversary Proceeding No.
96-9044-A

14 Debtor.

15 CITY OF TRACY and TRACY COMMUNITY
16 DEVELOPMENT AGENCY,

FINAL ORDER OF
CONDEMNATION

17 Plaintiffs

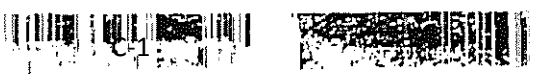
18 vs.

19 M. Y. ASSOCIATES, et al.,

20 Defendants.

21 Pursuant to the Stipulation for Judgment and Judgment
22 entered in this proceeding;

23 IT IS HEREBY ORDERED AND ADJUDGED that the real property
24 situated in the County of San Joaquin, State of California, and
25 more particularly described in Exhibit "A", attached hereto and
26 made a part hereof, be condemned to Plaintiff in fee simple
27 absolute.
28



96100070

RECORDER
COUNTY CLERK
JAMES M. JOHNSON

96 OCT -1 AM 11:07

SAN JOAQUIN COUNTY
ATTORNEY

FEE _____

exempt

Recording Requested By:

City of Tracy

Return to: TODD A. AMEPOKER
RINEHART & AMEPOKER
2201 Broadway, Suite 805
Oakland, CA 94612
Attorneys for
City of Tracy

Document Title(s)

FINAL ORDER OF CONDEMNATION

RECORDED TO FILE

11



96100070

1 IT IS FURTHER ORDERED AND ADJUDGED that a certified copy of
 2 this Order be recorded in the office of the Recorder of San
 3 Joaquin County, State of California, and thereupon title to said
 4 property described in Exhibit "A" shall vest in Plaintiff in fee
 5 simple absolute and all interest of Defendants M.V. ASSOCIATES,
 6 INC., dba Y.M. ASSOCIATES, GEORGE PADIS, JOSEPHINE PADIS, GEORGE
 7 KASTELANIDES and his spouse, DONALD H. VALLEY, MARY J. POMBO,
 8 JOYCE DONALDSON, individually and as trustee, ALICE E. BURROWS,
 9 BETTY ROSE MATTOS, ALFRED P. POMBO, MABEL POMBO, VIRGINIA P.
 10 ABEL, trustee, DAMON R. POMBO, PAULINE POMBO, ISABEL L. MATTOS,
 11 KING, SHAPIRO, MITTELMAN & BUCHMAN, MILLER, STARR & REGALIA,
 12 ANGELO TSAKOPOULOS, FROSA CHRISTOPHER, PEELE FINANCIAL
 13 CORPORATION, ALL-AMERICAN FORECLOSURE SERVICE, YIANNI Y.
 14 MICHAELIDES aka YIANNI Y. MICHAEL, JEAN MICHAELIDES, CALIFORNIA
 15 TRUST DEEDS, INC., THE JONATHAN GROUP, FIRST AMERICAN TITLE
 16 COMPANY, TRACY 19.6, a California general partnership, ANDREW
 17 GIANULIAS, JULIE GIANULIAS, and GUS GIANULIAS shall be
 18 terminated.

19 IT IS FURTHER ORDERED AND ADJUDGED that the underground
 20 sewer easement more particularly described in Exhibit "B"
 21 attached hereto and made a part hereof be condemned to Plaintiff
 22 and as against Defendants M.V. ASSOCIATES, INC., dba Y.M.
 23 ASSOCIATES, GEORGE PADIS, JOSEPHINE PADIS, GEORGE KASTELANIDES
 24 and his spouse, DONALD H. VALLEY, MARY J. POMBO, JOYCE DONALDSON,
 25 individually and as trustee, ALICE E. BURROWS, BETTY ROSE MATTOS,
 26 ALFRED P. POMBO, MABEL POMBO, VIRGINIA P. ABEL, trustee, DAMON R.
 27 POMBO, PAULINE POMBO, ISABEL L. MATTOS, KING, SHAPIRO, MITTELMAN
 28 & BUCHMAN, MILLER, STARR & REGALIA, ANGELO TSAKOPOULOS, FROSA

96100070

1 CHRISTOPHER, PELLE FINANCIAL CORPORATION, ALL-AMERICAN
 2 FORECLOSURE SERVICE, YIANNI V. MICHAELIDES aka YIANNI V. MICHAEL,
 3 JEAN MICHAELIDES, CALIFORNIA TRUST DEEDS, INC., THE JONATHAN
 4 GROUP, FIRST AMERICAN TITLE COMPANY, TRACY 19.6, a California
 5 general partnership, ANDREW GIANULIAS, JULIE GIANULIAS, and GUS
 6 GIANULIAS.

7
8 Dated: 3 Sept. 1996

Jh. mm
 JUDGE OF THE UNITED
 STATES BANKRUPTCY COURT

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This is to certify
 copy of the original
 of the undersigned
 Dated: 9-23-96 Michael S. McManus
 Bankruptcy Judge
 By *Benet Veruag*
 Deputy Clerk



(96100070)

LEGAL DESCRIPTION
SANITARY SEWER EASEMENT

A 20 FOOT WIDE SANITARY SEWER EASEMENT SITUATE IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

BEING A PORTION OF LOT 39 OF THE NAGLEE BURK TRACT IN THE RANCHO EL PESCADERO AS SHOWN ON THE MAP FILED MARCH 7 1911 IN VOLUME 5 AT PAGE 18 OF OFFICIAL MAPS AND FLATS OF SAN JOAQUIN COUNTY AND BEING ALSO A PORTION OF THE LANDS OF M.Y ASSOCIATES, INC. AS DESCRIBED IN THE GRANT DEED SERIES 88-088612 OF OFFICIAL RECORDS OF SAID COUNTY AND MORE PARTICULARLY DESCRIBED AS FOLLOWS;

COMMENCING AT A POINT ON THE EASTERLY LINE OF LOT 39 OF SAID NAGLEE BURK TRACT BEING MARKED UPON THE GROUND BY AN 3/4" IRON PIPE AS SHOWN ON THE RECORD OF SURVEY MAP FILED AUGUST 28 1969 IN BOOK 19 OF SURVEYS AT PAGE 122 OF OFFICIAL RECORDS OF SAN JOAQUIN COUNTY FROM WHICH THE NORTHEAST CORNER OF LOT 36A OF SAID NAGLEE BURK TRACT BEING MARKED UPON THE GROUND BY A SPIKE WITH CHISELED CROSS AS SHOWN ON SAID RECORD OF SURVEY BEARS NORTH 00°28'17" WEST 4588.84 FEET; THENCE FROM SAID POINT OF COMMENCEMENT COINCIDENT WITH THE CENTERLINE OF NAGLEE ROAD AND BEING ALSO THE EASTERLY LINE LOT 39 OF SAID NAGLEE BURK TRACT NORTH 00°28'17" WEST 875.77 FEET; THENCE SOUTH 89°31'43" WEST 30.00 FEET TO THE NORTHEASTERLY CORNER OF PARCEL "B" AS SHOWN ON SAID RECORD OF SURVEY; THENCE COINCIDENT WITH THE NORTHERLY LINE OF SAID PARCEL "B" SOUTH 89°31'43" WEST 264.00 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL "B"; THENCE COINCIDENT WITH THE NORTHERLY LINE OF PARCEL "A" AS SHOWN ON SAID RECORD OF SURVEY SOUTH 89°31'43" WEST 685.09 FEET TO THE POINT OF BEGINNING; THENCE FROM SAID POINT OF BEGINNING COINCIDENT WITH SAID NORTHERLY LINE NORTH 89°31'43" EAST 30.85 FEET; THENCE SOUTH 49°07'16" WEST 141.52 FEET TO THE WESTERLY LINE OF LOT 39 OF SAID NAGLEE BURK TRACT SAID COURSE BEING PARALLEL AND DISTANT 85.00 FEET FROM THE CENTERLINE OF THE SOUTHERLY TRANSMISSION LINE TOWERS AS THEY NOW EXIST; THENCE COINCIDENT WITH SAID WESTERLY LINE NORTH 00°28'17" WEST 26.27 FEET; THENCE NORTH 49°07'16" EAST 101.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 2.425 SQUARE FEET OR 0.056 ACRES MORE OR LESS.

END OF DESCRIPTION

file is: c:\tracy\plats\legaldac
parcel: m.y. associates - ssa
apn 212-040-28

EXHIBIT B

96100070

City of Tracy
County of San Joaquin

A.P. No. 212-040-28
M.Y. Associates, et al

Legal Description

That portion of Lot 39 of the Naglee Burk Tract in the City of Tracy, County of San Joaquin, State of California, as per map recorded in Volume 5, Page 18, of Book of Maps and Plans in the office of the County Recorder of said County, described as follows:

BEGINNING at the intersection of the westerly line of said Lot 39 and the northerly line of Naglee Road as described as Parcel 5 in the Final Order of Condemnation recorded September 26, 1969 in Book 3338, Page 327, of Official Records in said office of the County Recorder; thence along said westerly line N. $0^{\circ}02'45''$ W., 396.84 feet to the beginning of a curve concave to the southeast having a radius of 661.00 feet; thence leaving said line from a tangent line bearing N. $58^{\circ}01'49''$ E., northeasterly 184.30 feet along said curve through a central angle of $15^{\circ}58'30''$; thence N. $74^{\circ}00'19''$ E., 405.89 feet to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence northeasterly 17.25 feet along said curve through a central angle of $1^{\circ}50'00''$ to the beginning of a curve concave to the northwest having a radius of 35.00 feet; thence northerly 62.02 feet along said curve through a central angle of $101^{\circ}31'52''$; thence N. $29^{\circ}21'33''$ W., 50.62 feet; thence N. $60^{\circ}38'27''$ E., 134.50 feet; thence S. $29^{\circ}21'33''$ E., 50.00 feet to the beginning of a curve concave to the north having a radius of 35.00 feet; thence easterly 62.23 feet along said curve through a central angle of $101^{\circ}52'46''$ to the beginning of a curve concave to the northwest having a radius of 539.00 feet; thence easterly 180.50 feet along said curve through a central angle of $19^{\circ}11'12''$ to the southerly line of Parcel B as per map recorded in Book 19, Page 122 of Surveys in the office of said County Recorder; thence along said line N. $89^{\circ}57'15''$ E., 141.84 feet to the beginning of a curve concave to the northwest having a radius of 666.00 feet; thence leaving said line from a tangent line bearing S. $23^{\circ}31'57''$ W. southwesterly 306.71 feet along said curve through a central angle of $26^{\circ}23'12''$ to Point A; thence on a non-tangent line S. $11^{\circ}06'39''$ W., 43.87 feet; thence S. $27^{\circ}41'51''$ E., 176.30 feet to the beginning of a curve concave to the northeast having a radius of 314.96 feet; thence southeasterly 20.20 feet along said curve through a central angle of $3^{\circ}40'30''$ to said northerly line of Naglee Road the beginning of a curve concave to the northwest having a radius of 570.00 feet; thence along said line from a tangent line bearing S. $35^{\circ}32'38''$ W., southwesterly 345.33 feet along said curve through a central angle of $34^{\circ}42'42''$; thence S. $70^{\circ}15'20''$ W., 405.62 feet to the beginning of a curve concave to the north having a radius of 570.00 feet; thence westerly 200.21 feet along said curve through a central angle of $20^{\circ}07'30''$; thence N. $89^{\circ}37'10''$ W., 72.10 feet to the point of beginning.

Containing an area of 430,263 square feet (9.88 acres) more or less.

EXHIBIT A

96100070

This conveyance is made for the purpose of a freeway and the grantor hereby releases and relinquishes to the grantee any and all abutter's rights of access, appurtenant to grantor's remaining property, in and to said freeway over and across the following courses:

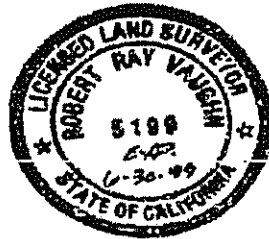
Beginning at the above-described Point A; thence S. 11°06'39"W., 43.87 feet; thence S. 27°41'51" E., 176.30 feet to the beginning of a curve concave to the northeast having a radius of 314.96 feet; thence southeasterly 20.20 feet along said curve through a central angle of 3°40'30" to said northerly line of Naglee Road, the point of termination.

The bearings and distances used are on the California Coordinate System of 1983, Zone 3. Multiply distances used by 1.0000675 to obtain ground level distances.

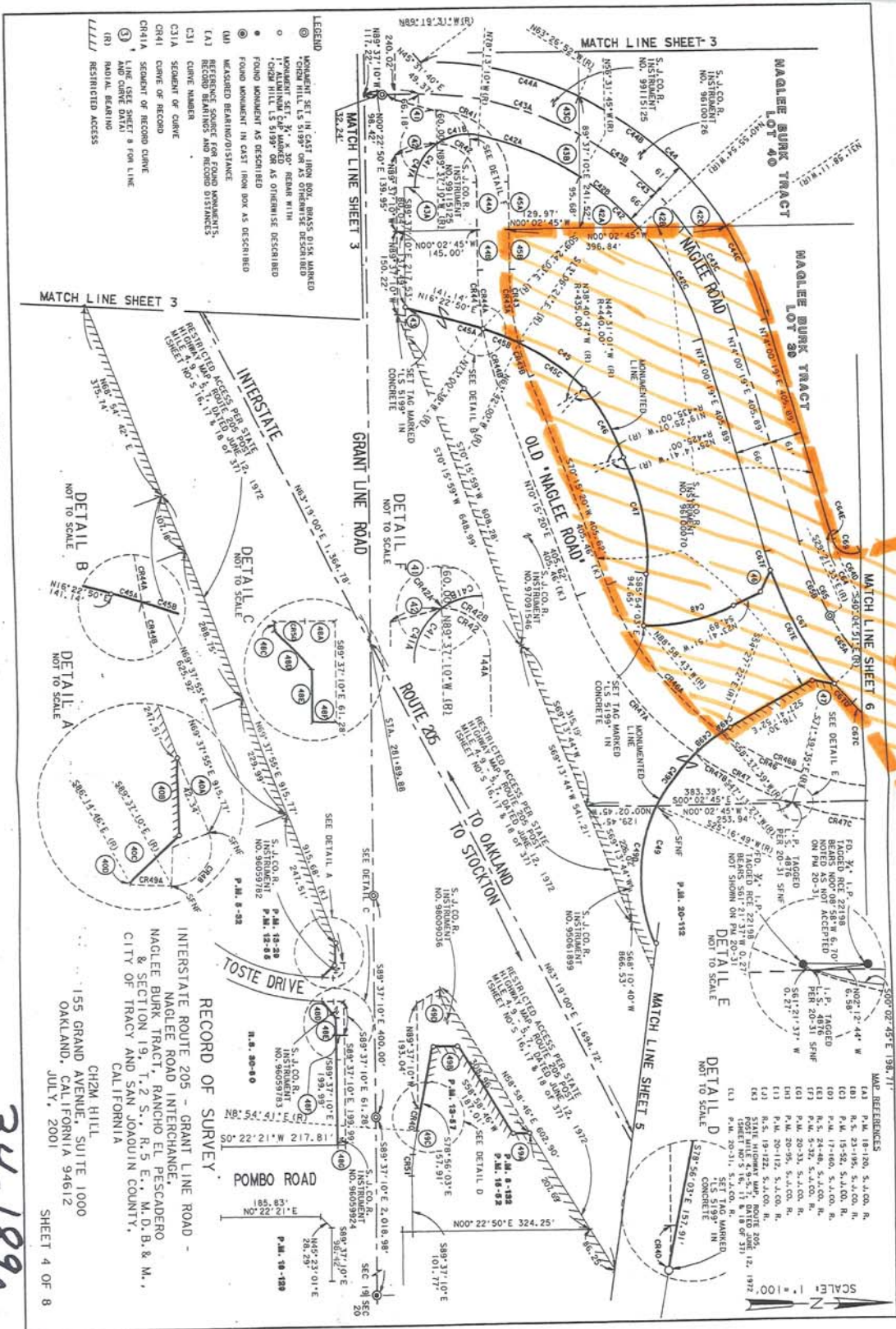
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Robert Ray Vaughn
Robert Ray Vaughn LS 5199

12-4-95
Date



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34-189c

34-189c

The plot of APN 212-040-28's legal description as shown in the Final Order of Condemnation was interpreted by City staff. This has not been surveyed and is believed to be an accurate visualization of the Legal description of APN 212-040-28 but no warranty is express or implied.

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RECORDING REQUESTED BY:

CITY OF TRACY

When Recorded Mail To:
City of Tracy
Office of the City Clerk
333 Civic Center Plaza
Tracy, CA 95376
ATTN: Carole Fleischmann

Doc #: 2012-126277
09/28/2012 08:49:08 AM
Page: 1 of 5 Fee: \$0
Kenneth W Blakemore
San Joaquin County Recorders
Paid By: SHOWN ON DOCUMENT



Space above this line for Recorder's Use

QUITCLAIM DEED

APN 212-290-44

District	County	Route	Post Mile	Number
10	SJ	205	5.3	16585-1

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,
CITY OF TRACY, a municipal corporation,

does hereby remise, release, and quitclaim to the STATE OF CALIFORNIA, all of its rights, title, and interest in the following described real property in the City of Tracy, County of San Joaquin, State of California, as described in Exhibit "A" and "B", attached hereto and made a part hereof.

SEE

ATTACHED

LEGAL DESCRIPTION

for

"OLD NAGLEE ROAD"

APN 212-290-44

Number
16585-1

IN WITNESS WHEREOF, said corporation has caused its corporate name to be hereunto subscribed and its corporate seal to be affixed hereto, this 20th day of SEPTEMBER 2012.

CITY OF TRACY

Brent H. Ives
By: Brent Ives
Title: City Mayor

Date: 9/20/12

Attest:
Sandra Edwards
By: Sandra Edwards
Title: City Clerk

Date: 9-20-12

[CORPORATE SEAL]

ACKNOWLEDGMENT

State of California }
County of San Joaquin } SS

(Here insert name and title of the officer)

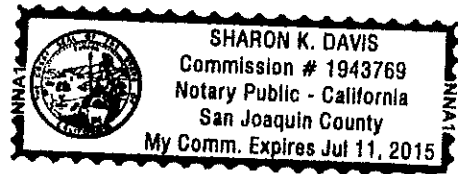
On 9/20/12 before me, Sharon K. Davis, Notary Public, personally appeared Brent H. Ives

_____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity (ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Sharon K. Davis (Seal)



THIS IS TO CERTIFY, That the State of California, acting by and through the Department of Transportation (pursuant to Government Code Section 27281), hereby accepts for public purposes the real property described in the within deed and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand This 27th day of September, 2012.

MALCOM DOUGHERTY
Acting Director of Transportation

By Sharon A. Parsons
Attorney in Fact

SHARON A. PARSONS
RIGHT OF WAY ACQUISITIONS CHIEF

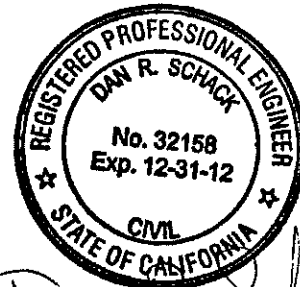
LEGAL DESCRIPTION
"OLD NAGLEE ROAD"
212-290-44

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

A PORTION OF LOTS 39 AND 40 OF NAGLEE BURK TRACT ACCORDING TO THE OFFICIAL MAP THEREOF, FILED IN VOLUME 5 OF MAPS AND PLATS, PAGE 18, SAN JOAQUIN COUNTY RECORDS AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF PARCEL A, AS SHOWN ON THAT CERTAIN PARCEL MAP, FILED FOR RECORD JULY 13, 2005 IN BOOK 23 OF PARCEL MAPS, AT PAGE 125, SAN JOAQUIN COUNTY RECORDS; THENCE NORTH 16 DEGREES 22 MINUTES 50 SECONDS EAST, ALONG THE EASTERLY LINE OF SAID PARCEL A AND PARCEL C OF SAID MAP, 141.14 FEET TO A POINT; THENCE CONTINUING ALONG SAID EASTERLY LINE OF PARCEL C, ALONG A CURVE TO THE NORTHWEST, HAVING A RADIUS OF 440.00 FEET, AN ARC LENGTH OF 4.67 FEET, A CENTRAL ANGLE OF 00 DEGREES 36 MINUTES 32 SECONDS AND A CHORD BEARING NORTH 16 DEGREES 41 MINUTES 07 SECONDS EAST, 4.67 FEET TO A POINT ON THE SOUTH LINE OF "OLD NAGLEE ROAD" AS SHOWN UPON THAT CERTAIN RECORD OF SURVEY MAP, FILED FOR RECORD ON AUGUST 30, 2001 IN BOOK 34 OF SURVEYS, AT PAGE 189, SAN JOAQUIN COUNTY RECORDS, SAID POINT ALSO BEING THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED STRIP OF LAND; THENCE CONTINUING ALONG THE EASTERLY LINE OF PARCEL C AS SHOWN ON SAID PARCEL MAP (BOOK 23, PAGE 125) ALONG A CURVE TO THE NORTHWEST, HAVING A RADIUS OF 440.00 FEET, AN ARC LENGTH OF 71.50 FEET, A CENTRAL ANGLE OF 09 DEGREES 18 MINUTES 38 SECONDS AND A CHORD BEARING 21 DEGREES 38 MINUTES 40 SECONDS EAST, 71.42 FEET TO A POINT ON THE NORTH LINE OF "OLD NAGLEE ROAD" AS SHOWN ON SAID RECORD OF SURVEY (BOOK 34, PAGE 189); THENCE ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD" ALONG A CURVE TO THE NORTHEAST, HAVING A RADIUS OF 570.00 FEET, AN ARC LENGTH OF 66.04 FEET, A CENTRAL ANGLE OF 06 DEGREES 38 MINUTES 19 SECONDS AND A CHORD BEARING NORTH 73 DEGREES 34 MINUTES 31 SECONDS EAST, 66.00 FEET TO A POINT; THENCE CONTINUING ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD" NORTH 70 DEGREES 15 MINUTES 20 SECONDS EAST, ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD," 405.62 FEET TO A POINT; THENCE CONTINUING ALONG SAID NORTH LINE OF "OLD NAGLEE ROAD" ALONG A CURVE TO THE NORTHEAST, HAVING A RADIUS OF 570.00 FEET, AN

ARC LENGTH OF 78.68 FEET, A CENTRAL ANGLE OF 07 DEGREES 54 MINUTES 31 SECONDS, AND A CHORD BEARING NORTH 66 DEGREES 18 MINUTES 04 SECONDS EAST, 78.62 FEET TO A POINT; THENCE SOUTHERLY ALONG A CURVE TO THE SOUTHWEST, HAVING A RADIUS OF 395.00 FEET, AN ARC LENGTH OF 75.23 FEET, A CENTRAL ANGLE OF 10 DEGREES 54 MINUTES 46 SECONDS AND A CHORD BEARING SOUTH 11 DEGREES 33 MINUTES 08 SECONDS WEST, 75.12 FEET TO A POINT ON THE SOUTH LINE OF SAID "OLD NAGLEE ROAD"; THENCE ALONG SAID SOUTH LINE OF "OLD NAGLEE ROAD," ALONG A CURVE TO THE SOUTHWEST, HAVING A RADIUS OF 630.00 FEET, AN ARC LENGTH OF 39.43 FEET, A CENTRAL ANGLE OF 03 DEGREES 35 MINUTES 10 SECONDS AND A CHORD BEARING SOUTH 68 DEGREES 27 MINUTES 45 SECONDS WEST, 39.43 FEET TO A POINT; THENCE CONTINUING ALONG SAID SOUTH LINE OF "OLD NAGLEE ROAD" SOUTH 70 DEGREES 15 MINUTES 20 SECONDS WEST, 405.62 FEET TO A POINT; THENCE CONTINUING ALONG SAID SOUTH LINE OF "OLD NAGLEE ROAD", ALONG A CURVE TO THE SOUTHWEST, HAVING A RADIUS OF 630.00 FEET, AN ARC LENGTH OF 113.73 FEET, A CENTRAL ANGLE OF 10 DEGREES 20 MINUTES 37 SECONDS AND A CHORD BEARING SOUTH 75 DEGREES 25 MINUTES 39 SECONDS WEST, 113.58 FEET TO THE POINT OF BEGINNING.



Dan R. Schack
03/14/11

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June 15, 2016

Jon Becker
Becker Commercial Properties
9727 Elk Grove-Florin Road
Suite 210
Elk Grove, CA 95624

RE: MOD SUPER FAST PIZZA LOI

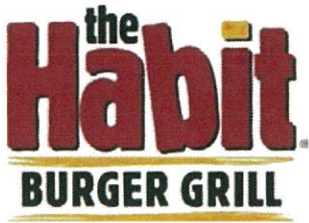
Dear Jon:

This letter shall confirm that MOD Pizza has entered into a letter of intent with Becker Commercial Properties for premises to be located in a building on Parcel B at Naglee Road.

Sincerely,
Cushman & Wakefield

James Chung
Executive Managing Director
License# 01408190





June 14, 2016

To Whom It May Concern:

We, The Habit Burger Grill, have entered into a Letter of Intent with Jon Becker regarding the property in Tracy, CA. The Property is referred to as Parcel B at Naglee Road.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized initial "C" followed by a long horizontal line that extends to the right.

Chris Schlueter
Director of Real Estate

AGREEMENT FOR PURCHASE AND SALE OF REAL PROPERTY

This Agreement for Purchase and Sale of Real Property (“Agreement”), effective as of the date last signed below, is entered into between the City of Tracy, a California municipal corporation (“City”), the Successor Agency to the Community Development Agency of the City of Tracy, collectively referred to herein as the “Seller”, and Becker Commercial Properties, a California corporation, its nominee or assigns (“Buyer”).

RECITALS

A. The Seller owns a 1.45± acre parcel of real property (“City Parcel”) located at Naglee Road to the immediate east and adjacent to 2512 Naglee Road, in the City of Tracy, San Joaquin County, California, as more particularly described in Exhibit A, attached.

B. On April 21, 2015, The City’s City Council deemed this City Parcel (APN#212-290-39) as surplus land.

C. City subdivided the City Parcel into three parcels, A, B and C, as shown on the Site Plan attached as Exhibit B. Parcel B contains approximately 63,193± square feet of land area, and is referred to here as the “Property”. Seller further wishes to sell fee title interest in said Property.

D. City and Buyer entered into an Exclusive Negotiating Rights Agreement dated January 19, 2016 (and that Agreement superseded an Exclusive Negotiating Rights Agreement dated May 17, 2013, extended by City letter dated September 29, 2014, and subsequently extended by City Council Resolution date February 10, 2015). Following negotiations, Seller wishes to sell the Property and Buyer wishes to purchase the Property from Seller under the terms set forth in this Agreement.

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

AGREEMENT

1. Purchase and Sale.

(a) Agreement. Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase from Seller all said interest in the Property on the terms set forth in this Agreement. The “Effective Date” is the date on which the last party executes the Agreement.

2. Purchase Price. The purchase price (“Purchase Price”) for the Property is Six Hundred and Sixty Thousand Dollars (\$660,000). The Purchase Price shall be payable by Buyer to Seller through Escrow at the Close of Escrow.

3. Escrow.

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

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

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

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

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

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

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

5. Conditions to Close of Escrow.

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

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

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

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

(iv) Governmental Permits. All governmental permits, approvals, licenses and authorizations required for construction and operation of tenant(s) on the Property, including, without limitation, a building permit, any required encroachment permits, and architectural review approval (collectively "Governmental Permits"), shall have been issued and all applicable appeal periods shall have expired with no appeals then outstanding. This condition to Buyer's Obligations does not commit the City to any particular decision regarding the Governmental Permits.

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

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

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

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

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

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

(b) FIRPTA Certificate. If deemed to be required by Escrow Holder, a certification, acceptable to Escrow Holder and duly executed by Seller under penalty of perjury setting forth City's address and federal tax identification number in accordance with and/or for the purpose of the provisions of Sections 7701 and 1445, as may be amended, of the Internal Revenue Code of 1986, as amended, and any regulations promulgated thereunder.

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

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

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

10. Prorations.

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

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

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

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

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

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

12. Buyer's Acknowledgements.

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

(i) the quality, nature, adequacy and physical condition of the Property (including, without limitation, topography, climate, air, water rights, water, gas, electricity, utility services, grading, drainage, sewers, access to public roads and related conditions);

- (ii) the quality, nature, adequacy, and physical condition of soils, geology and groundwater,
- (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property,
- (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose,
- (v) the zoning or other legal status of the Property or any other public or private restrictions on the use of the Property,
- (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity,
- (vii) the presence or absence of hazardous materials on, under or about the Property or the adjoining or neighboring Property, and
- (viii) the condition of title to the Property.

Buyer affirms that Buyer has not relied on the skill or judgment of Seller or any of its respective agents, employees or contractors to select or furnish the Property for any particular purpose, and that Seller makes no warranty that the Property is fit for any particular purpose. Buyer acknowledges that it shall use its independent judgment and make its own determination as to the scope and breadth of its due diligence investigation which it shall make relative to the Property and shall rely upon its own investigation of the physical, environmental, economic and legal condition of the Property (including, without limitation, whether the Property is located in any area which is designated as a special flood hazard area, dam failure inundation area, earthquake fault zone, seismic hazard zone, high fire severity area or wild land fire area, by any federal, state or local agency). Buyer undertakes and assumes all risks associated with all matters pertaining to the Property's location in any area designated as a special flood hazard area, dam failure inundation area, earthquake fault zone, seismic hazard zone, high fire severity area or wild land fire area, by any federal, state or local agency.

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

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

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

15. Broker's Commission. Buyer and Seller each represent to the other that they have dealt with no real estate broker or agent other than Chris Sill of Lee & Associates, who represents Buyer ("Buyer's Broker"). Buyer shall pay a commission to Buyer's Broker under the terms of a separate commission agreement between Buyer and Buyer's Broker. Buyer and Seller each agree to indemnify and hold the other harmless from all expense, loss, damage and claims, including the attorneys' fees, if necessary, arising out of a breach of this Section 15.

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

To Seller:

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

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

To Buyer: Becker Commercial Properties
P.O. Box 590
Wilton, CA 95693
E-Mail: jon.becker@bcprop.net

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

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

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

18. Miscellaneous.

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

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

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

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

(e) Professional Fees. If either party commences an action against the other regarding this Agreement, the losing party shall pay to the prevailing party reasonable attorneys' fees, costs and expenses and court costs and other costs of action incurred in connection with the prosecution or defense of the action, whether or not the action is prosecuted to a final judgment. For the purpose of this Agreement, the terms "attorneys' fees" or "attorneys' fees and costs" shall mean the fees and expenses of counsel to the parties, which may include printing, photocopying, duplicating and other expenses, delivery charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the

supervision of an attorney. The terms “attorneys’ fees” or “attorneys’ fees and costs” shall also include, without limitation, all such fees and expenses incurred with respect to appeals, arbitrations and bankruptcy proceedings, and whether or not any action or proceeding is brought with respect to the matter for which the fees and expenses were incurred.

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

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

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

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

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

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

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

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

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

CITY:

BUYER:

The City of Tracy,
a California municipal corporation

Becker Commercial Properties,
A California corporation

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

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

Date: _____

Date: 6/27/16

Approved as to Form:

By: _____
Name: Bill Sartor
Title: City Attorney

Date: _____

SUCCESSOR AGENCY TO THE CITY OF
TRACY COMMUNITY DEVELOPMENT
AGENCY (SATCDA):

SATCDA, a public entity

By: _____
Name: Michael Maciel
Title: Chair
Date: _____

Approved as to Form:

By: _____
Name: Bill Sartor
Title: Counsel for SATCDA

Date: _____

Attest:

By: _____
Name: Nora Pimentel
Title: City Clerk

Date: _____

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

**EXHIBIT A
PAGE 1 OF 1**

LEGAL DESCRIPTION

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

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

A PORTION OF PARCEL "D", AS SHOWN UPON THAT CERTAIN PARCEL MAP, FILED FOR RECORD JULY 13, 2005, IN BOOK 23 OF PARCEL MAPS, AT PAGE 125 OF THE SAN JOAQUIN COUNTY RECORDS, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

ALL OF PARCEL "B", AS SHOWN UPON THAT CERTAIN PARCEL MAP, FILED FOR RECORD ON APRIL 27, 2016, IN BOOK 26 OF PARCEL MAPS, AT PAGE 54 OF THE SAN JOAQUIN COUNTY RECORDS.

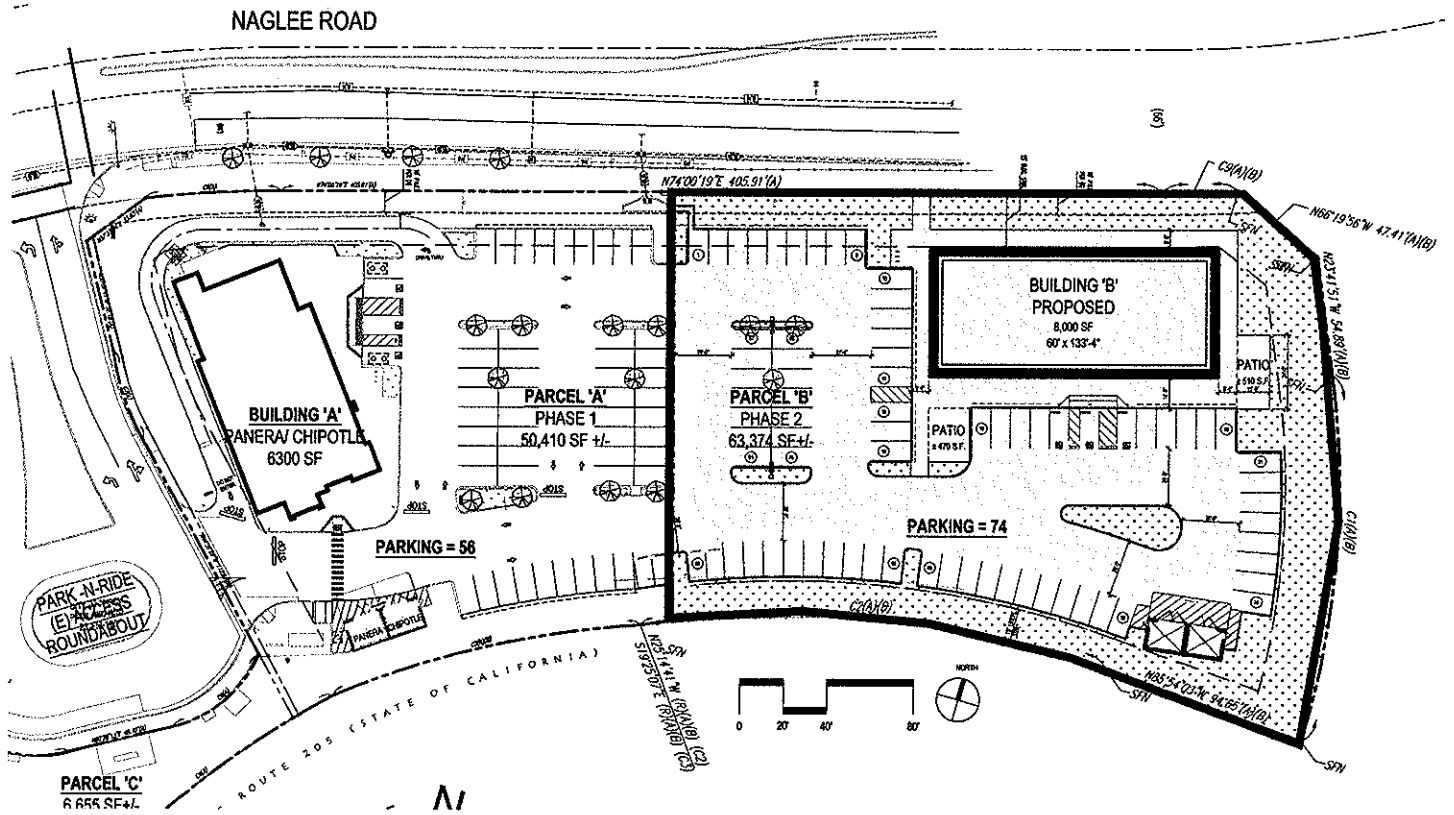
CONTAINING 63,193 SQUARE FEET OR 1.4507 ACRES, MORE OR LESS

01-061316cm

EXHIBIT B

SITE PLAN

Proposed Phase 2 Site Redevelopment Plan Naglee Rd



PHASE 2 SITE REDEVELOPMENT PLAN, OPTION 4

DATE: JANUARY 14, 2016

OWNER: Becker Commercial Properties
Jon Becker, Principal
PO Box 590, Wilton, CA 95693
Phone: 916-714-9151, Email: jon.becker@bcprop.net

GRANT LINE ROAD/ INTERSTATE HWY. 205
PARK AND RIDE PHASE 2
TRACY, CA 95304

VMI architecture
Design - Planning - Interior
3770 Riverbank Blvd., Suite 200
Tracy, CA 95304
Tel: 916-463-2000 Fax: 916-463-2001
www.vmiarch.com

RESOLUTION 2016-_____

ADOPTING A RESOLUTION OF THE SUCCESSOR AGENCY TO THE TRACY COMMUNITY DEVELOPMENT AGENCY APPROVING THE LONG-RANGE PROPERTY MANAGEMENT PLAN AND AUTHORIZING STAFF AND THE BOARD OF THE SUCCESSOR AGENCY TO EXECUTE ALL DOCUMENTS AND INSTRUMENTS AND TO DO ANY AND ALL OTHER THINGS WHICH THEY MAY DEEM NECESSARY OR ADVISABLE TO EFFECTUATE THE LONG-RANGE PROPERTY MANAGEMENT PLAN

WHEREAS, The California state legislature enacted Assembly Bill X1 26 (the Dissolution Act") to dissolve Redevelopment Agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et.seq.), and

WHEREAS, Pursuant to Health and Safety Code Section 34175(b) and the California Supreme Court's decision in California Redevelopment Association, et al. v. Ana Matosantos, et al. (53 Cal.4th 231(2011)), on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former Community Development Agency of the City of Tracy (the "Agency") transferred to the control of the Successor Agency to the Community Development Agency of the City of Tracy (the "Successor Agency") by operation of law, and

WHEREAS, Pursuant to AB 1484 ("AB 1484"), enacted June 27, 2012 to amend various provisions of the Dissolution Act, the Successor Agency is now declared to be a separate legal entity from the City, and

WHEREAS, In accordance with Health and Safety Code Section 34191.5, the Successor Agency has prepared a Long-Range Property Management Plan that provides for the disposition and use of real property assets of the former Agency, and

WHEREAS, Pursuant to Health and Safety Code Section 34191.5(b), the Successor Agency must submit the Long-Range Property Management Plan to the Oversight Board and the California Department of Finance (the "DOF"), and

WHEREAS, Pursuant to Health and Safety Code Section 34191.3, once approved by the Oversight Board and the DOF, the Long-Range Property Management Plan will govern, and supersede all other provisions relating to, the disposition and use of the real property assets of the Successor Agency, and

WHEREAS, The Oversight Board approved the Long-Range Property Management Plan on December 1, 2015, and

WHEREAS, The DOF approved the Long-Range Property Management Plan on December 30, 2015, and

WHEREAS, The accompanying staff report provides supporting information upon which the action set forth in this Resolution is based;

NOW, THEREFORE, BE IT RESOLVED, That the Successor Agency to the Tracy Community Development Agency hereby finds, determines, resolves, and orders as follows:

Section 1. The above recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Successor Agency hereby finds and determines that the Long-Range Property Management Plan is created in accordance with Health and Safety Code Section 34191.5(b).

Section 3. The Successor Agency, as necessary, implement the disposition and use of the real property assets of the Former Community Development Agency of the City of Tracy in accordance with the terms approved in the Long-Range Property Management Plan and this Resolution.

Section 4. The staff and the Board of the Successor Agency are hereby authorized and directed, jointly and severally, to execute such documents and instruments and to do any and all other things which they may deem necessary or advisable to effectuate the Long-Range Property Management Plan.

Section 5. This Resolution shall take effect at the time and in the manner prescribed in Health and Safety Code Section 34179(h).

ADOPTED, July 5, 2016, by the Successor Agency of the Tracy Community Development Agency.

AYES:

NOES:

ABSTAIN:

ABSENT:

CHAIR

ATTEST:

SUCCESSOR AGENCY SECRETARY

RESOLUTION 2016-_____

AUTHORIZING A PURCHASE AND SALE AGREEMENT BETWEEN THE CITY OF TRACY (CITY), THE SUCCESSOR AGENCY TO THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY (AGENCY), AND BECKER COMMERCIAL PROPERTIES (BCP), A CALIFORNIA COMPANY, AND AUTHORIZING THE MAYOR ON BEHALF OF THE CITY AND CHAIRMAN ON BEHALF OF THE SUCCESSOR AGENCY TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS

WHEREAS, The City and the Successor Agency to the City of Tracy Community Development Agency are joint owners of the 1.45± acre real property located to the immediate east of 2512 Naglee Road, and

WHEREAS, On February 1, 2012, all assets, properties, contracts, leases, books and records, buildings, and equipment of the former Community Development Agency of the City of Tracy were transferred to the Successor Agency pursuant to Health and Safety Code Section 34175(b), and

WHEREAS, On December 3, 2015, the Agency submitted a Long-Range Property Management Plan to the Department of Finance providing for the disposition and use of real property assets from the former Agency in accordance with Health and Safety Code Section 34191.5, and

WHEREAS, On December 8, 2015, the City received a Finding of Completion from the California Department of Finance, and

WHEREAS, On December 30, 2015, the City received approval of the Long-Range Property Management Plan from the Department of Finance, and

WHEREAS, BCP is currently marketing the property under an Exclusive Negotiating Rights Agreement with the purpose of developing an 8,000 square foot, multi-tenant building, and

WHEREAS, The City has performed extensive outreach and marketed the property to retailers and restaurants receiving little interest for development, and

WHEREAS, The City Council finds it is in the best interest of the City to base the disposition of this property on this outreach and marketing efforts rather than by soliciting competitive proposals conducted to market the property meets the Competitive Proposal Process requirement, and

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

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

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

WHEREAS, Proceeds from the property sale will be equally split between the City of Tracy and the Successor Agency to the City of Tracy Community Development Agency;

NOW, THEREFORE, BE IT RESOLVED, That City Council authorizes a purchase and sale agreement between the City of Tracy, Successor Agency to the City of Tracy Community Development Agency, and Becker Commercial Properties, a California Company, and authorizes the Mayor on behalf of the City and Chairman on behalf of the Agency to execute the agreement and related documents.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 5th day of July 2016, 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

APPROVAL OF A DEFERRED IMPROVEMENT AGREEMENT (DIA) FOR THE FEDERAL EXPRESS GROUND FACILITY PROJECT AT THE CORDES RANCH BUSINESS PARK (AKA INTERNATIONAL PARK OF COMMERCE), AUTHORIZATION FOR THE MAYOR TO EXECUTE THE DIA, AND AUTHORIZATION FOR THE CITY CLERK TO RECORD THE DIA WITH THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

FedEx Ground Package System, Incorporated, a Delaware corporation (Developer) has requested that the construction of certain improvements required under the Conditions of Approval for the Federal Express Ground Facility Project be deferred to a later date. The Developer has signed the (DIA) to guarantee completion of the Deferred Improvements.

DISCUSSION

FedEx Ground Package System, Incorporated, a Delaware corporation, is the owner of real property located within the Cordes Ranch Business Park and more particularly located east of Hansen Road and north of Old Schulte Road.

On May 22, 2014, the Development Services Director approved the Development Review Application, D14-0008, for the construction of a distribution center with support facilities such as wash, maintenance, fuel and gateway entry buildings and associated parking and landscaping improvements (Federal Express Ground Facility). Wastewater conveyance facilities that are required to serve the Cordes Ranch Business Park area, including the Federal Express Ground Facility, are not yet complete.

In the interim condition, wastewater generated from the Federal Express Ground Facility will drain to the Hansen Sewer Line on Hansen Road which is the nearest permanent sewer line. The sewer connection on Hansen Road is temporary and will be removed when the permanent sewer connection from the building to the future sewer line on New Schulte Road is installed. The permanent sewer connection will be installed once the new sewer line on New Schulte Road is constructed and functional.

The Developer will be responsible for the removal of the temporary sewer connection on Hansen Road including the restoration of asphalt concrete pavement on Hansen Road, and the installation of the permanent sewer connection to the future sewer line on New Schulte Road (Deferred Improvements). The Developer is required to complete the Deferred Improvements within 180 calendar days from the date of written notification from the City Engineer.

The Developer was required to sign the DIA and post improvement security to guarantee completion of the Deferred Improvements. The DIA and Improvement Plans are on file with the City Engineer and are available for review upon request.

FISCAL IMPACT

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

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve the Deferred Improvement Agreement for the Federal Express Ground Facility at the Cordes Ranch Business Park, and authorize the Mayor to execute the DIA, and authorize the City Clerk to record the DIA with the San Joaquin County Recorder.

Prepared by: Cris Mina, PE, Senior Civil Engineer

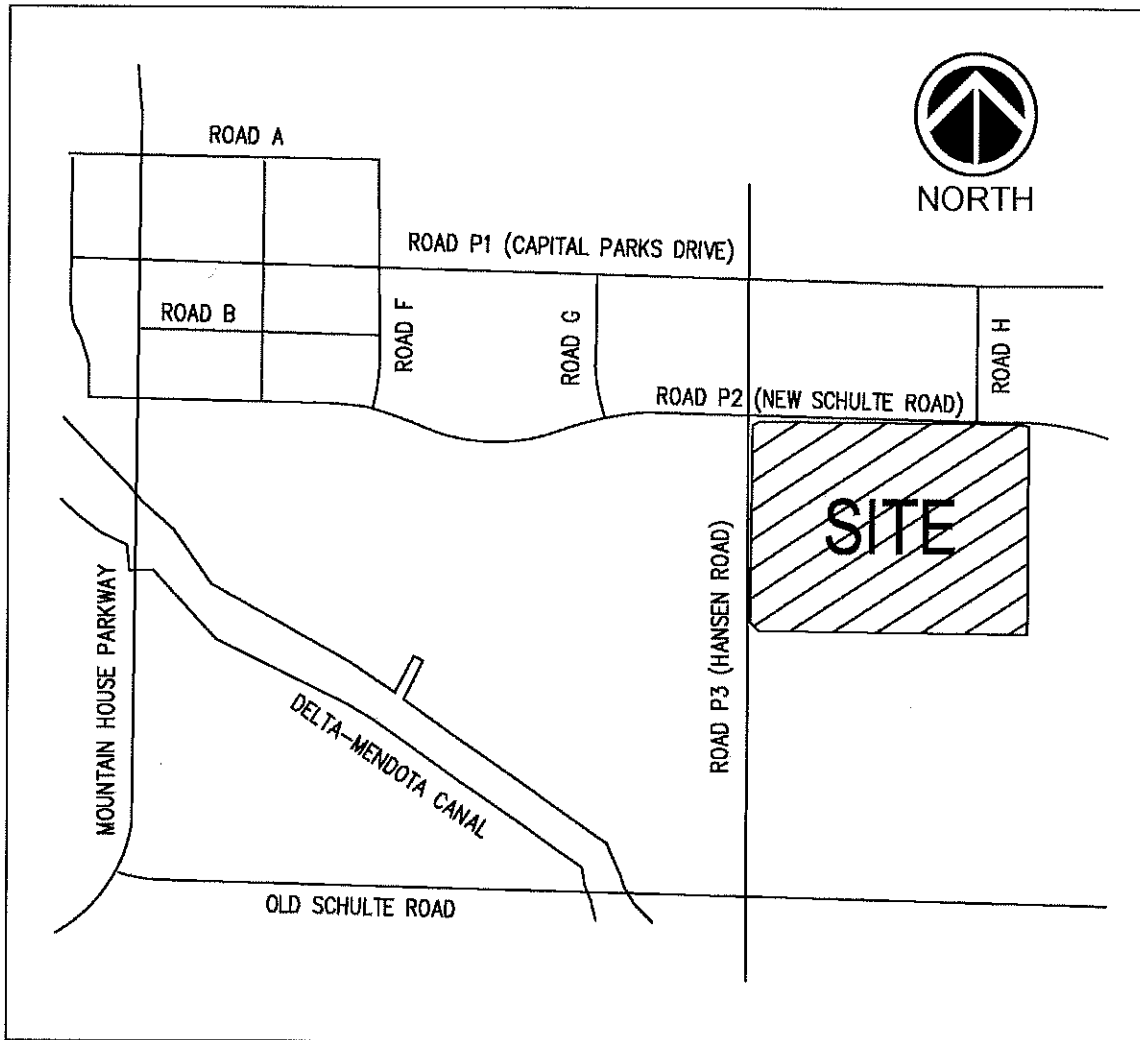
Reviewed by: Robert Armijo, PE, City Engineer
Andrew Malik, Development Services Director

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A - Vicinity Map
Attachment B – Deferred Improvement Agreement

Federal Express Ground Facility at the Cordes Ranch Business Park



Location Map

ORIGINAL**RECORDING REQUESTED BY:**

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

WHEN RECORDED MAIL TO:

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

SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

**CITY OF TRACY
 DEFERRED IMPROVEMENT AGREEMENT
 FEDERAL EXPRESS GROUND FACILITY
 (PART OF THE CORDES RANCH SPECIFIC PLAN AREA)**

This **DEFERRED IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **FEDEX GROUND PACKAGE SYSTEM, INC.**, a Delaware corporation (hereinafter "Developer").

RECITALS

- A.** The Developer is the owner of the real property located east of Hansen Road and north of Old Schulte Road (hereinafter "Property") and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.
- B.** The Development Review Application (D14-0008) for the construction of a distribution center with support facilities such as wash, maintenance, fuel and gateway entry buildings and associated parking and landscaping improvements, as approved by the Development Services Director on May 22, 2014, is on file with the Office of the City Engineer, and is incorporated herein by reference. The approval of the Development Review Application, D14-0008 was subject to specific conditions of approval (hereinafter "Conditions").
- C.** The Conditions require the Developer to design and construct certain on-site improvements that are necessary to serve the Project. The Developer has requested that construction of certain on-site improvements be deferred to a later date (hereinafter "Deferred Improvements"). The Deferred improvements are described in Exhibit "B", attached hereto, and incorporated herein by reference.

CITY OF TRACY –DEFERRED IMPROVEMENT AGREEMENT
FEDERAL EXPRESS GROUND FACILITY
(PART OF CORDES RANCH SPECIFIC PLAN AREA)
PAGE 2 OF 5

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **PERFORMANCE OF DEFERRED IMPROVEMENTS**. Unless otherwise specifically modified by this Agreement, the Developer shall perform the work required by the Conditions and Property related to the Deferred Improvements in accordance with the terms and timing set forth in Exhibit “B” of this Agreement.
2. **SCOPE OF WORK**. The Developer shall perform, or cause to be performed, that portion of the Work described in Exhibit “B” (hereinafter “Deferred Improvements”), to the satisfaction of the City Engineer, in accordance with the terms and conditions set forth in this Agreement (the “Scope of Work”). The Deferred Improvements shall be performed, and all materials and labor shall be provided, at the Developer’s expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work for the Deferred Improvements unless authorized in writing by the City Engineer. The Developer may submit a written request to the City Engineer for a change in the Scope of the Deferred Improvements, as required by Tracy Municipal Code section 12.36.060(f).
3. **IMPROVEMENT SECURITY**. Concurrent with its execution of this Agreement, the Developer shall furnish improvement security for the Deferred Improvements, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code section 12.36.080, in the following amounts:
 - 3.1. **Faithful Performance** security in the amount of **\$39,820**, to secure faithful performance of this Agreement (until the date when the City Council accepts the applicable Deferred Improvement as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
 - 3.2. **Labor and Material** security in the amount of **\$39,820**, to secure payment by the Developer to laborers and materialmen (until the date when claims are required to be made by laborers and materialmen) pursuant to Government Code sections 66499.2, 66499.3, 66499.4 and 66499.7(b).
 - 3.3. **Warranty** security in the amount of **\$3,982**, to secure faithful performance of this Agreement (from the date when the City Council accepts the applicable Deferred Improvement as complete until one year thereafter) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.

**CITY OF TRACY –DEFERRED IMPROVEMENT AGREEMENT
FEDERAL EXPRESS GROUND FACILITY
(PART OF CORDES RANCH SPECIFIC PLAN AREA)
PAGE 3 OF 5**

4. **TIME OF PERFORMANCE.** Time is of the essence in the performance of the Deferred Improvements, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The timing requirements for the Deferred Improvements are set forth in Exhibit "B." The Developer shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.

5. **OBLIGATIONS RUN WITH THE LAND.** All obligations and provisions of this Agreement shall run with the real property described in Exhibit "A," and shall bind the Developer and its respective successors and assigns.

6. **NOTICES.**

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

To CITY:
City Engineer
CITY OF TRACY
333 Civic Center Plaza
Tracy, CA 95376

To Developer:
FedEx Ground Package System, Inc.
1000 FedEx Drive
Moon Township, PA 15108
Attn: Firyal Kassim, Project Manager

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

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

8. **INDEMNIFICATION.** Developer shall indemnify, defend and hold harmless the City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, liabilities, costs and expenses (including court costs and attorney's fees) resulting from or arising out of the performance of the Work by

**CITY OF TRACY –DEFERRED IMPROVEMENT AGREEMENT
FEDERAL EXPRESS GROUND FACILITY
(PART OF CORDES RANCH SPECIFIC PLAN AREA)
PAGE 4 OF 5**

Developer or Developer's agents, representatives, contractors, subcontractors or employees.

9. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.
10. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
11. **SEVERABILITY.** In the event, any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
12. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
13. **ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between the parties concerning the Deferred Improvements described herein to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements related to the Deferred Improvements.

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**CITY OF TRACY –DEFERRED IMPROVEMENT AGREEMENT
FEDERAL EXPRESS GROUND FACILITY
(PART OF CORDES RANCH SPECIFIC PLAN AREA)
PAGE 5 OF 5**

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

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

CITY

DEVELOPER

CITY OF TRACY,
a municipal corporation

FEDEX GROUND PACKAGE SYSTEM,
INC., a Delaware corporation

By: Michael Maciel
Title: CITY MAYOR
Date: _____

By: *Joseph F. Duerk*
Title: *Mgr FMHSPM*
Date: *2/12/16*

*STALL
1/26/16
K*

Attest:

By: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED
LEGAL DEPARTMENT
[Signature] 2/12/16

Approved As To Form:

By: Daniel Sodergen
Title: CITY ATTORNEY
Date: _____

04-101514cm

COMMONWEALTH OF PENNSYLVANIA)

COUNTY OF ALLEGHENY)

SS.

Before me, a Notary Public in and for said County and Commonwealth, personally appeared the above-named FEDEX GROUND PACKAGE SYSTEM, INC., by Joe Buick, its manager, who acknowledged that s/he did sign the foregoing instrument on behalf of the corporation, and that the same is the free act and deed of the corporation and the same is his/her free act and deed as such officer and as an individual.

IN WITNESS WHEREOF, I hereunto have set my hand and seal at Moon Township, Pennsylvania this 12 day of February 2016.

Jennifer L. Brositz
Notary Public
My commission expires: 3/1/18

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Jennifer L. Brositz, Notary Public
Moon Twp., Allegheny County
My Commission Expires March 1, 2018
MEMBER, PENNSYLVANIA ASSOCIATION OF NOTARIES

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____
County of _____

On _____, 201__ before me, _____
(Here insert Name and Title of Officer)

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

NOTARY PUBLIC SIGNATURE

NOTARY PUBLIC SEAL

EXHIBIT " A "
Page 1 of 1

Exhibit "A"

Legal Description of the Property

Real property in City of Tracy, County of San Joaquin, State of California, described as follows:

ADJUSTED PARCEL 2, AS DESCRIBED IN CERTIFICATE OF COMPLIANCE FOR LOT LINE ADJUSTMENT OWNERS CERTIFICATE MS14-0005 RECORDED MAY 22, 2014, AS INSTRUMENT NO. 2014-050921 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE WEST HALF OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTHWESTERLY OF THE WEST SIDE IRRIGATION UPPER MAIN CANAL, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 26;

THENCE ALONG THE WEST LINE OF SAID SECTION, SOUTH 00°22'49" WEST, 1307.26 FEET TO THE POINT OF BEGINNING;

THENCE FROM SAID POINT OF BEGINNING, CONTINUING ALONG SAID WEST LINE, SOUTH 00°22'49" WEST, 1327.85 FEET TO THE W 1/4 COR OF SECTION 26;

THENCE CONTINUING SOUTH 00°22'32" WEST, 676.86 FEET;

THENCE LEAVING SAID SECTION LINE, THE FOLLOWING ELEVEN (11) COURSES;

1. SOUTH 89°37'28" EAST, 49.50 FEET,
2. SOUTH 44°13'47" EAST, 84.76 FEET,
3. SOUTH 88°50'06" EAST, 643.75 FEET,
4. SOUTH 58°50'06" EAST, 30.00 FEET,
5. SOUTH 88°50'06" EAST, 635.95 FEET,
6. SOUTH 89°58'51" EAST, 550.11 FEET,
7. SOUTH 88°50'06" EAST, 467.89 FEET,
8. NORTH 00°24'44" EAST, 2139.18 FEET,
9. NORTH 88°50'06" WEST, 2313.34 FEET,
10. SOUTH 45°46'21" WEST, 99.67 FEET, AND
11. NORTH 89°37'11" WEST, 49.50 FEET TO THE POINT OF BEGINNING.

APN: Portion of 209-220-060-000 and portion of 209-220-040-000

**CITY OF TRACY
DEFERRED IMPROVEMENT AGREEMENT
FEDERAL EXPRESS GROUND FACILITY
(PART OF CORDES SPECIFIC PLAN AREA)**

EXHIBIT "B"

Page 1 of 2

I. Work: Time for Commencement and Performance

The work described in this Exhibit "B" (hereinafter "Deferred Improvements") shall be completed within the timelines as specified in this Exhibit "B" of this Agreement. The City shall have no obligation to construct or complete the Deferred Improvements.

II. Description of Work

A. Sanitary Sewer

1. Within 180 calendar days from the date of written notification from the City Engineer that the permanent sanitary sewer main planned to serve the Property, is constructed, made operational, and available for connection, the Developer shall start and complete the removal of the temporary sewer connection on Hansen Road. The work involved includes the removal of the sewer line from the property line to the sewer manhole on Hansen Road. In order to hide the trench marks on the asphalt concrete pavement, after grinding the existing asphalt concrete pavement 25 feet from both sides of the trench, the Developer shall apply a 2" asphalt concrete overlay with reinforcing fabric over the entire area to be applied with asphalt concrete overlay. The Developer shall restore or replace all pavement marking(s) and striping(s) that are disturbed as a result of applying the asphalt concrete overlay.
2. Within 180 calendar days from the date of written notification from the City Engineer that the permanent sanitary sewer main planned to serve the Property, is constructed, made operational, and available for connection, the Developer shall complete the installation of the Project's permanent sanitary sewer connection from the building to the City's permanent sewer main, all at the Developer's sole cost and expense. Developer shall dedicate all rights-of-way and/or easement(s) within the Property that are necessary to complete the work described in this sub-section, all at the Developer's sole cost and expense.
3. The Developer is responsible to repair and maintain the Project's temporary sewer connection from the building to the sewer manhole on Hansen Road. The City has no obligation to perform any maintenance or repair work on the Project's temporary sewer connection.

**CITY OF TRACY
DEFERRED IMPROVEMENT AGREEMENT
FEDERAL EXPRESS GROUND FACILITY
(PART OF CORDES SPECIFIC PLAN AREA)**

EXHIBIT "B"

Page 2 of 2

4. Prior to commencing work, the Developer shall obtain an encroachment permit for the portion of the work described in Item 1, above, that will require encroachment into City's right-of-way and/or permanent utility easement(s). Approved utility improvement plans will be required as part of a complete encroachment permit application. Design of the Project's permanent sewer connection(s) that will be constructed within City's right-of-way and/or permanent utility easement(s) shall be in accordance with City Regulations. The Developer shall submit improvement plans, engineering calculations, and cost estimates, and shall pay permit processing, plan checking, testing and inspection fees, prior to the issuance of the encroachment permit.

III. Improvement Security

- A. Developer shall furnish improvement security in the amounts and forms specified in Section 3 of this Agreement concurrently with its execution of this Agreement.

05-101514cm

RESOLUTION 2016 - _____

APPROVING THE DEFERRED IMPROVEMENT AGREEMENT (DIA) FOR THE FEDERAL EXPRESS GROUND FACILITY AT THE CORDES RANCH BUSINESS PARK, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT, AND AUTHORIZING THE CITY CLERK TO RECORD THE DIA WITH THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, FedEx Ground Package System, a Delaware corporation (Developer) of the real property located east of Hansen Road and north of Old Schulte Road, and

WHEREAS, On May 22, 2014, the Development Services Director has approved the Development Review Application (D14-0008) for the Federal Express Ground Facility within the Cordes Ranch Business Park; and

WHEREAS, The Developer was required to construct temporary sewer connection on Hansen Road to serve the Federal Express Ground Facility, in the interim condition, and

WHEREAS, The Developer was required to restore asphalt concrete pavement on Hansen Road at the time the temporary sewer connection is removed, and

WHEREAS, The Developer will install the permanent sanitary sewer connection from the building to the future sewer line on New Schulte Road when it becomes available for connection, and

WHEREAS, The Developer further agrees to obtain an encroachment permit for any portion of the work located on the City's right-of-way and/or permanent utility easement(s), and

WHEREAS, The Developer is required to remove the temporary sewer connection and restoration of asphalt concrete pavement on Hansen Road, and complete the installation of the permanent sewer connection from the building to the future sewer line on New Schulte Road, all at the Developer's sole cost and expense, within 180 calendar days from receipt of written notification from the City Engineer, and

WHEREAS, The Developer has executed the DIA and submitted the required improvement security to guarantee completion of the removal of the temporary sewer connection and restoration of asphalt concrete pavement on Hansen Road, and the installation of the permanent sewer connection to the future sewer line on New Schulte Road, and

WHEREAS, There will be no impact to the General Fund. The Developer paid the cost of processing the Agreement;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby approves the Deferred Improvement Agreement between the City and FedEx Ground Package System, Inc., authorizes the Mayor to execute the Deferred Improvement Agreement for Federal Express Ground Facility in the Cordes Ranch Business Park, and authorizes the City Clerk to record the Agreement with the San Joaquin County Recorder.

* * * * *

The foregoing Resolution 2016-____ was adopted by the City Council on the 5th day of July, 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.E

REQUEST

AUTHORIZE THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL DOCUMENTS NECESSARY TO ALLOW THE COUNTY TO APPLY FOR VARIOUS CALRECYCLE PROGRAMS AND GRANTS ON BEHALF OF THE CITY

EXECUTIVE SUMMARY

The City of Tracy has partnered with San Joaquin County (County) for several years to participate in various CalRecycle Programs. Through this partnership, the County manages these various programs and grants in order to meet the State mandated goal of 50% diversion of organic materials going to the landfill by 2020. If approved by Council, the Public Works Director will be authorized to execute a letter of authorization allowing the County to act on the City's behalf in applying for these various types of programs and grants.

DISCUSSION

Over the last several years, the County has acted as the lead agency for several jurisdictions within the region to participate in various programs and grants administered by CalRecycle. Pursuant to Public Resources Code sections 48000 *et seq.*, 14581, and 42023.1(g), the Department of Resources Recycling and Recovery (CalRecycle) has established various payment programs to make payments to qualifying jurisdictions. These programs have included, but have not been limited to, oil payment programs, oil filter exchange events, tire recycling grants, etc.

These programs and grants directly benefit the City's Solid Waste and Recycling Division by providing additional resources for used oil recycling, used oil filter programs, and used tire recycling. With the County acting as the lead agent on these programs, accountability for compliance with the terms of the payment programs or grants rests solely with the County.

By authorizing the County to apply for these various programs through CalRecycle, the County retains responsibility for developing promotional materials, creating marketing campaigns, and conducting public outreach efforts. Additionally, the County pays for the maintenance, repair, and replacement of any installed equipment needed to participate in these programs, and also pays for the collection costs of the recyclable materials.

Staff requests that Council authorize the Public Works Director to execute all documents necessary to allow the County to apply for various CalRecycle programs and grants on behalf of the City.

STRATEGIC PLAN

This agenda item supports the Quality of Life Strategic Plan goal to provide an outstanding quality of life by enhancing the City's amenities and services and cultivating connections to promote positive change and progress in our community.

FISCAL IMPACT

There is no fiscal impact to the City's budget.

RECOMMENDATION

Staff recommends that City Council, by resolution, authorize the Public Works Director to execute all documents necessary to allow the County to apply for various CalRecycle programs and grants on behalf of the City.

Prepared by: Connie Vieira, Management Analyst I

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

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING THE PUBLIC WORKS DIRECTOR TO EXECUTE ALL DOCUMENTS NECESSARY TO ALLOW THE COUNTY TO APPLY FOR VARIOUS CALRECYCLE PROGRAMS AND GRANTS ON BEHALF OF THE CITY

WHEREAS, pursuant to Public Resources Code sections 48000 et seq., 14581, and 42023.1(g), the Department of Resources Recycling and Recovery (CalRecycle) has established various payment programs to make payments to qualifying jurisdictions, and

WHEREAS, CalRecycle’s procedures for administering payment programs require, among other things, an applicant’s governing body to declare by resolution certain authorizations related to the administration of the payment program, and

WHEREAS, The County will act as lead agency for several jurisdictions within the region to participate in various programs and grants administered by CalRecycle;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the City of Tracy designates the County of San Joaquin to act as the Lead Agency and authorizes it to submit a Payment Program regional application on behalf of itself as Lead Agency and the City of Tracy,
2. That the Tracy City Council authorizes the Public Works Director to execute all documents necessary to allow the County to apply for various CalRecycle programs and grants on behalf of the City,
3. That this Resolution is effective until rescinded by the Signature Authority and/or this governing body.

* * * * *

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the 5th day of July 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

Mayor

City Clerk

July 5, 2016

AGENDA ITEM 1.F

REQUEST

**APPROVE A RESOLUTION AUTHORIZING A LEAVE OF ABSENCE FOR TRACY
PARKS AND COMMUNITY SERVICES COMMISSIONER GLORIA SALTZMAN**

EXECUTIVE SUMMARY

On May 5, 2016, staff received a request from Parks and Community Services Commissioner Gloria Saltzman for a leave of absence from April 7, 2016 through June 1, 2016 due to a broken arm. The Parks and Community Services Commission Bylaws state that a Parks and Community Services Commission member may submit a written request to the City Council for a leave of absence of up to six months, which may be approved at the City Council's discretion.

DISCUSSION

Parks and Community Services Commissioner Gloria Saltzman requested a leave of absence from April 7, 2016 through June 1, 2016, due to a broken arm. The Parks and Community Services (PCS) Commission Bylaws stipulate that any Commissioner can request up to a six month leave of absence from their duties on the Commission. This request is to be directed to, and can only be approved by, the City Council.

The PCS Commission consists of seven members and all seats are currently filled.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact to the General Fund at this time.

RECOMMENDATION

That City Council, by resolution, approve a leave of absence from April 7, 2016, through June 1, 2016, for Parks and Community Services Commissioner Gloria Saltzman.

Prepared by: Christine Mabry, Management Analyst I

Reviewed by: Ed Lovell, Management Analyst II
André Pichly, Parks and Community Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION 2016-_____

AUTHORIZING A LEAVE OF ABSENCE FOR
PARKS AND COMMUNITY SERVICES COMMISSIONER GLORIA SALTZMAN

WHEREAS, Parks and Community Services Commissioner Gloria Saltzman requested a leave of absence from April 7, 2016, through June 1, 2016, due to a broken arm, and

WHEREAS, The Parks and Community Services Commission Bylaws stipulate that any Commissioner can request up to a six-month leave of absence with Council approval, and

WHEREAS, The Parks and Community Services Commission consists of seven members and all seats are currently filled;

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes a leave of absence from April 7, 2016, through June 1, 2016, for Parks and Community Services Commissioner Gloria Saltzman.

* * * * *

The foregoing Resolution 2016-_____ was adopted by the Tracy City Council on the 5th day of July, 2016 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.G

REQUEST

AUTHORIZATION FOR A GENERAL SERVICES AGREEMENT WITH DELTA WIRELESS, INC. FOR POLICE COMMUNICATIONS EQUIPMENT MAINTENANCE AND AUTHORIZATION FOR THE MAYOR TO SIGN THE AGREEMENT

EXECUTIVE SUMMARY

The City's current radio communications maintenance agreement will expire on June 30, 2016. In 2015, an upgrade to the Police Department's radio communications equipment was completed adding new consoles, portables and mobile radios. This agreement will cover existing and new radio communications equipment.

DISCUSSION

The City's current radio communications maintenance agreement will expire on June 30, 2016. In 2015, an upgrade to the Police Department's radio communications equipment was completed adding new consoles, portables and mobile radios. Delta Wireless, Inc. has agreed to enter into a three-year agreement in the amount of \$272,268 or \$90,756 annually to maintain existing and new radio communications equipment.

In the Fiscal Year 2016-17 Budget, \$90,756 has been designated for the maintenance of the police department radio communications equipment to include all portable radios, mobile radios, communications center equipment, repeaters, transmitters and antennas.

The City Manager has determined that Delta Wireless, Inc. is the sole source provider for Motorola equipment maintenance for the Tracy Police Department pursuant to Tracy Municipal Code 2.20.140(b) (2).

STRATEGIC PLAN

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

FISCAL IMPACT

Budgeted, \$90,756, from the General Fund 101, Fiscal Year 2016-17 Budget.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, authorization for a General Services Agreement with Delta Wireless, Inc. for police communications equipment maintenance, and authorization for the Mayor to sign the Agreement.

Prepared by: Cheri Lynn Rockwell, Communications Unit Supervisor

Reviewed by: Lani Smith, Support Operations Division Manager
Larry Esquivel, Chief of Police
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment: A – General Services Agreement – Delta Wireless, Inc.
B – Sole Source Letter

City of Tracy
GENERAL SERVICES AGREEMENT
DELTA WIRELESS, INC. FOR POLICE COMMUNICATIONS MAINTENANCE

This General Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and DELTA WIRELESS, INC. a California Corporation (Provider).

Recitals

- A. CITY's current communications maintenance agreement with PROVIDER expires on June 30, 2016.
- B. Pursuant to Tracy Municipal Code 2.20.140 (b)(2) the formal request for proposals process is not required because PROVIDER has an exclusive operating agreement to supply the required maintenance services in the geographical area of the City of Tracy.
- C. After negotiations between CITY and PROVIDER, the parties have reached a (3) three-year agreement for the performances of services in accordance with the terms set forth in the Agreement. On July 5, 2016, the City Council authorized the execution of the Agreement, pursuant to Resolution No. _____.

Now therefore, the parties agree as follows:

1. **Scope of Services.** Provider shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Provider's Authorized Representative: David Naasz Provider shall not replace its Authorized Representative, nor shall Provider replace any of the personnel listed in Exhibit A, nor shall Provider use any subcontractors, without City's prior written consent.
2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing. Provider shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit A. Provider shall start and complete any services for which times for performance are not specified in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Provider. Provider shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.
3. **Compensation.**
 - 3.1 **General.** For services performed under this Agreement, City shall pay Provider on a time and expense basis, at the billing rates set forth in Exhibit B, attached and incorporated by reference. Provider's fee for this Agreement is Not to Exceed \$90,756 annually. Provider's billing rates shall cover all costs and expenses for Provider's performance of this Agreement. No work shall be performed by Provider in excess of the Not to Exceed amount without City's prior written approval.
 - 3.2 **Invoices.** Provider shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.

3.3 Payment. Within 30 days after the City's receipt of invoice, City shall make payment to the Provider based upon the services described on the invoice and approved by the City.

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

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

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance.

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

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

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

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

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

5.6 Endorsements. Provider shall obtain endorsements to the automobile and commercial general liability with the following provisions:

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

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

5.7 Notice of Cancellation. Provider shall notify City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy is considered a cancellation. Provider shall immediately obtain a replacement policy.

5.8 Authorized Insurers. All insurance companies providing coverage to Provider shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.9 Insurance Certificate. Provider shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

5.10 Substitute Certificates. No later than 30 days before the policy expiration date of any insurance policy required by this Agreement, Provider shall provide a substitute certificate of insurance.

5.11 Provider's Obligation. Maintenance of insurance by the Provider as specified in this Agreement shall in no way be interpreted as relieving the Provider of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Provider may carry, at its own expense, such additional insurance as it deems necessary.

6. Independent Contractor Status; Conflicts of Interest. Provider is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Provider is not City's employee and Provider shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Provider is free to work for other entities while under contract with the City. Provider, and its agents or employees, are not entitled to City benefits.

Provider (including its employees or agents) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Provider maintains or acquires such a conflicting interest, City may terminate any contract (including this Agreement) involving Provider's conflicting interest.

7. Termination. The City may terminate this Agreement by giving ten days written notice to Provider. Upon termination, Provider shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Provider for this Agreement. The City shall pay Provider for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

8. Ownership of Work. All original documents prepared by Provider for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Provider's services, or upon demand from the City. No such documents shall be revealed or made available by Provider to any third party without City's prior written consent.

9. Miscellaneous.

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

To City:

Attn: Cheri Lynn Rockwell
Tracy Police Department
1000 Civic Center Drive
Tracy, CA 95376

To Provider:

David Naasz
Delta Wireless, Inc.
1830 Field Avenue
Stockton, CA 95203

With a copy to:

City Attorney
333 Civic Center Plaza

Tracy, CA 95376

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

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

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

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

9.5 Assignment and Delegation. Provider may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation, limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.



9.9 Business License. Before the City signs this Agreement, Provider shall obtain a City of Tracy Business License.

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

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

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

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

<p>City of Tracy</p> <hr/> <p>By: Michael Maciel Title: Mayor</p> <p>Date: _____</p> <p>Attest:</p> <hr/> <p>Nora Pimentel, City Clerk</p> <p>Approved as to form:</p> <hr/> <p>Bill Sartor, City Attorney</p>	<p>Provider DELTA WIRELESS, INC. a California Corporation</p>  <hr/> <p>By: David Naasz Title: PRESIDENT</p> <p>Date: <u>6-21-16</u></p> <p>Federal Employer Tax ID No. _68-0371097</p>  <hr/> <p>By: Felix Difuntorum Title: TREASURER</p> <p>Date: <u>6-21-16</u></p>
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Exhibits:

- A Scope of Services (including personnel, time for performance) (Agreement sections 1 and 2)
- B Compensation (Agreement section 3)

EXHIBIT A

SCOPE OF WORK

1. PROVIDER shall provide all labor, parts, materials and equipment necessary to install, service and repair the public safety radio communication infrastructure twenty-four hours per day, seven days per week. The term of this agreement shall be from July 1, 2016 through June 30, 2019.
2. Mobile and portable equipment will normally be serviced during normal business hours Monday – Friday, 8:00am – 5:00pm excluding holidays. The City reserves the right to require after hours service during disasters, special events or when City staff otherwise deems it reasonably necessary. Service for the MCC7500 Radio Console should only be quoted to cover from 5:00pm – 8:00am Monday thru Friday and 24 hours on Saturday and Sunday for the first twelve months from installation and then 24 hours per day /seven day per week coverage for the remainder of the contract.
3. PROVIDER must provide means to contact emergency repair technicians 365 days a year, 24 hours a day. (24-hour telephone number, cellular phone, pager etc.) Contact information must include an escalation procedure for non-response or failure to respond within a reasonable amount of time.
4. PROVIDER will provide an escalation procedure for any major service effecting outages. After a two-hour period, any unresolved major problems should trigger appropriate technical support and/or additional vendor staffing to expedite repair of outage.
5. PROVIDER shall send a service repair technician to the dispatch center within one hour of receiving an emergency service call 24 hours a day, 365 days a year.
6. PROVIDER must provide a reasonable response time for a standard service call for a repair of a mobile or portable, normally within 48 hours upon receiving a request for service.
7. PROVIDER must provide a four hour on site response time for emergency service calls for mobile equipment. Response time may vary depending on the location of the equipment within the City. PROVIDER shall make its best effort to respond to emergency service call in a timely manner. An emergency service call will normally be limited to front line fire and police vehicles or as deemed necessary by authorized City of Tracy Police Department representatives.
8. An emergency service call will be limited to problems that severely impact the operation of a radio system or as determined by the City of Tracy Police Department representatives. Minor alarms or problems that do not affect a systems operation will be repaired during normal business hours.

9. PROVIDER shall service inventory as covered in their bid response: repeaters, base stations, voting receivers, radio remotes, mobiles, portables, digital microwave, mobile data, video, T1 MUX, T1 switch, powers supplies, radio consoles, comparators, routers, IP Mux, radio networks, transmit combiners, receive multi-couplers.
10. The CITY reserves the right to add, delete or change equipment as required and directed by the City's designated representative(s). Additions or deletions may be single items or include complete facilities. For additions or changes, the monthly cost of maintenance shall be determined on a pro rata basis using prices already in effect for existing similar items.

EXHIBIT B

Equip	Qty	Ea	Jan-March Monthly	Apr-Aug Monthly	Sept - June 2017 Monthly
			\$ 260.00	\$3,638.00	\$ 8,348.00
MCC7500			\$ -	\$ -	\$ 4,710.00
Astro Tac Comparator	2	\$ 70.00	\$ 70.00	\$ 140.00	\$ 140.00
Astro Tacc Receivers	8	\$ 40.00	\$ 40.00	\$ 320.00	\$ 320.00
Quantar Base	4	\$ 40.00	\$ 40.00	\$ 160.00	\$ 160.00
Consolette	1	\$ 60.00	\$ 60.00	\$ 60.00	\$ 60.00
XTL2500 Logging	1	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00
APX7500 Dual Band - Logging	1	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00
APX7000 Dual Band Portable	6	\$ 14.00	\$ -	\$ 84.00	\$ 84.00
APX6000 Portables	154	\$ 12.00	\$ -	\$ 1,848.00	\$ 1,848.00
APX 7500 Dual Band Mobile	61	\$ 16.00	\$ -	\$ 976.00	\$ 976.00

City of Tracy -- General Services Agreement

Tracy PD MCC7500 Inventory 2016 - 2017					Current Month	After Warranty
					\$ 730.00	\$5,440.00
Model Number	Serial Number	Item	Description	Price		Price
Tracy PD SITE Rack 1						
CLN1856A	147CQX0459	HP Procurve 2620-24	SITE LAN SWITCH 01		Not Active	\$ 40.00
T7577A	147CQX1731	GGM 8000	SITE GATEWAY 01		Not Active	\$ 40.00
T7039A	112CQX1273	GTR 8000	CHANNEL 1 BASE RADIO		Not Active	\$ 150.00
T7039A	112CQX1276	GTR 8000	CHANNEL 2 BASE RADIO		Not Active	\$ 150.00
9100-9	4130	TRAK 9100	FREQUENCY STANDARD		Not Active	\$ 30.00
YA3-04929-01R0	CC75126-1-1A	TX COMBINER	TX COMBINER		Not Active	
YA3-04929-01R0	CC75126-1-1B	TX COMBINER	TX COMBINER		Not Active	
YA3-04929-01R0	CC75126-1-1C	TX COMBINER	TX COMBINER		Not Active	
YA3-04933-01R0	CC75126-2-1A	RX MULTICOUPLER	RX MULTICOUPLER		Not Active	
T7585A	405CQX0017	GCP 8000	CONVENTIONAL SITE CONTROLLER 01	\$ -		\$ 80.00
M21QSM9PW1AN	518CGB0238	XTL2500	TPD 1 Logging	\$ 25.00		\$ 25.00
M30T559PW1AN	656CQT0720	APX7500 Dual Band	TPD 2 Logging	\$ 25.00		\$ 25.00
Tracy PD SITE Rack 2						
T7577A	147CQX1733	GGM 8000	CSUB GATEWAY 01	\$ -	Warranty until 8/31/16	\$ 40.00
T7577A	147CQX1735	GGM 8000	CSUB GATEWAY 02	\$ -		\$ 40.00
CLN1856A	147CQX0456	HP Procurve 2620-24	CSUB SWITCH 01	\$ -		\$ 40.00
CLN1856A	147CQX0457	HP Procurve 2620-24	CSUB SWITCH 02	\$ -		\$ 40.00
T7321A	112CQX0212	GCM 8000	CHANNEL 1 COMPARATOR	\$ -	Not Active	\$ 80.00
T7321A	112CQX0206	GCM 8000	CHANNEL 2 COMPARATOR	\$ -	Not Active	\$ 80.00
DDN8325A	28E7-047E0-0023	KEYBOARD AND MOUSE	Part of K2 Core		Warranty until 8/31/16	
TT2565C	2UA4420YY	SERVER	Part of K2 Core		Warranty until 8/31/16	\$ 175.00
Tracy PD SITE Rack 3						
T7861A	405CQX0015	HP PROCURVE 2620-24	BACKHAUL LAN SWITCH 01	\$ -	Not Active	\$ 40.00
T7861A	405CQX0016	HP PROCURVE 2620-24	BACKHAUL LAN SWITCH 02	\$ -	Not Active	\$ 40.00
T7857A	405CQX0019	HP PROCURVE 2620-24	CORE LAN SWITCH 02	\$ -	Warranty until 8/31/16	\$ 40.00
T7857A	405CQX0020	HP PROCURVE 2620-24	CORE LAN SWITCH 01	\$ -		\$ 40.00
T7577A	405CQX0012	GGM 8000	TRANSPORT GATEWAY 01	\$ -		\$ 40.00
T7577A	405CQX0013	GGM 8000	TRANSPORT GATEWAY 02	\$ -		\$ 40.00
T7585A	405CQX0018	GCP 8000	CONVENTIONAL SITE CONTROLLER 02	\$ -		\$ 80.00
T7577A	147CQX3503	GGM 8000	CONVENTIONAL CHANNEL GATEWAY 01	\$ -		\$ 40.00
T7577A	147CQX2989	GGM 8000	CONVENTIONAL CHANNEL GATEWAY 02	\$ -		\$ 40.00
F4543A	4695QW003N	SDM 3000 SITE MANAGER	AUX I/O PANNEL	\$ -		\$ 80.00
2750020000	1446000868	RAD IP MUX	IP MUX	\$ -	Not Active	\$ 525.00
Tracy PD SITE DISPATCH						
TT2538C(HP Z420)	2UA4440NQ	DISPATCH OPERATOR POSITION PC	OP01	\$ -	Warranty until 8/31/16	\$ 175.00
AS1931-BK	539105333NA	ACCUSYNC 19" MONITOR	OP01		Warranty until 8/31/16	
B1933A	443CQX0691	VOICE PROCESSOR MODULE	OP01		Warranty until 8/31/16	\$ 80.00
B1913A	443IQW2384	MCC SERIES HEADSET JACK	OP01		Warranty until 8/31/16	
B1913A	443IQW0639	MCC SERIES HEADSET JACK	OP01		Warranty until 8/31/16	
B1912A	443IQW0603	MCC DESKTOP SPEAKER(SELECT)	OP01		Warranty until 8/31/16	
B1912A	443IQW0557	MCC DESKTOP SPEAKER(UNSELECT)	OP01		Warranty until 8/31/16	
TT2538C(HP Z420)	2UA4440NQ	DISPATCH OPERATOR POSITION PC	OP02	\$ -	Warranty until 8/31/16	\$ 175.00
AS1931-BK	539105335NA	ACCUSYNC 19" MONITOR	OP02			
B1933A	443CQX0694	VOICE PROCESSOR MODULE	OP02			\$ 80.00
B1913A	443IQW0667	MCC SERIES HEADSET JACK	OP02			
B1913A	443IQW0663	MCC SERIES HEADSET JACK	OP02			
B1912A	443IQW0601	MCC DESKTOP SPEAKER(SELECT)	OP02			
B1912A	443IQW2308	MCC DESKTOP SPEAKER(UNSELECT)	OP02			
TT2538C(HP Z420)	2UA4440NP	DISPATCH OPERATOR POSITION PC	OP03	\$ -	Warranty until 8/31/16	\$ 175.00
AS1931-BK	544114221NA	ACCUSYNC 19" MONITOR	OP03			
B1933A	443CQX0693	VOICE PROCESSOR MODULE	OP03			\$ 80.00
B1913A	443IQW0698	MCC SERIES HEADSET JACK	OP03			
B1913A	443IQW0648	MCC SERIES HEADSET JACK	OP03			
B1912A	443IQW0591	MCC DESKTOP SPEAKER(SELECT)	OP03			
B1912A	443IQW0595	MCC DESKTOP SPEAKER(UNSELECT)	OP03			
TT2538C(HP Z420)	2UA4440N	DISPATCH OPERATOR POSITION PC	OP04	\$ -	Warranty until 8/31/16	\$ 175.00
AS1931-BK	544114236NA	ACCUSYNC 19" MONITOR	OP04			
B1933A	443CQX0689	VOICE PROCESSOR MODULE	OP04			\$ 80.00
B1913A	443IQW2385	MCC SERIES HEADSET JACK	OP04			
B1913A	443IQW0655	MCC SERIES HEADSET JACK	OP04			
B1912A	443IQW0578	MCC DESKTOP SPEAKER(SELECT)	OP04			
B1912A	443IQW0519	MCC DESKTOP SPEAKER(UNSELECT)	OP04			
TT2538C(HP Z420)	2UA4440NPR	DISPATCH OPERATOR POSITION PC	OP05	\$ -	Warranty until 8/31/16	\$ 175.00
AS1931-BK	544114291NA	ACCUSYNC 19" MONITOR	OP05			
B1933A	443CQX0690	VOICE PROCESSOR MODULE	OP05			\$ 80.00
B1913A	443IQW2377	MCC SERIES HEADSET JACK	OP05			
B1913A	443IQW0619	MCC SERIES HEADSET JACK	OP05			
B1912A	443IQW0575	MCC DESKTOP SPEAKER(SELECT)	OP05			
B1912A	443IQW0462	MCC DESKTOP SPEAKER(UNSELECT)	OP05			
TT2538C(HP Z420)	2UA4440NMD	DISPATCH OPERATOR POSITION PC	OP06	\$ -	Warranty until 8/31/16	\$ 175.00
AS1931-BK	544114249NA	ACCUSYNC 19" MONITOR	OP06			
B1933A	443CQX0692	VOICE PROCESSOR MODULE	OP06			\$ 80.00
B1913A	443IQW0666	MCC SERIES HEADSET JACK	OP06			
B1913A	443IQW0671	MCC SERIES HEADSET JACK	OP06			
B1912A	443IQW0564	MCC DESKTOP SPEAKER(SELECT)	OP06			
B1912A	443IQWU2314	MCC DESKTOP SPEAKER(UNSELECT)	OP06			
TT2538C(HP Z420)	2UA4440NQ	DISPATCH OPERATOR POSITION PC	SPARE		Warranty until 8/31/16	\$ 175.00
		19" MONITOR	SPARE			
B1933A	443CQX0697	VOICE PROCESSOR MODULE FRU	SPARE			\$ 80.00
B1913A	443IQW0661	MCC SERIES HEADSET JACK	SPARE			
B1912A	443IQW2267	MCC DESKTOP SPEAKER	SPARE			
Tracy PD SITE GREEN						

City of Tracy -- General Services Agreement

TRACY PD SITE GREEN					
T7577A	147CQX1690	GGM 8000	SITE GATEWAY 01	Not Active	\$ 40.00
CLN1856A	147CQX0458	HP PROCURVE 2620-24	SITE LAN SWITCH 01		\$ 40.00
T7039A	112CQX1277	GTR 8000	CHANNEL 1 BASE RADIO		\$ 150.00
T7039A	112CQX1278	GTR 8000	CHANNEL 2 BASE RADIO		\$ 150.00
2750020000	1446000867	RAD IP MUX	IPMUX		\$ 525.00
YA3-04933-02RO	CC75126-3-1A	TX COMBINER	TX COMBINER		
YA3-04933-02RO	CC75126-3-1B	TX COMBINER	TX COMBINER		
9100-8	1405	TRAK 9100	FREQUENCY STANDARD		\$ 30.00
T5770A	525CGD0047	AstroTac UHF Comparator	TPD	\$ 70.00	\$ 70.00
F2048A	524SGC0067	DIU	TPD CH 1	Delete	
F2048A	524SJG002Z	DIU	TPD CH 2		Delete
T5589A	743CGD0005	AstroTac UHF Voting Rxvr	STA 94 CH 1	\$ 40.00	\$ 40.00
T5589A	743CGD0006	AstroTac UHF Voting Rxvr	STA 97 CH 1	\$ 40.00	\$ 40.00
T5589A	743CGD0007	AstroTac UHF Voting Rxvr	SCHOOL MAINT CH 1	\$ 40.00	\$ 40.00
T5589A	743CGD0008	AstroTac UHF Voting Rxvr	STA 96 CH 1	\$ 40.00	\$ 40.00
T5589A	743CJH0003	AstroTac UHF Voting Rxvr	STA 96 CH 2	\$ 40.00	\$ 40.00
T5589A	743CJH0004	AstroTac UHF Voting Rxvr	SCHOOL MAINT CH 2	\$ 40.00	\$ 40.00
T5589A	743CJH0005	AstroTac UHF Voting Rxvr	STA 97 CH 2	\$ 40.00	\$ 40.00
T5589A	743CJH0006	AstroTac UHF Voting Rxvr	STA 94 CH 2	\$ 40.00	\$ 40.00
T5770A	525CJF0121	AstroTac UHF Comparator	TPD	\$ 70.00	\$ 70.00
T5365A	509CGD1668	Quantar Base	TPD CH 1	\$ 40.00	\$ 40.00
T5365A	509CJF1994	Quantar Base	TPD CH 2	\$ 40.00	\$ 40.00
T5365A	509CGZ1616	Quantar Base	TPD CLEMARS	\$ 40.00	\$ 40.00
T5365A	509CGZ1617	Quantar Base - Spare	TPD	\$ 40.00	\$ 40.00
L30SS9PW1AN	761CPR0532	APX7500 Consolette	Consolette	\$ 60.00	\$ 60.00

Model	Serial	Location	Description	Type	Price
H97TGD9PW1AN	655CQT4474		APX7000 Dual Band	Portable	\$ 14.00
H97TGD9PW1AN	655CQT4475		APX7000 Dual Band	Portable	\$ 14.00
H97TGD9PW1AN	655CQT4476		APX7000 Dual Band	Portable	\$ 14.00
H97TGD9PW1AN	655CQT4477		APX7000 Dual Band	Portable	\$ 14.00
H97TGD9PW1AN	655CQT4478		APX7000 Dual Band	Portable	\$ 14.00
H97TGD9PW1AN	655CQT4479		APX7000 Dual Band	Portable	\$ 14.00
H98QDD9PW5AN	481CQT8242		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8243		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8244		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8245		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8246		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8247		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8248		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8249		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8250		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8251		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8252		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8253		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8254		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8255		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8256		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8257		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8258		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8259		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8260		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8261		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8262		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8263		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8264		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8265		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8266		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8267		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8268		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8269		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8270		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8271		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8272		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8273		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8274		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8275		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8276		APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8277		APX6000	Portable	\$ 12.00

H98QDD9PW5AN	481CQT8278	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8279	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8280	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8281	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8282	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8283	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8284	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8285	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8286	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8287	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8288	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8289	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8290	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8291	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8342	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8343	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8344	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT8345	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9864	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9865	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9866	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9867	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9868	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9869	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9870	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9871	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9872	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9873	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9874	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9875	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9876	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9877	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9878	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9879	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9880	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9881	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9882	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9883	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9884	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9885	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9886	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9887	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9888	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9889	APX6000	Portable	\$ 12.00

H98QDD9PW5AN	481CQT9890	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9891	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9892	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9893	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9894	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9895	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9896	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9897	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9898	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9899	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9900	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9901	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9902	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9903	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9904	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9905	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9906	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9907	APX6000	Portable	\$ 12.00
H98QDD9PW5AN	481CQT9908	APX6000	Portable	\$ 12.00
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M30TSS9PW1AN	656CQT0679	APX7500 Dual Band	Mobile	\$ 16.00

City of Tracy
1000 Civic Center Drive
Tracy, CA 95376

POLICE DEPARTMENT

MAIN 209.831.4550
FAX 209.831.4017
www.ci.tracy.ca.us



Memorandum


Date: May 26, 2016
To: Troy Brown, City Manager
From: Cheri Lynn Rockwell, Police Department
Subject: Sole Source Provider

The Police Department's 3-year maintenance agreement with Delta Wireless of Stockton expires on June 30, 2016.

This agreement is for the maintenance of the departments' portable radios, car radios and equipment in our communications center which is made by Motorola.

Delta Wireless has been our radio maintenance provider for over (15) fifteen years. The department has confirmed that Delta Wireless of Stockton is the sole source provider for Motorola equipment and maintenance for the Tracy area therefore they are our sole source provider for the maintenance of our Motorola equipment.

Pursuant to Tracy Municipal Code 2.20.140. (b) (2) the City Manager can approve dispensing with the request for proposals because the maintenance services we require can only be obtained by one source.



Approve/Concur
Troy Brown, City Manager

Cc: Larry Esquivel, Chief of Police



RESOLUTION _____

AUTHORIZING A GENERAL SERVICES AGREEMENT WITH
DELTA WIRELESS, INC. FOR POLICE COMMUNICATIONS EQUIPMENT
MAINTENANCE AND AUTHORIZING THE MAYOR TO SIGN THE AGREEMENT

WHEREAS, The Police Department's current radio communications maintenance agreement expires June 30, 2016, and

WHEREAS, The maintenance of Police Department's radio communications equipment has been budgeted in the Fiscal Year 2016-17 Budget in account 10121406-5264, and

WHEREAS, The City Manager has determined that Delta Wireless, Inc. is the sole source provider for Motorola equipment maintenance for the Tracy Police Department, and

WHEREAS, Delta Wireless, Inc, has agreed to enter into a three-year contract;

NOW, THEREFORE, BE IT RESOLVED, The City Council does hereby authorize a General Services Agreement with Delta Wireless, Inc. for Police Communications Equipment; and authorizes the Mayor to sign the agreement

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the
5th day of July, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.H

REQUEST

AUTHORIZE THE PURCHASE OF FOUR PATROL VEHICLES (2017 FORD EXPLORER PPV) FROM DOWNTOWN FORD OF SACRAMENTO, CALIFORNIA

EXECUTIVE SUMMARY

The Police Department needs to replace four existing black-and-white patrol vehicles in the fleet. They will be replaced by four Ford Explorer PPV vehicles purchased through a cooperative purchasing agreement from Downtown Ford, assigned to patrol and equipped for marked patrol vehicle operations.

DISCUSSION

The 2016-2017 fiscal year budget provides designated funds for replacement of police vehicles, including the purchase and outfitting of four marked patrol vehicles. Under the prior program, the out-of-production Ford Crown Victoria vehicles had been replaced by Chevrolet Caprice models configured with a patrol vehicle package.

After reviewing past performance of the vehicles and ergonomic issues associated with the decreased space in Chevrolet Caprices, a staff workgroup was formed to consider other options. Research was conducted both in person with different vehicles, as well as reviewing performance reports and feedback from other police departments. The workgroup recommended a transition to an SUV in order to accommodate a large amount of tactical equipment carried specifically in patrol vehicles as well as increased space for the driver. The Ford Explorer PPV was selected due to cost considerations as well as the fact that it met the required standards.

Staff contacted Downtown Ford in Sacramento, CA, who has a cooperative purchasing agreement with the City of Sacramento for the specific vehicles mentioned above. The vehicles are available for orders under the existing agreement (City of Sacramento #B16153311007) and their purchase would be more cost effective than a replacement with a Chevrolet Caprice, as previously prescribed.

Staff is requesting that Council approve the purchase of four Ford Explorer PPV vehicles from Downtown Ford under a cooperative purchasing agreement through the City of Sacramento as allowed under Section 2.20.220 of the City's Municipal Code (the purchasing ordinance).

STRATEGIC PLAN

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

FISCAL IMPACT

This purchase is budgeted for in FY 2016-17. Each vehicle will cost a not to exceed amount of \$42,000 for a total not to exceed amount of \$168,000 and is within the budgeted amount.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the purchase of four Ford Explorer PPV patrol vehicles from Downtown Ford, not to exceed \$168,000, from the approved fiscal year 2016-2017 budget.

Prepared by: Alex Neicu, Lieutenant

Reviewed by: Larry Esquivel, Chief of Police
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING THE PURCHASE OF FOUR FORD EXPLORER PPV PATROL VEHICLES FROM DOWNTOWN FORD OF SACRAMENTO, CA

WHEREAS, The procurement of replacement police vehicles including the purchase and outfitting of vehicles with associated emergency equipment has been budgeted in the 2016-2017 fiscal year vehicle replacement budget, and

WHEREAS, Staff had recommended that outgoing vehicles be replaced with four Ford Explorer PPV vehicles, and

WHEREAS, Downtown Ford of Sacramento, CA, is able to order the vehicles with custom specifications, and

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

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the purchase of four Ford Explorer PPV vehicles from Downtown Ford, in the amount not to exceed \$42,000 per vehicle.

The foregoing Resolution _____ is hereby passed and adopted by the Tracy City Council this _____ day _____, 2016, by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.I

REQUEST

WAIVE SECOND READING AND ADOPT ORDINANCE 1221 AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 9.52 (FLOODPLAIN REGULATIONS), SECTIONS 9.52.050 AND 9.52.060 OF THE TRACY MUNICIPAL CODE

EXECUTIVE SUMMARY

Ordinance 1221 was introduced at the Council meeting held on June 21, 2016. Ordinance 1221 is before Council for adoption.

DISCUSSION

Ordinance 1221 was introduced at a regular City Council meeting held on June 21, 2016, to amend Chapter 9.52, Sections 9.52.050 and 9.52.060 to the Tracy Municipal Code (TMC). Adoption of a General Plan amendment and amendment to Chapter 9.52 of the TMC are required to comply with State legislation, including Senate Bill (SB5) and SB 1278 which require cities and counties within the floodplain areas of the Sacramento-San Joaquin Valley, to adopt documentation and policies regarding flood improvement requirements for development applications. All future applications for discretionary approvals relating to a project would be required to comply with the General Plan and applicable Sections of the TMC and would be subject to compliance with CEQA based upon the individual project characteristics and potential for environmental impacts.

Ordinance 1221 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 1221.

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 1221

ORDINANCE 1221

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 9.52 (FLOODPLAIN REGULATIONS), SECTIONS 9.52.050 AND 9.52.060 OF THE TRACY MUNICIPAL CODE

WHEREAS, The City Council adopted its General Plan on February 1, 2011 (Resolution No 2011-029) It includes goals, policies and implementation measures to guide future land use, development and environmental protection decisions, and which is comprised of nine elements, including the Safety Element, which addresses the issue of Flooding, and

WHEREAS, In 2007, five interrelated pieces of legislation were enacted to address the problem of flood protection and liability. They primarily focus on flood requirements for the Sacramento-San Joaquin Valley within an area defined as the Sacramento-San Joaquin Hydrologic Regions, which includes the City of Tracy, and

WHEREAS, Adoption of a General Plan amendment and the amendment to Chapter 9.52 of the Tracy Municipal Code are required to comply with recent State legislation, including Senate Bill (SB) 5, enacted in 2007 and Senate Bill (SB) 1278 enacted in 2012. These bills require cities and counties within the floodplain areas of the Sacramento-San Joaquin Valley to adopt documentation, policies, and flood improvement requirements for development applications, and

WHEREAS, The project is exempt from the California Environmental Quality Act (CEQA) under the “general rule” that CEQA applies only to projects that have the potential for causing significant environmental effects, as specified in CEQA Guidelines Section 15061(b)(3). All future applications for discretionary approvals relating to a project would be required to comply with the General Plan and applicable sections of the Municipal Code (i.e. Zoning and Floodplain Regulations) and would be subject to compliance with CEQA based upon the individual project characteristics and potential for environmental impacts, and

WHEREAS, The Planning Commission considered the amendments at a regular meeting held on May 25, 2016, and recommended approval to the City Council, and

WHEREAS, The City Council considered the amendments at a regular meeting of the Council held on June 21, 2016.

NOW, THEREFORE, The Tracy City Council does ordain as follows:

SECTION 1. Section 9.52.050—Definitions, of Chapter 9.52 of Title 9 of the Tracy Municipal Code is amended to add or replace certain definitions as follows:

“Department of Water Resources (DWR)” means the California Department of Water Resources (DWR), a State agency which is part of the California Natural Resources Agency. The DWR is responsible for the State of California’s management and regulation of water usage. The California Department of Water Resources was charged under SB 5 and SB 1278 with the development of the 2013 Urban Level of Flood Protection criteria.”

“Federal Flood Standard” is the 100-year flood or 1 percent annual chance flood. See “100-year floodplain” definition.”

“Flood Hazard Zone” means an area subject to flooding that is delineated as either a special hazard area or an area of moderate hazard on an official flood insurance rate map issued by the Federal Emergency Management Agency. The identification of flood hazard zones does not imply that areas outside the flood hazard zones, or uses permitted within flood hazard zones, will be free from flooding or flood damage.”

“Non-urbanized area” means a developed area or an area outside a developed area in which there are fewer than 10,000 residents (Government Code Section 65007(f).”

“Urban Area” is defined as a developed area in which there are 10,000 residents or more (Government Code Section 65007(l).”

“Urbanizing Area” means a developed area or an area outside a developed area that is planned or anticipated to have 10,000 residents or more within the 10 years (Government Code Section 65007(m).”

“Urban Level of Flood Protection” means the level of protection that is necessary to withstand flooding that has a 1-in-200 chance of occurring in any given year using criteria consistent with, or developed by, the Department of Water Resources. Urban Level of Flooding shall not mean shallow flooding or flooding from local drainage that meets the criteria of the national Federal Emergency Management Agency standard of flood protection.”

SECTION 2: Section 9.52.060 of Chapter 9.52 of Title 9 of the Tracy Municipal Code is amended to read, in its entirety, as follows:

“9.52.060 - Applicability; Required Findings.

(a) Applicability. This chapter applies to all areas of special flood hazard areas within the jurisdiction of the City. Special flood hazard areas are those identified by the Federal Emergency Management Agency in the scientific and engineering report entitled The Flood Insurance Study of the City of Tracy, dated January 24, 1991, and all subsequent amendments and/or revisions, which are adopted by reference and declared to be a part of this chapter. This Flood Insurance Study and Flood Insurance Rate Map is the minimum area of applicability of this chapter and may be supplemented by studies for other areas which allow implementation of this chapter and which are recommended to the City Council by the Floodplain Administrator. The study and maps are on file in the office of the Development Services Director, 333 Civic Center Plaza, Tracy, California.

(b) Required findings. Under California Government Code section 65962, if a proposed project is located within a flood hazard zone, the City may not approve:

- (1) a Development Agreement; or
- (2) a discretionary permit or other discretionary entitlement that would result in the construction of a new building or construction that would result in an increase in allowed occupancy for an existing building; or
- (3) a ministerial permit that would result in the construction of a new residence; or
- (4) a tentative map, or a parcel map for which a tentative map was not required unless the City finds, based on substantial evidence in the record, one of the following:

- (A) The facilities of the State Plan of Flood Control or other flood management facilities protect the project to the urban level of flood protection in urban or urbanizing areas; or, the national Federal Emergency Management Agency (FEMA) standard of flood

protection in non-urbanized areas.

(B) The City has imposed conditions on the permit or entitlement that will protect the project to the urban level of flood protection in urban and urbanizing area; or, the national Federal Emergency Management Agency (FEMA) standard of flood protection in non-urbanized areas.

(C) If the property is intended to be protected by project levees, the City has made adequate progress on the construction of as flood protection system which will result in flood protection equal to or greater than the urban level of flood protection in urban and urbanizing areas; or, the national Federal Emergency Management Agency (FEMA) standard of flood protection in non-urbanized areas the urban level of flood protection shall be achieved by 2025.

(D) The City has imposed conditions on the permit or entitlement that will protect the project to the National FEMA Standard of Flood Protection in an urban or urbanizing area where the project is subject to shallow flooding or local drainage.

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

SECTION 4. A summary of this ordinance shall be published in the Tri-Valley Times and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1).).

* * * * *

The foregoing Ordinance 1221 was introduced at a regular meeting of the Tracy City Council on the 21st day of June, 2016, and finally adopted on the 5th day of July, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.J

REQUEST

APPROVE PROFESSIONAL SERVICES AGREEMENTS (PSA) WITH KLEINFELDER INC., OF STOCKTON CALIFORNIA, RIVER CITY GEOPROFESSIONALS, INC., DBA WALLACE KUHL & ASSOCIATES OF STOCKTON, CALIFORNIA, AND BSK ASSOCIATES, OF LIVERMORE, CALIFORNIA, FOR A NOT TO EXCEED AMOUNT OF \$200,000 PER YEAR FOR EACH CONSULTANT, TO PROVIDE MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR FISCAL YEARS 2016-2018 WITH THE OPTION TO EXTEND THE AGREEMENTS AN ADDITIONAL TWO FISCAL YEARS; AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENTS; AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE EXTENSIONS IF NEEDED

EXECUTIVE SUMMARY

Due to the specialized nature of the proposed work, the City uses consultants to provide materials testing services for new development and Capital Improvement Projects (CIPs). Because the existing Professional Services Agreement with the current consultant is expiring, a new agreement needs to be executed to continue materials testing services to advance various development projects and CIPs.

DISCUSSION

The Development Services Department requires the services of materials testing consultants for Development and Capital Improvement Projects. These tests are necessary to ensure that construction is performed in accordance with City standards and specifications. Since the City does not have specialized staff, equipment and a laboratory to perform the testing in-house, the services of outside consultants are required on an as-needed basis.

In accordance with the Tracy Municipal Code, Section 2.20.140, on March 15, 2016, a "Notice of Request for Proposals" was posted on the City of Tracy's website. The City received proposals on April 21, 2016, from twelve consultants as follows:

Kleinfelder Inc. - Stockton, CA
Smith-Emery, - San Francisco, CA
Teracon - Lodi, CA
Structure Groups - Livermore, CA
Construction Testing Services - Stockton, CA
Moore Twinning Associates, Inc., - Modesto, CA
River City Geoprosessionals, Inc., dba Wallace Kuhl & Associates –
Stockton, CA
Geosphere Consultants, Inc., - San Ramon, CA
CGI Technical Services Inc., - Sacramento, CA
Professional Services Inc., - Oakland, Ca
BSK Associates - Livermore, Ca
Engeo - Ripon, CA

After extensive review and evaluation of the proposals, Kleinfelder Inc. of Stockton, California, River City Geoprosessionals, Inc., dba Wallace Kuhl & Associates of Stockton, California, and BSK Associates of Livermore, California, were found to be the most qualified consultants to provide the necessary services.

All three companies have expertise in materials testing and geotechnical engineering and have successfully completed material testing services for the City and other agencies. These firms have sufficient resources to provide the services on an as needed basis to support the upcoming construction of Capital Improvement Projects and Development projects.

To provide flexibility, staff recommends Council approve the Professional Service Agreements with all three consultants. The total cost for these services is estimated not to exceed \$300,000 per year.

Staff recommends approval of the Professional Services Agreements for a period of two years (fiscal years 2016-2018). It is further recommended that, at the option of the City Manager, that the agreements may be extended for an additional two years if agreed by both parties and the firms have performed to the City's satisfaction. This will streamline project delivery and allow for consistency in operations.

FISCAL IMPACT

There is no fiscal impact to the General Fund. The cost of materials testing is recovered as follows:

1. Private Development: The actual cost plus an administrative fee is billed to each project or deducted from the developer's inspection fee deposit.
2. Capital Improvement Projects: The actual cost is charged to the specific project.

STRATEGIC PLAN

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

RECOMMENDATION

Staff recommends that City Council by separate resolutions, approve Professional Services Agreements with Kleinfelder Inc., of Stockton, California, River City Geoprosessionals, Inc., dba Wallace Kuhl & Associates of Stockton, California, and BSK Associates of Livermore, California, for a not to exceed amount of \$300,000 per year for each consultant to provide Materials Testing and Geotechnical Services for Fiscal Years 2016-2018 with an option to extend the agreements for an additional two years 2018-2020, authorize the Mayor to execute the Agreements and authorize the City Manager to execute the extensions if needed.

Agenda Item 1.J
July 5, 2016
Page 3

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manger

Approved by: Troy Brown, City Manager

ATTACHMENT:

- A – Professional Services Agreement with Kleinfelder Inc.,
- B– Professional Services Agreement with River City Geopprofessionals, Inc., dba Wallace Kuhl & Associates
- C– Professional Services Agreement with BSK Associates

City of Tracy
PROFESSIONAL SERVICES AGREEMENT
MATERIAL TESTING SERVICES
JULY 1, 2016 to JUNE 30, 2018

This Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and Kleinfelder Inc., a California Corporation (hereinafter "CONSULTANT").

Recitals

- A. CONSULTANT is a registered professional engineer.
- B. City requires the services generally described in Exhibit "A" attached hereto.
- C. On April 21, 2016, CONSULTANT submitted a proposal through a competitive bidding process in accordance with Tracy Municipal Code, Section 2.20.140 to provide on-site quality control material testing services for all construction projects within the City of Tracy, when deemed necessary by the City, between July 1, 2016 and June 30, 2018.
- D. City and CONSULTANT reached an agreement for the performance of services in accordance with the terms set forth in this Agreement. On July 5, 2016, the City Council authorized the execution of this Agreement, pursuant to Resolution No. 2016-_____.

Now therefore, the parties mutually agree as follows:

1. **Scope of Services.** Consultant shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. The services shall be performed by, or under the direct supervision of, CONSULTANT's Authorized Representative: Mr. Johan Jacobsen, PE. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT replace any of the personnel listed in Exhibit "A," nor shall CONSULTANT use any subcontractors or subconsultants, without the prior written consent of the CITY.
2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

CONSULTANT shall commence performance by July 1, 2016, and perform such service through June 30, 2018. The CITY may extend the Agreement with CONSULTANT for a second two (2) year term, through June 30, 2020, provided that CONSULTANT makes a written request for extension (no later than 60 days prior to the expiration of the first two year term of this Agreement), and the CITY determines that CONSULTANT has satisfactorily performed all obligations under the Agreement. Payment of any funds under this Agreement shall be subject

to the City of Tracy City Council's annual appropriation of funds for the services to be provided under this Agreement. In the event the City of Tracy City Council does not appropriate funds for payment for the services to be performed under this Agreement, or any extension thereto, this Agreement shall terminate. Any such termination of this Agreement or any extension thereto, due to failure of the City of Tracy City Council to appropriate funds for payment for services to be provided under this Agreement shall not constitute a breach of this Agreement

3. Compensation.

3.1 General. For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$200,000 per year. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to exceed amount without the City's prior written approval.

3.2 Invoices. Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.

3.3 Payment. Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.

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

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

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

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance.

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

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

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

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

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

5.6 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability with the following provisions:

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

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

5.7 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.8 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.9 Insurance Certificate. Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

5.10 Substitute Certificates. No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.

5.11 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary.

6. Independent Contractor Status; Conflicts of Interest. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest.

7. Termination. The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

8. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

9. Miscellaneous.

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

To City:

City of Tracy
Attn: Paul Verma
Senior Civil Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Kleinfelder Inc.
Attn: Johan Jacobsen, PE
2001 Arch-Airport Road, Suite 100
Stockton, CA95206

With a copy to:

Bill Sartor, City Attorney
333 Civic Center Plaza
Tracy, CA 95376

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

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

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

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

9.5 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation, limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

9.9. Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License.

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

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

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

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

City of Tracy

By: Michael Maciel
Title: Mayor
Date: _____

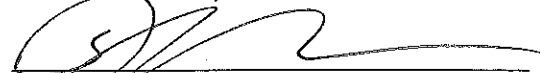
Attest:

Nora Pimentel, City Clerk

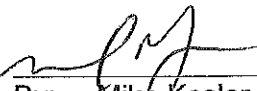
By: Bill Sartor
Title: City Attorney
Date: _____

Approved as to form:

**Consultant
KLEINFELDER, INC.**


By: Jeremy Mason
Title: Vice President
Date: 6/21/16

Federal Employer Tax ID No. 94-1532513


By: Mike Keslar
Title: Chief Operating Officer
Date: 6/23/2016

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)
- B Compensation (See Agreement section 3.)

EXHIBIT A
SCOPE OF SERVICES

I. DESCRIPTION OF SERVICES REQUIRED

A. Field Density Testing

1. Method CAL 231. This test will not be allowed in trenches and when used, the first five moistures shall be run mechanically (stove or oven) to determine moisture relationship to the nuclear machine. The nuclear machine will then be adjusted for the moisture differentials. If it cannot be adjusted, all moistures shall be run mechanically unless a field examination can prove the accuracy of the moisture determination. Each section tested (structural section) shall not be more than 500 feet in length and do not combine or average 3 separate curve materials or test data.
2. Method CAL 216-Dry. This test will be acceptable in all areas and materials. When nuclear machines are used, one out of every ten tests (or portion thereof) shall be compared with a sand density test, and the two tests shown as such on the report. This test can be an option in trench testing, but because of the costs involved, shall be secondary in trenches. Soil materials shall not be mixed.
3. ASTM D-2937-Tube Method. This test will be acceptable in all materials and areas that can be tube-tested.
4. Laboratory Maximum Density, Optimum Moisture Determinations - California 216, Dry Method.

NOTE:

1. **For the field density testing of Public Works projects, (A.1, A.2, & A.3) Consultant shall compensate the field inspectors based on hourly rate established by the Department of Industrial Relations for operating Engineers (Heavy Highway Works): Group 6, Northern California Area 1.**
2. **For the field density testing of Private work (Subdivision Inspection) hourly prevailing wage rate is not applicable.**

B. R-Value Test

Method CAL 301 - R-Value Test. California State Highway; Untreated Material and Cement Lime or Other Additives (field or laboratory).

C. Sieve Analysis

Method CAL 202 - Sieve Analysis. This shall consist of course and/or fine with 200 wash.

D. Sand Equivalent Test per CAL 217-H.

E. Percentage of crushed particles per CAL 205.

F. Percent of lime-treatment test by titration per CAL 338.

G. Concrete compression tests per CAL 521, 539 and 540. Tests shall include 7 and 28-day cylinders, molds and one hold cylinder.

H. Cal 308 - Specific gravity and weight per cubic foot of compressed Bituminous mixture. Asphalt testing shall also include extraction (% bitumen) and gradation.

I. Asphalt coring.

J. Concrete coring per ASTM C-42.

II. GENERAL INFORMATION

A. Response Time - Tests and test results:

The firm selected must be able to commence testing within six (6) hours of notification by telephone by authorized City personnel only. The City will make every attempt to give as much notice as possible and under normal circumstances; such notification shall be twenty-four (24) hours.

B. Billing

The City will compile all billings and make one payment each month to cover all bills received prior to the 25th day of the previous month.

No charge will be paid other than the stated rates above. There shall be no minimum charges. All overhead, secretarial time, etc., shall be included in these charges. If more than one type of test is required while on one trip, only one trip will be charged.

C. Miscellaneous

All tests described in Section I will constitute the major portion of the testing necessary. Any other tests necessary will be billed to the City in accordance with the firm's current price brochure or fee established between the firm and the City prior to testing.

All equipment shall be kept in good condition and will be subject to inspection, both in the field and in the laboratory.

**SUMMARY OF COSTS
EXHIBIT "B"
CITY OF TRACY MATERIALS TESTING SERVICES COST SCHEDULE**

ACTIVITY	FEES
Cal 216 Laboratory maximum density (A-4)	\$ 190.00 / ea.
R-value tests (B)	\$ 350.00 / ea.
Sieve analysis (C)	\$ 150.00 / ea.
Sand equivalent (D)	\$ 110.00 / ea.
Percentage crushed particles (E)	\$ 145.00 / ea.
Percent lime by titration (F)	\$ 250.00 / ea.
Concrete compression tests (G)	\$ 120.00 / ea.
Specific gravity/unit weight/gradation/extraction (H)	\$ 700.00 / set
Asphalt coring (I)	\$ 95.00 / ea.
Concrete coring (includes compression tests on cores (J)	\$ 175.00 / ea.
Cal 216 field density tests – HOURLY RATE PREVAILING WAGE (A.1, A.2, A.3)	\$ 93.00 / hr.
Cal 216 field density tests – HOURLY RATE NON PREVAILING WAGE (A.1, A.2, A.3)	\$ 85.00 / hr.
Mileage	\$65 per trip
Travel Time (Maximum Two Hours)	1 Hour Round Trip

City of Tracy
PROFESSIONAL SERVICES AGREEMENT
MATERIAL TESTING SERVICES
JULY 1, 2016 to JUNE 30, 2018

This Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and River City Geoprosessionals, Inc. dba Wallace-Kuhl & Associates, a California Corporation (hereinafter "CONSULTANT").

Recitals

- A. CONSULTANT is a registered professional engineer.
- B. City requires the services generally described in Exhibit "A" attached hereto.
- C. On April 21, 2016, CONSULTANT submitted a proposal through a competitive bidding process in accordance with Tracy Municipal Code, Section 2.20.140 to provide on-site quality control material testing services for all construction projects within the City of Tracy, when deemed necessary by the City, between July 1, 2016 and June 30, 2018.
- D. City and CONSULTANT reached an agreement for the performance of services in accordance with the terms set forth in this Agreement. On July 5, 2016, the City Council authorized the execution of this Agreement, pursuant to Resolution No. 2016-_____.

Now therefore, the parties mutually agree as follows:

1. Scope of Services. Consultant shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. The services shall be performed by, or under the direct supervision of, CONSULTANT's Authorized Representative: David T. Hunn, Senior Engineer. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT replace any of the personnel listed in Exhibit "A," nor shall CONSULTANT use any subcontractors or subconsultants, without the prior written consent of the CITY.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

CONSULTANT shall commence performance by July 1, 2016, and perform such service through June 30, 2018. The CITY may extend the Agreement with CONSULTANT for a second two-year term, through June 30, 2020, provided that CONSULTANT makes a written request for extension (no later than 60 days prior to the expiration of the first two year term of this Agreement), and the CITY determines that CONSULTANT has satisfactorily performed all obligations under the Agreement. Payment of any funds under this Agreement shall be subject to the City of Tracy City Council's annual appropriation of funds for the services to be provided under this Agreement. In the event the City of Tracy City Council does not appropriate funds for

payment for the services to be performed under this Agreement, or any extension thereto, this Agreement shall terminate. Any such termination of this Agreement or any extension thereto, due to failure of the City of Tracy City Council to appropriate funds for payment for services to be provided under this Agreement shall not constitute a breach of this Agreement

3. Compensation.

3.1 General. For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$200,000 per year. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to exceed amount without the City's prior written approval.

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

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The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance.

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

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

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6. Independent Contractor Status; Conflicts of Interest. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

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shall be revealed or made available by Consultant to any third party without the City's prior written consent.

9. Miscellaneous.

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To City:

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

To Consultant:

River City Geoprosessionals, Inc. dba
Wallace-Kuhl & Associates
Attn: David T. Hunn, Sr. Engineer
3422 W. Hammer Lane, Suite D
Stockton, CA 95219

With a copy to:

Bill Sartor, City Attorney
333 Civic Center Plaza
Tracy, CA 95376

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

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

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

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

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

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation,

limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

9.9. Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License.

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

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

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

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

City of Tracy

Consultant

River City Geoprosessionals, Inc.
dba Wallace-Kuhl & Associates

By: Michael Maciel
Title: Mayor



By: David R. Gius, Jr.

Title: President

Date: June 21, 2016

Date: _____

Attest:

Federal Employer Tax ID No. 27-2347235

Nora Pimentel, City Clerk



By: Andrew S. Wallace

Title: Chief Financial Officer/COO

Date: June 21, 2016

Approved as to form:

By: Bill Sartor
Title: City Attorney

Date: _____

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)
- B Compensation (See Agreement section 3.)

EXHIBIT A
SCOPE OF SERVICES

I. DESCRIPTION OF SERVICES REQUIRED

A. Field Density Testing

1. Method CAL 231. This test will not be allowed in trenches and when used, the first five moistures shall be run mechanically (stove or oven) to determine moisture relationship to the nuclear machine. The nuclear machine will then be adjusted for the moisture differentials. If it cannot be adjusted, all moistures shall be run mechanically unless a field examination can prove the accuracy of the moisture determination. Each section tested (structural section) shall not be more than 500 feet in length and do not combine or average 3 separate curve materials or test data.
2. Method CAL 216-Dry. This test will be acceptable in all areas and materials. When nuclear machines are used, one out of every ten tests (or portion thereof) shall be compared with a sand density test, and the two tests shown as such on the report. This test can be an option in trench testing, but because of the costs involved, shall be secondary in trenches. Soil materials shall not be mixed.
3. ASTM D-2937-Tube Method. This test will be acceptable in all materials and areas that can be tube-tested.
4. Laboratory Maximum Density, Optimum Moisture Determinations - California 216, Dry Method.

NOTE:

1. **For the field density testing of Public Works projects, (A.1, A.2, & A.3) Consultant shall compensate the field inspectors based on hourly rate established by the Department of Industrial Relations for operating Engineers (Heavy Highway Works): Group 6, Northern California Area 1.**
2. **For the field density testing of Private work (Subdivision Inspection) hourly prevailing wage rate is not applicable.**

B. R-Value Test

Method CAL 301 - R-Value Test. California State Highway; Untreated Material and Cement Lime or Other Additives (field or laboratory).

C. Sieve Analysis

Method CAL 202 - Sieve Analysis. This shall consist of coarse and/or fine with 200 wash.

D. Sand Equivalent Test per CAL 217-H.

E. Percentage of crushed particles per CAL 205.

F. Percent of lime-treatment test by titration per CAL 338.

G. Concrete compression tests per CAL 521, 539 and 540. Tests shall include 7 and 28-day cylinders, molds and one hold cylinder.

H. Cal 308 - Specific gravity and weight per cubic foot of compressed Bituminous mixture. Asphalt testing shall also include extraction (% bitumen) and gradation.

I. Asphalt coring.

J. Concrete coring per ASTM C-42.

II. GENERAL INFORMATION

A. Response Time - Tests and test results:

The firm selected must be able to commence testing within six (6) hours of notification by telephone by authorized City personnel only. The City will make every attempt to give as much notice as possible and under normal circumstances; such notification shall be twenty-four (24) hours.

B. Billing

The City will compile all billings and make one payment each month to cover all bills received prior to the 25th day of the previous month.

No charge will be paid other than the stated rates above. There shall be no minimum charges. All overhead, secretarial time, etc., shall be included in these charges. If more than one type of test is required while on one trip, only one trip will be charged.

C. Miscellaneous

All tests described in Section I will constitute the major portion of the testing necessary. Any other tests necessary will be billed to the City in accordance with the firm's current price brochure or fee established between the firm and the City prior to testing.

All equipment shall be kept in good condition and will be subject to inspection, both in the field and in the laboratory.

**SUMMARY OF COSTS
EXHIBIT "B"
CITY OF TRACY MATERIALS TESTING SERVICES COST SCHEDULE**

ACTIVITY	FEES
Cal 216 Laboratory maximum density (A-4)	\$ 190.00 / ea.
R-value tests (B)	\$ 350.00 / ea.
Sieve analysis (C)	\$ 150.00 / ea.
Sand equivalent (D)	\$ 110.00 / ea.
Percentage crushed particles (E)	\$ 145.00 / ea.
Percent lime by titration (F)	\$ 250.00 / ea.
Concrete compression tests (G)	\$ 120.00 / ea.
Specific gravity/unit weight/gradation/extraction (H)	\$ 700.00 / set
Asphalt coring (I)	\$ 95.00 / ea.
Concrete coring (includes compression tests on cores (J)	\$ 175.00 / ea.
Cal 216 field density tests – HOURLY RATE PREVAILING WAGE (A.1, A.2, A.3)	\$ 93.00 / hr.
Cal 216 field density tests – HOURLY RATE NON PREVAILING WAGE (A.1, A.2, A.3)	\$ 85.00 / hr.
Mileage	\$65 per trip
Travel Time (Maximum Two Hours)	1 Hour Round Trip

City of Tracy
PROFESSIONAL SERVICES AGREEMENT
MATERIAL TESTING SERVICES
JULY 1, 2016 to JUNE 30, 2018

This Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (CITY), and BSK Associates, a California Corporation (hereinafter "CONSULTANT").

Recitals

- A. CONSULTANT is a registered professional engineer.
- B. CITY requires the services generally described in Exhibit "A" attached hereto.
- C. On April 21, 2016, CONSULTANT submitted a proposal through a competitive bidding process in accordance with Tracy Municipal Code, Section 2.20.140 to provide on-site quality control material testing services for all construction projects within the City of Tracy, when deemed necessary by the CITY, between July 1, 2016 and June 30, 2018.
- D. CITY and CONSULTANT reached an agreement for the performance of services in accordance with the terms set forth in this Agreement. On July 5, 2016 the City Council authorized the execution of this Agreement, pursuant to Resolution No. 2016-_____.

Now therefore, the parties mutually agree as follows:

- 1. **Scope of Services.** Consultant shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. The services shall be performed by, or under the direct supervision of, CONSULTANT's Authorized Representative: Mr. Tim Rodriguez. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT replace any of the personnel listed in Exhibit "A," nor shall CONSULTANT use any subcontractors or subconsultants, without the prior written consent of the CITY.
- 2. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

CONSULTANT shall commence performance by July 1, 2016, and perform such service through June 30, 2018. The CITY may extend the Agreement with CONSULTANT for a second two year term, through June 30, 2020, provided that CONSULTANT makes a written request for extension (no later than 60 days prior to the expiration of the first two year term of this Agreement), and the CITY determines that CONSULTANT has satisfactorily performed all obligations under the Agreement. Payment of any funds under this Agreement shall be subject to the City of Tracy City Council's annual appropriation of funds for the services to be provided under this Agreement. In the event the City of Tracy City Council does not appropriate funds for payment for the services to be performed under this Agreement, or any extension thereto, this

Agreement shall terminate. Any such termination of this Agreement or any extension thereto, due to failure of the City of Tracy City Council to appropriate funds for payment for services to be provided under this Agreement shall not constitute a breach of this Agreement

3. Compensation.

3.1 General. For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$200,000 per year. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to exceed amount without the City's prior written approval.

3.2 Invoices. Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.

3.3 Payment. Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.

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

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

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

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance.

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

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

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

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

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

5.6 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability with the following provisions:

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

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

5.7 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.

Consultant shall immediately obtain a replacement policy.

5.8 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.9 Insurance Certificate. Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

5.10 Substitute Certificates. No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.

5.11 Consultant’s Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary.

6. Independent Contractor Status; Conflicts of Interest. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City’s employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant’s conflicting interest.

7. Termination. The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

8. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant’s services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City’s prior written consent.

9. Miscellaneous.

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

To City:
City of Tracy
Attn: Paul Verma
Senior Civil Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:
BSK Associates
Attn: Tim Rodriguez
324 Earhart Way
Livermore, CA 94551

With a copy to:
Bill Sartor, City Attorney
333 Civic Center Plaza
Tracy, CA 95376

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

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

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

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

9.5 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

9.8 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. City may void this Agreement if Contractor is a suspended corporation, limited liability company or limited partnership at the time it enters into this Contract, City may take steps to have this Agreement declared voidable.

9.9. Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License.

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

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


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

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

City of Tracy

Consultant

By: Michael Maciel
Title: Mayor



By: Richard E. Johnson
Title: President
Date: 6-23-2016

Date: _____

Federal Employer Tax ID No. 94-1633676

Attest:



By: Mike Vartanian
Title: Chief Financial Officer
Date: 6-23-2016

Nora Pimentel, City Clerk

Approved as to form:

Bill Sartor, City Attorney

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)
- B Compensation (See Agreement section 3.)

EXHIBIT A
SCOPE OF SERVICES

I. DESCRIPTION OF SERVICES REQUIRED

A. Field Density Testing

1. Method CAL 231. This test will not be allowed in trenches and when used, the first five moistures shall be run mechanically (stove or oven) to determine moisture relationship to the nuclear machine. The nuclear machine will then be adjusted for the moisture differentials. If it cannot be adjusted, all moistures shall be run mechanically unless a field examination can prove the accuracy of the moisture determination. Each section tested (structural section) shall not be more than 500 feet in length and do not combine or average 3 separate curve materials or test data.
2. Method CAL 216-Dry. This test will be acceptable in all areas and materials. When nuclear machines are used, one out of every ten tests (or portion thereof) shall be compared with a sand density test, and the two tests shown as such on the report. This test can be an option in trench testing, but because of the costs involved, shall be secondary in trenches. Soil materials shall not be mixed.
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4. Laboratory Maximum Density, Optimum Moisture Determinations - California 216, Dry Method.

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2. **For the field density testing of Private work (Subdivision Inspection) hourly prevailing wage rate is not applicable.**

B. R-Value Test

Method CAL 301 - R-Value Test. California State Highway; Untreated Material and Cement Lime or Other Additives (field or laboratory).

C. Sieve Analysis

Method CAL 202 - Sieve Analysis. This shall consist of course and/or fine with 200 wash.

D. Sand Equivalent Test per CAL 217-H.

E. Percentage of crushed particles per CAL 205.

F. Percent of lime-treatment test by titration per CAL 338.

G. Concrete compression tests per CAL 521, 539 and 540. Tests shall include 7 and 28-day cylinders, molds and one hold cylinder.

H. Cal 308 - Specific gravity and weight per cubic foot of compressed Bituminous mixture. Asphalt testing shall also include extraction (% bitumen) and gradation.

I. Asphalt coring.

J. Concrete coring per ASTM C-42.

II. GENERAL INFORMATION

A. Response Time - Tests and test results:

The firm selected must be able to commence testing within six (6) hours of notification by telephone by authorized City personnel only. The City will make every attempt to give as much notice as possible and under normal circumstances; such notification shall be twenty-four (24) hours.

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The City will compile all billings and make one payment each month to cover all bills received prior to the 25th day of the previous month.

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C. Miscellaneous

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All equipment shall be kept in good condition and will be subject to inspection, both in the field and in the laboratory.

**SUMMARY OF COSTS
EXHIBIT "B"
CITY OF TRACY MATERIALS TESTING SERVICES COST SCHEDULE**

ACTIVITY	FEES
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Sand equivalent (D)	\$ 110.00 / ea.
Percentage crushed particles (E)	\$ 145.00 / ea.
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Concrete compression tests (G)	\$ 120.00 / ea.
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Cal 216 field density tests – HOURLY RATE NON PREVAILING WAGE (A.1, A.2, A.3)	\$ 85.00 / hr.
Mileage	\$65 per trip
Travel Time (Maximum Two Hours)	1 Hour Round Trip

RESOLUTION 2016-_____

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH KLEINFELDER INC., OF STOCKTON CALIFORNIA, FOR A NOT TO EXCEED AMOUNT OF \$200,000 PER YEAR, TO PROVIDE MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR FISCAL YEARS 2016-2018, WITH THE OPTION TO EXTEND THE AGREEMENT FOR AN ADDITIONAL TWO FISCAL YEARS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION IF NEEDED

WHEREAS, The Development Services Department requires the services of a materials testing consultant for development and Capital Improvement Projects, and

WHEREAS, The City does not have the staff, equipment or a laboratory to perform the testing in-house, and

WHEREAS, Services of outside consultants are acquired on an as needed basis, and

WHEREAS, On March 15, 2016, in accordance with the Tracy Municipal Code Section 2.20.140, a "Notice of Request for Proposals" was posted on the City of Tracy's website; and

WHEREAS, In response to the "Notice of Request for Proposals," on April 21, 2016, the City received 12 proposals from consultants, and

WHEREAS, After extensive review and evaluation of the proposals, Kleinfelder Inc. of Stockton, California, was found to be one of the three most qualified consultants to provide the necessary services, and

WHEREAS, The total cost for these services is estimated not to exceed \$300,000 per year, and

WHEREAS, The cost of services will be charged to the Capital Improvement projects or billed to the developers for development projects, and

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

NOW, THEREFORE, BE IT RESOLVED, That City Council approves a Professional Services Agreement with Kleinfelder Inc., of Stockton, California, for a not to exceed amount of \$200,000 per year to provide Materials Testing and Geotechnical Services for Fiscal Years 2016-2018, with an option to extend the agreement for an additional two fiscal years; authorizes the Mayor to execute the Agreement; and authorizes the City Manager to execute an extension if needed.

* * * * *

The foregoing Resolution 2016-____ was adopted by the City Council on the 5th day of July, 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2016-_____

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH RIVER CITY GEOPROFESSIONALS, INC., DBA WALLACE KUHL & ASSOCIATES OF STOCKTON, CALIFORNIA, FOR A NOT TO EXCEED AMOUNT OF \$200,000 PER YEAR TO PROVIDE MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR FISCAL YEARS 2016-2018; WITH AN OPTION TO EXTEND THE AGREEMENT FOR AN ADDITIONAL TWO FISCAL YEARS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION IF NEEDED

WHEREAS, The Development Services Department requires the services of a materials testing consultant for development and Capital Improvement Projects, and

WHEREAS, The City does not have the staff, equipment or a laboratory to perform the testing in-house, and

WHEREAS, Services of outside consultants are acquired on an as needed basis, and

WHEREAS, On March 15, 2016, in accordance with the Tracy Municipal Code Section 2.20.140, a "Notice of Request for Proposals" was posted on the City of Tracy's website, and

WHEREAS, In response to the "Notice of Request for Proposals," on April 21, 2016, the City received 12 proposals from consultants, and

WHEREAS, After extensive review and evaluation of the proposals, River City Geoprosessionals, dba Wallace Kuhl & Associates of Stockton, was found to be one of the three most qualified consultants to provide the necessary services, and

WHEREAS, The total cost for these services is estimated not to exceed \$200,000 per year, and

WHEREAS, The cost of services will be charged to the Capital Improvement projects or billed to the developers for development projects, and

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

NOW, THEREFORE, BE IT RESOLVED, That City Council approves a Professional Services Agreement with River City Geoprosessionals, Inc., dba Wallace Kuhl & Associates of Stockton, for a not to exceed amount of \$200,000 per year to provide Materials Testing and Geotechnical Services for Fiscal Years 2016-2018; with an option to extend the agreement for an additional two fiscal years; authorizes the Mayor to execute the Agreement; and authorizes the City Manager to execute an extension if needed.

* * * * *

The foregoing Resolution 2016-____ was adopted by the City Council on the 5th day of July, 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2016-_____

APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH BSK ASSOCIATES, OF LIVERMORE, CALIFORNIA, FOR A NOT TO EXCEED AMOUNT OF \$200,000 PER YEAR, TO PROVIDE MATERIALS TESTING AND GEOTECHNICAL SERVICES FOR FISCAL YEARS 2016-2018 WITH THE OPTION TO EXTEND THE AGREEMENT FOR AN ADDITIONAL TWO FISCAL YEARS; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION IF NEEDED

WHEREAS, The Development Services Department requires the services of a materials testing consultant for development and Capital Improvement Projects, and

WHEREAS, The City does not have the staff, equipment or a laboratory to perform the testing in-house, and

WHEREAS, Services of outside consultants are acquired on an as needed basis, and

WHEREAS, On March 15, 2016, in accordance with the Tracy Municipal Code Section 2.20.140, a "Notice of Request for Proposals" was posted on the City of Tracy's website; and

WHEREAS, In response to the "Notice of Request for Proposals," on April 21, 2016, the City received 12 proposals from consultants, and

WHEREAS, After extensive review and evaluation of the proposals BSK Associates of Livermore, California, was found to be one of the three most qualified consultants to provide the necessary services, and

WHEREAS, The total cost for these services is estimated not to exceed \$200,000 per year, and

WHEREAS, The cost of services will be charged to the Capital Improvement projects or billed to the developers for development projects, and

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

NOW, THEREFORE, BE IT RESOLVED, That City Council approves a Professional Services Agreement with BSK Associates of Livermore, California, for a not to exceed amount of \$200,000 per year to provide Materials Testing and Geotechnical Services for Fiscal Years 2016-2018 with an option to extend the agreement for an additional two fiscal years; authorizes the Mayor to execute the Agreement; and authorizes the City Manager to execute an extension if needed.

* * * * *

The foregoing Resolution 2016-____ was adopted by the City Council on the 5th day of July, 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 3

REQUEST

PUBLIC HEARING TO CONSIDER A STREET NAME CHANGE FROM MOUNTAIN HOUSE PARKWAY TO “INTERNATIONAL PARKWAY” BETWEEN I-205 AND I-580 WITHIN THE CITY’S JURISDICTION

EXECUTIVE SUMMARY

Prologis, the developer for the International Park of Commerce, has requested that the City rename the existing road segment of Mountain House Parkway to “International Parkway” between the I-205 and I-580 interchange. A major portion of this segment is within the City of Tracy; however, a small portion of this segment between Schulte Road and I-580 is within the jurisdiction of San Joaquin County. Prologis held a public meeting and invited property owners, and staff from various city and county departments to this meeting. San Joaquin County staff separately processed the approval through County Planning for renaming a street segment in their jurisdiction. City staff, including Public Safety Departments (Police & Fire), concurs with the proposed renaming of the street. Therefore, staff recommends that City Council authorize the renaming of Mountain House Parkway to “International Parkway” within the City’s jurisdiction north of the I-580 interchange (Schulte Road) and I-205 Interchange.

DISCUSSION

Prologis, the developer of International Park of Commerce (formerly known as Cordes Ranch), has requested the renaming of Mountain House Parkway between the I-205 and I-580 interchange. The International Park of Commerce is an approximately 1,600 acre development project on the west side of the City. This project involves construction of new roadways and widening or extension of existing roadways to provide traffic circulation in the area for the proposed development.

This segment of Mountain House Parkway between I-205 and I-580 is approximately 1.7 miles in length, of which approximately 1.45 miles (between I-205 and Schulte Road), is within the City of Tracy and the remaining approximately 0.25 miles (between Schulte Road and I-580) is within San Joaquin County.

Prologis has been in close communication with the affected area residents and businesses. Prologis conducted a public meeting to seek public input on March 15, 2016, at the Tracy Transit Center and invited the residents and businesses located along this segment to attend. In addition, staff from the Tracy Police Department, Tracy Fire Department, Development Services Department, California Highway Patrol, San Joaquin County Public Works Department, San Joaquin County Sherriff Department, California Department of Transportation, and 911 communications were invited to this meeting.

Two residents attended the March 15th meeting. The residents did not comment adversely on the proposed street renaming and indicated that the proposed street name reflects the character of the new development. However, they raised concerns regarding the increased traffic volumes and proposed development in the area surrounding their

residences. To address these concerns, staff will work with Prologis to explore and identify measures to improve traffic conditions in the area with the development of Mountain House Parkway.

In addition to outreach efforts by Prologis, Development Services staff reached out to the City's Fire and Police Departments, Caltrans and San Joaquin County staff to solicit their comments regarding the proposed name change. Caltrans staff did not indicate any concerns with the proposed name change. However, San Joaquin County required that the applicant process the request separately through the County planning process. As such, the applicant worked with the county planning staff and obtained County Planning Commission approval on June 2, 2016.

On May 3, 2016, City Council adopted amendments to the Tracy Municipal Code relating to the procedure for processing requests for renaming of existing streets which became effective on June 16, 2016.

Both Police and Fire Department staff concur with the proposed renaming of the roadway. Development and Public Safety staff recommends that the property addressing changes occur after street signage and freeway interchanges are in place.

Therefore, staff recommends that City Council authorize the renaming of Mountain House Parkway to International Parkway between I-205 and I-580 within the City's jurisdiction. Renaming of this segment will allow the developer to facilitate installation of new directional signs at the interchanges and street segments.

STRATEGIC PLAN

This agenda item is consistent with the Council's approved Economic Development Strategy to achieve the following goals:

- Increase the employment opportunities and sales tax base in Tracy
- Ensure physical infrastructure and systems

FISCAL IMPACT

There is no fiscal impact to the General Fund. All required signage shall be performed by the developer.

RECOMMENDATION

That City Council, by resolution, authorize the street name change from Mountain House Parkway to International Parkway between the I-205 and I-580 interchange within the City's jurisdiction. Following adoption of the resolution the City Clerk will promptly forward a copy of the resolution to the Clerk of the Board of Supervisors and the San Joaquin County surveyor as required by Streets & Highway Code section 5016.

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

- A - Request Letter from Prologis for Name Change
- B - List of residents who attended the meeting
- C - Sketch showing the proposed street name change
- D - San Joaquin County letter of approval for name change



February 20, 2015

Via Email: Andrew.Malik@ci.tracy.ca.us

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

Re: Street Name Request: "International Parkway"

Dear Andrew,

As discussed over the last several weeks, Prologis is interested in the possible renaming of a segment of Mountain House Parkway beginning at its intersection with US Interstate 205 and ending at its intersection with US Interstate 580. The new name of this segment would be "International Parkway". To clarify this request further, I have attached an illustration on the following page indicating the prospective segment to be renamed.

We believe renaming this critical road segment will improve visibility of the City of Tracy and the International Park of Commerce. We see this action as an opportunity to further recognize and promote the City of Tracy's role in the development of Bay Area and Central Valley regions.

We would like to discuss this request with you further in the next two weeks. Please let me know when you may be available.

Best Regards,

Tom Martin
Development Manager

cc:

Via Email: Kuldeep.Sharma@ci.tracy.ca.us

Via Email: William Dean <William.Dean@ci.tracy.ca.us>

Via Email: Ripon.Bhatia@ci.tracy.ca.us

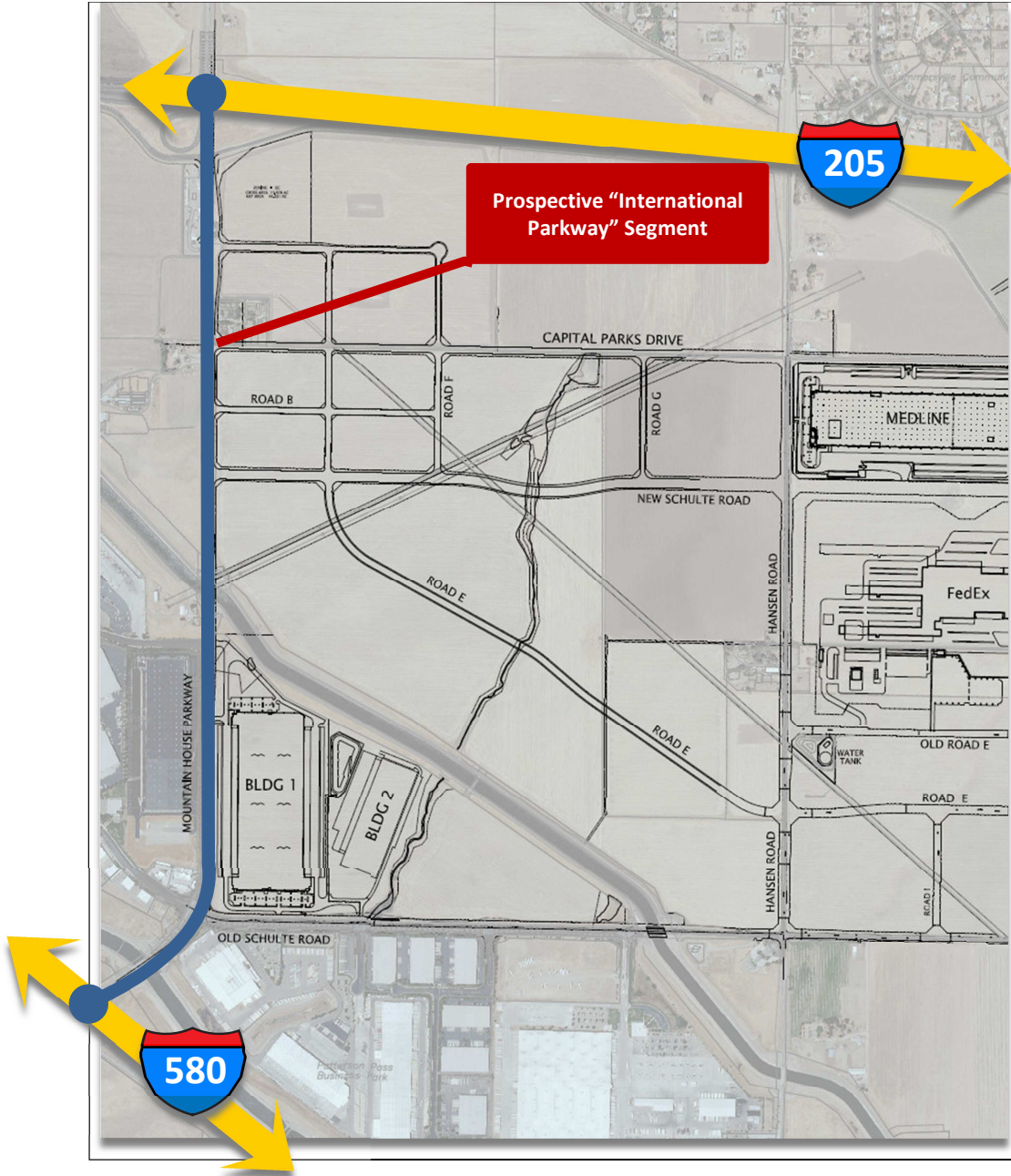


Exhibit B

March 15, 2016 Attendees List

1. Sandy Johnson

24308 Mountain House Parkway, Tracy CA

PH 209-833-7412. Email sandywjohanson@sbcglobal.net

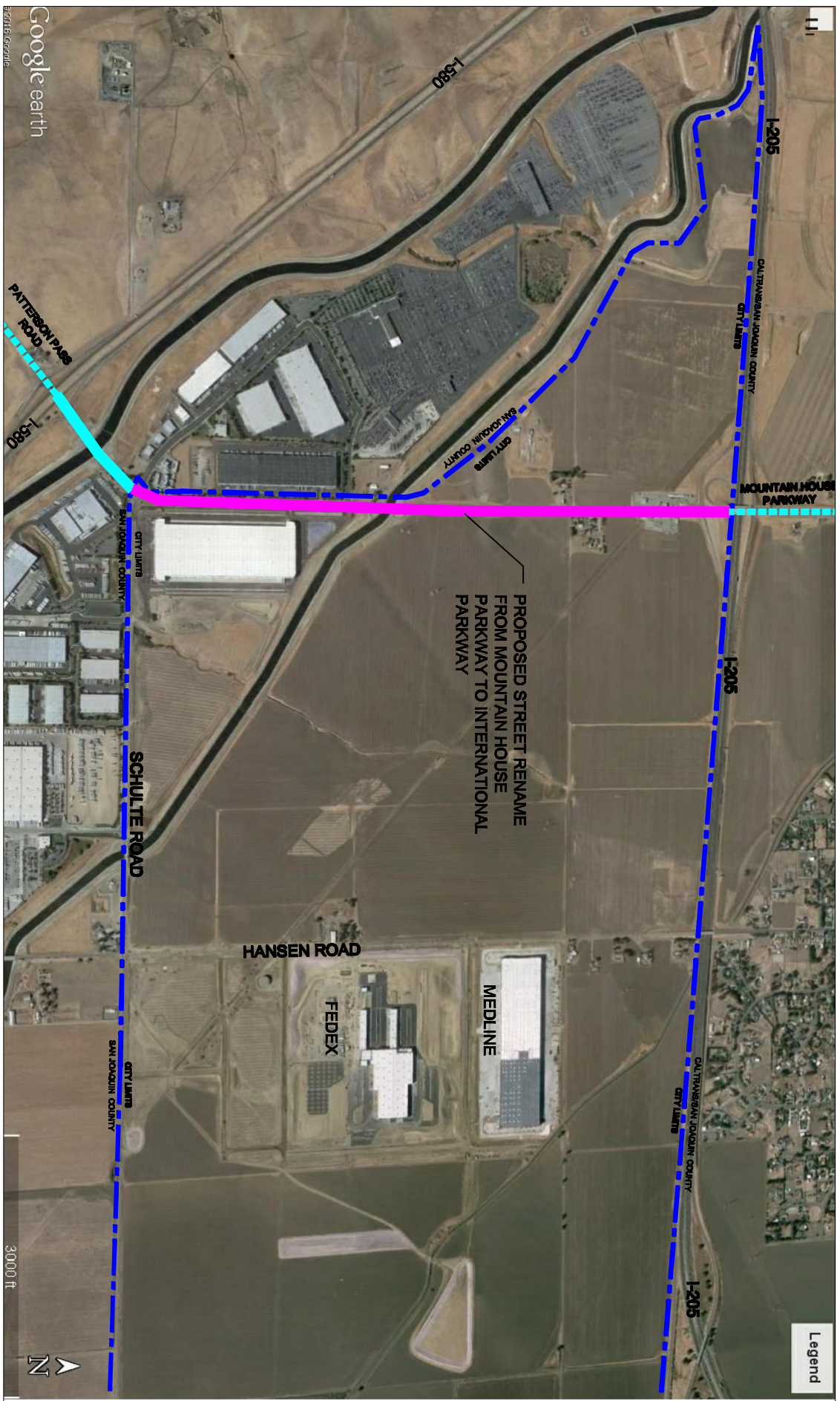
2. Reed Johnson

24308 Mountain House Parkway, Tracy CA

PH 209-833-7412. Email sandywjohanson@sbcglobal.net

EXHIBIT C

RENAMING OF MOUNTAIN HOUSE PARKWAY





**SAN JOAQUIN COUNTY
COMMUNITY DEVELOPMENT DEPARTMENT**

1810 E. HAZELTON AVE., STOCKTON, CA 95205-6232
PHONE: 209/468-3121 FAX: 209/468-3163

June 8, 2016

Tom Martin
Prologis
17284 W. Commerce Way
Tracy, CA 95377

Dear Owners:

Re: Road Name Change Application No. PA-1600077 of Prologis (APN: 209-080-18, 19, 209-090-11, 17, 19, 21, 209-100-05, 07, 209-110-51, 209-440-07 & 15)

ACTION: On June 2, 2016, the San Joaquin County Planning Commission approved PA-1600077 to rename a portion of Mountain House Parkway, south of Schulte Road and north of I-580, to International Parkway.

Please contact me if you have questions (Phone: [209] 468-3144).

Sincerely,

A handwritten signature in blue ink that reads "Megan Aguirre".

Megan Aguirre
Associate Planner

MA: jf

Enclosure: Conditions, Map

C:

Department of Public Works
Building Inspection Division
Rafedah Carella
Environmental Health Department
County Assessor
Property owners

RESOLUTION 2016-_____

AUTHORIZING A STREET NAME CHANGE FROM MOUNTAIN HOUSE PARKWAY TO INTERNATIONAL PARKWAY BETWEEN I-205 AND I-580 WITHIN THE CITY'S JURISDICTION

WHEREAS, Prologis, the developer for International Park of Commerce has requested that the City rename the existing road segment of Mountain House Parkway to International Parkway between the I-205 and I-580 interchange, and

WHEREAS, This segment of Mountain House Parkway between I-205 and I-580 is approximately 1.7 miles, of which approximately 1.4 miles (between I-205 and Schulte Road) is within the City of Tracy's jurisdiction and the remaining approximately 0.3 miles (between Schulte Road and I-580) is within San Joaquin County, and

WHEREAS, Renaming the street segment within the City of Tracy's jurisdiction will allow the developer to facilitate installation of new directional signs at interchanges and street segments;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the renaming of Mountain House Parkway to International Parkway between the I-205 and I-580 interchange within the City's jurisdiction. Following adoption of the resolution the City Clerk will promptly forward a copy of the resolution to the Clerk of the Board of Supervisors and the San Joaquin County surveyor as required by Streets & Highway Code section 5016.

* * * * *

The foregoing Resolution was adopted by the Tracy City Council on the 5th day of July 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 4

REQUEST

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

EXECUTIVE SUMMARY

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

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

DISCUSSION

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

On June 2, 2016 and June 7, 2016, pursuant to Tracy Municipal Code, Section 4.12.280, the Fire Department sent a notice to the property owner(s) listed in Exhibit "A" to this staff report. That notice required the said property owner(s) to abate weeds, rubbish, refuse and flammable material on his/her parcel within twenty days, and informed the property owner(s) that a Public Hearing would be conducted on July 5, 2016, where any protests regarding the notice to abate would be heard. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property.

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

STRATEGIC PLAN

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

FISCAL IMPACT

There is \$10,000 budgeted for Fiscal Year 2016-2017, Grounds and Maintenance account, 21122101-5252, that is used for contracting the abatement of weeds, rubbish, refuse and flammable material. There are sufficient funds at this time to accomplish abatement services.

RECOMMENDATION

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

Prepared by: Gina Rodriguez, Administrative Assistant II

Reviewed by: David Bramell, Fire Division Chief
Randall Bradley, Fire Chief
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

Attachment: Exhibit A - 2016 Weed Abatement Parcel List

RESOLUTION _____

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

WHEREAS, On June 2, 2016 and June 7, 2016 pursuant to Tracy Municipal Code, Section 4.12.280, Fire Department staff mailed, via certified mail, a notice to the owners of record listed within Exhibit "A", that the existence of weeds, rubbish, refuse and flammable material on said parcel in the City of Tracy constitutes a nuisance and is dangerous to public health and safety of the inhabitants of the City pursuant to Section 4.12.260 of the Tracy Municipal Code, and

WHEREAS, The notices included an order to abate said nuisance within 20 days and informed the property owner(s) of their opportunity to appear and object to the abatement of such nuisance at a public hearing before the City Council on July 5, 2016, and

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

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

WHEREAS, The Fire Department has budgeted \$10,000 in FY 2016-2017 for weed, rubbish, refuse and flammable material abatement;

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

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 5th day of July, 2016 by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

TRACY FIRE DEPARTMENT WEED ABATEMENT LIST - 7/5/2016						
APN	SITUS ADDRESS	NAME/BUSINESS	MAILING ADDRESS	CITY	STATE	ZIP
232-090-07	1690 DUNCAN DRIVE	OLGA MULLINS	P.O. BOX 469	LIVERMORE	CA	94551
232-090-06	1700 DUNCAN DRIVE	RONALD MULLINS	1377 LILLIAN STREET	LIVERMORE	CA	94550
232-100-19	2260 COSTA COURT	HUI CHUN & TZEWOH LIEW	5486 BIANCA WAY	LIVERMORE	CA	94550
233-130-01	145 W. HIGHLAND AVENUE	JOAN EVANS	202 TERRACE AVENUE	SAN BRUNO	CA	94066
213-363-06	3341 CHERYL COURT	WILLIAM SPENCE	3341 CHERYL COURT	TRACY	CA	95376
232-260-20	1150 W. EATON AVENUE	LAURANCE WILLIAMS	5201 BUENA VISTA AVENUE	FAIROAKS	CA	95628
248-690-01	VACANT LOT - 406 DARLENE WAY	HRBD INVESTMENTS LLC ETAL	533 ALDEN LANE	LIVERMORE	CA	94550
248-690-02	VACANT LOT - 416 DARLENE WAY	HRBD INVESTMENTS LLC ETAL	533 ALDEN LANE	LIVERMORE	CA	94550
248-690-03	VACANT LOT - 426 DARLENE WAY	HRBD INVESTMENTS LLC ETAL	533 ALDEN LANE	LIVERMORE	CA	94550
248-690-04	VACANT LOT - COSE LANE	HRBD INVESTMENTS LLC ETAL	533 ALDEN LANE	LIVERMORE	CA	94550
248-690-05	VACANT LOT - COSE LANE	HRBD INVESTMENTS LLC ETAL	533 ALDEN LANE	LIVERMORE	CA	94550
248-690-06	VACANT LOT - COSE LANE	HRBD INVESTMENTS LLC ETAL	533 ALDEN LANE	LIVERMORE	CA	94550
248-690-07	VACANT LOT - COSE LANE	HRBD INVESTMENTS LLC ETAL	533 ALDEN LANE	LIVERMORE	CA	94550
248-470-26	VACANT LOT - MARS COURT	JIM CARR	862 N. BRAMASOLE AVENUE	MOUNTAIN HOUSE	CA	95391
214-540-27	1655 REYES LANE	PETER & HERLINDA VAN BUREN	4381 GLENHAVEN DRIVE	TRACY	CA	95377
242-040-49	VACANT LOT - DOVE/MITS	MERITAGE HOMES OF CALIF. INC	8800 E. RAINTREE DRIVE #300	SCOTTSDALE	AZ	85260
233-062-09	1647 BESSIE AVENUE	NAZARENE CHURCH SACTO DIST BRD	P.O. BOX 1055	TRACY	CA	95378
248-350-15	4385 OAKRIDGE DRIVE	ASHIT ZINZUWADIA	4385 OAKRIDGE DRIVE	TRACY	CA	95377
233-152-41	1550 PARKER AVENUE	NAVRUP BATH ETAL	3613 PLAUDIT DRIVE	MODESTO	CA	95355
246-140-01	VACANT LOT -26805 S. MAC ARTHUR DRIVE	TEXACO DOWNSTREAM PROPERTIES INC	P.O. BOX 1392	BAKERSFIELD	CA	93302
232-081-27	1961 MCPEAK COURT	GREGORY ROSINSKI	1961 MCPEAK COURT	TRACY	CA	95376
233-042-04	438 W. 23RD STREET	DENELDA WICHMAN	438 W. 23RD STREET	TRACY	CA	95376
238-070-04	3150 W. BYRON ROAD	RICHARD AGUILAR	4681 CLAUDIA COURT	FREMONT	CA	94536
242-220-44	1940 HERON STREET	MICHAEL & BETTY DE CARO	1940 HERON STREET	TRACY	CA	95376
235-065-08	55 W. SEVENTH STREET	GEORGE LYNN	55 W. SEVENTH STREET	TRACY	CA	95376

AGENDA ITEM 5

REQUEST

PUBLIC HEARING TO AUTHORIZE IMPLEMENTATION OF PHASE II WATER RESTRICTION IN TRACY MUNICIPAL CODE 11.28 WATER MANAGEMENT

EXECUTIVE SUMMARY

On May 9, 2016, Governor Brown issued Executive Order B-37-16 directing actions aimed at using water wisely, reducing water waste, and improving water efficiency for the years and decades ahead. The Executive Order, in part, directed the State Water Resources Control Board (State Water Board) to extend the emergency regulations for urban water conservation through the end of January 2017. As called for in the Executive Order, it anticipated the State Water Board will be working closely with the Department of Water Resources and other agencies to define and establish water efficiency standards for the state to ensure a more reliable water supply and to make state water users more resilient and prepared over the long term.

In response to this Executive Order, the State Water Board adopted a statewide water conservation approach that replaces the prior percentage reduction-based water conservation standard with a local approach that mandates urban water suppliers act now to ensure at least a three year supply of water to their customers under drought conditions.

The City manages its water conservation approach through Chapter 11.28 of the Tracy Municipal Code. The proposed reduction from Phase IV water restrictions to Phase II of the Tracy Municipal Code 11.28 Water Management will comply with the Governor's Order and State Water Board local supply reliability approach. The proposed Resolution implements Phase II water restrictions from the Tracy Municipal Code and meets the State's new requirement.

DISCUSSION

Background.

In his April 1, 2015 Executive Order, Governor Brown mandated a 25 percent water use reduction by users of urban water supplies across California. In May 2015, the State Water Board adopted an emergency regulation requiring a cumulative 25 percent reduction in overall potable urban water use over the following 9 months. The May 2015 Emergency Regulation used a sliding scale for setting conservation standards, so that communities that have already reduced their residential gallons per capita per day (RGPCD) through past conservation had lower mandates than those that had not made such gains since the last major drought. Conservation tiers for urban water suppliers were set between eight percent and 36 percent, based on residential per capita water use for the months of July - September 2014. The City of Tracy was given a 28% tiered conservation rate at that time and then was reduced further to 25%.

During the 2014/2015 emergency drought mandates, statewide water conservation was unprecedented. In the last 10 months alone, the state realized nearly a 24 percent savings in water use as compared to same period 2013, resulting in some 1.30 million acre-feet of water conserved throughout California, enough to supply 6.5 million people with water for an entire year. The City of Tracy on average over the last 10 months consumed 25% less water over 2013.

Winter 2016 saw improved hydrologic conditions in parts of California. More rain and snow fell in Northern California as compared to Central and Southern California; yet, due to California's water storage and conveyance systems, concerns over supply reliability have eased compared to last year throughout urban California. Consequently, the unprecedented mandatory state-driven conservation standards in place over the last ten months must transition to conservation standards based on supply reliability considerations at the local level. Water suppliers will continue to report their monthly water use to the State Water Board however their conservation standard will be based on any shortfall in projected supply over three drought years.

The adopted regulation establishes standards with locally developed conservation standards based upon each agency's specific circumstances. The regulation now requires individual urban water suppliers to self-certify the level of available water supplies they have assuming three additional dry years, and the level of conservation necessary to assure adequate supply over that time.

The new regulation also keeps in place the monthly reporting requirements and specific prohibitions against certain water uses. Those prohibitions include watering down a sidewalk with a hose instead of using a broom or a brush, or overwatering a landscape to where water is running off the lawn, over a sidewalk and into the gutter. Prohibitions directed to the hospitality industry also remain in place. Prohibitions against home owners associations taking action against homeowners during a declared drought remain as well. As directed by Governor Brown's Executive Order B-37-16, the Board will separately take action to make some of these requirements and prohibitions permanent.

Implementation, Education and Enforcement

The City has continued to engage the community through educational messages on utility billing envelopes and statements, conservation advertisements in local movie theaters, and by tracking and responding to questions, inquiries and/or complaints through the City's Government Outreach program and mobile app. The City has taken steps to strategically reduce watering at public facilities, and implemented part-time water patrol during regular work hours.

Water conservation concerns and/or complaints are referred to the Water Resources Analyst for investigation. Typically, staff will investigate the issue and provide water customers with educational materials about conservation and ways to manage/ monitor water usage. If the customer refuses to comply, a written letter would be issued encouraging compliance to avoid penalties. If the problem continues, a citation in accordance with City's municipal code could be issued. City fines would range between \$100 for a first violation to \$500 by a third violation and up to \$500 for a first violation if

imposed by a State agency. However, staff's past practice is to use education and outreach before taking punitive action to achieve water conservation goals.

Drought Compliance Financial Assistance

The City has currently budgeted \$29,050 in rebates and incentives to encourage drought compliance for its utility customers. The current program provides a rebate to replace existing 3 gallon or higher use toilets with a more water efficient one in pre-1994 residential and commercial properties. This program meets compliance with the City's Water Conservation Plan. The state has several grants available to assist in water conservation efforts throughout the state, however, these grants are primarily aimed at under-served and disadvantaged communities and therefore the City of Tracy does not qualify. Staff will continue exploring other financial opportunities to assist its consumers in achieving compliance with State and Federal regulations.

Landscapes in New and Re- Development

The City of Tracy requires compliance with the Water Efficient Landscape Ordinance for all qualifying projects. Similarly, staff will also be critical in the approval of new landscapes in medians and behind sidewalks to ensure compliance with all state regulations. Staff is also working to update existing drought resistant landscape standards for new and re- developments to achieve the required compliance.

Overall, the City of Tracy is in a good position to continue to provide water to its customers and to reduce water consumption by replacing the irrigation of the public right of ways landscapes with recycled water in accordance with the adopted Master Plans.

Proposed Resolution

The City's existing water regulations (TMC Chapter 11.28) include five phases of water restrictions, to be implemented depending on the severity of drought conditions. The City Council is authorized to implement the phases by resolution.

Under the proposed Resolution, Phase II would be implemented immediately (in response to the new conservation standard).

These restrictions will continue in place until adequate precipitation alleviates the severe drought. If the drought continues into a fifth year and beyond, additional emergency water restrictions may be required.

Under TMC section 11.28.180, Phase II restrictions consist of the following:

"11.28.180 - Phase II water restrictions

Under Phase II, the Phase I water measures become mandatory. In addition, the following restrictions apply to outside potable water uses:

- (a) Landscapes (including residential, commercial, industrial, municipal and other public agencies or entities) may be irrigated only as follows:
 - (1) At any time provided that a person is present outdoors and remains in full control of the water usage;
 - (2) Unattended between the hours of 7:00 p.m. and 9:00 a.m.

- (3) At any time provided that only drip, microspray or bubbler irrigation is used.
- (b) The washing of commercial or non-commercial hardscapes or other outdoor surfaces is prohibited, except:
 - (1) where the use of a high powered pressure washer is required as part of a business (painting, detailing, etc.); or
 - (2) in instances where a spill of a hazardous material or other substance which creates a public nuisance occurs and where it is not feasible to clean the affected area in any other manner. The washing of commercial or non-commercial hardscapes or furniture utilizing a bucket is allowed at any time. When such uses occur, the discharge of the contaminated water must be in compliance with TMC section 11.34.050, Prohibition of illegal discharges.
- (c) No customer may add water above the minimum level necessary to comply with the health or operational requirements for a public or private pool, hot tub, or jacuzzi circulation.
- (d) Individual residential car washing is allowed only with a bucket and a hose that is fitted with a shut-off nozzle or flow restriction device attached to it that causes it to cease dispensing water immediately when not in use. When feasible, the vehicle should be pulled onto landscaped area to be cleaned.
- (e) There are no restrictions regarding the use of recycled or reuse water for outdoor landscape use.
- (f) New turf, grass, ground cover or bedding plants shall be irrigated consistent with this section. In this subsection, the term “new” means the earth was tilled for the express purpose of growing such plants, and the irrigation establishing the plants is for 30 days or less.
- (g) All ornamental fountains, ponds and water features must have a recirculating system as part of its operation or must be turned off.”

STRATEGIC PLAN

This agenda item does not relate to the Council’s Strategic Plans.

FISCAL IMPACT

There is no fiscal impact to the City’s General Fund. Increased water usage will result in increased revenue to the Water Fund. Monthly revenue from utility billing, along with the Water Fund Balance, will continue to be monitored to ensure prudent fiscal management.

RECOMMENDATION

It is recommended that the City Council conduct a public hearing and adopt a resolution authorizing Phase II water restrictions as contained in the Chapter 11.28 Water Management of the Tracy Municipal Code.

Agenda Item 5

July 5, 2016

Page 5

Prepared by: Stephanie Reyna-Hiestand, Management Analyst II, Utilities Department

Reviewed by: Kul Sharma, Utilities Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A: TMC 11.28 Water Management - Phase 1 to Phase V Water Restrictions

ATTACHMENT A

11.28.170 - Phase I water conservation measures.

This section applies to any person, owner or manager responsible for the day-to-day operations of a premise.

- (a) No customer shall permit flagrant water waste or incidental water runoff.
- (b) Any customer must properly maintain all plumbing and irrigation systems and control all leaks within 72 hours of discovery or notification;
- (c) Each customer must practice prudent water conservation measures. Examples include:
 - (1) A hose that dispenses potable water shall be fitted with a shut-off nozzle or flow restriction device attached to it that causes it to cease dispensing water immediately when not in use;
 - (2) The planting of drought tolerant landscapes; the installation and maintenance of water-efficient irrigation systems such as drip and bubble irrigation with weather or soil-based controllers; and the installation of sprinkler heads with a low flow rate appropriate for the landscape to prevent overwatering and runoff;
 - (3) Watering in the late night or early morning hours during non-windy periods.
 - (4) Not irrigating during or within 48 hours of precipitation.
- (d) All swimming pools, hot tubs and spas installed after May 1, 1993 must have a separation tank and water recovery system installed in the filter backwash system, with a 90% water recovery standard.
- (e) Each swimming pool, hot tub and spa installed after July 15, 2015 must have a non-permeable floating cover or equivalent device that provides 90% surface coverage.
- (f) Compliance with related state laws, including:
 - (1) California Civil Code sections 1101.1 – 1101.8 related to installation of water conserving plumbing fixtures.
 - (2) All new development and re-development must comply with the Department of Water Resources Water Efficient Landscape Ordinance and CalGreen Building Standards. (23 Cal. Code of Regs. Chapter 2.7, beginning at section 490, and TMC section 9.14.020.)”

“11.28.180 - Phase II water restrictions

Under Phase II, the Phase I water measures become mandatory. In addition, the following restrictions apply to outside potable water uses:

- (a) Landscapes (including residential, commercial, industrial, municipal and other public agencies or entities) may be irrigated only as follows:
 - (1) At any time provided that a person is present outdoors and remains in full control of the water usage;
 - (2) Unattended between the hours of 7:00 p.m. and 9:00 a.m.
 - (3) At any time provided that only drip, microspray or bubbler irrigation is used.
- (b) The washing of commercial or non-commercial hardscapes or other outdoor surfaces is prohibited, except:
 - (1) where the use of a high powered pressure washer is required as part of a business (painting, detailing, etc.); or

- (2) in instances where a spill of a hazardous material or other substance which creates a public nuisance occurs and where it is not feasible to clean the affected area in any other manner. The washing of commercial or non-commercial hardscapes or furniture utilizing a bucket is allowed at any time. When such uses occur, the discharge of the contaminated water must be in compliance with TMC section 11.34.050, Prohibition of illegal discharges.
- (c) No customer may add water above the minimum level necessary to comply with the health or operational requirements for a public or private pool, hot tub, or jacuzzi circulation.
- (d) Individual residential car washing is allowed only with a bucket and a hose that is fitted with a shut-off nozzle or flow restriction device attached to it that causes it to cease dispensing water immediately when not in use. When feasible, the vehicle should be pulled onto landscaped area to be cleaned.
- (e) There are no restrictions regarding the use of recycled or reuse water for outdoor landscape use.
- (f) New turf, grass, ground cover or bedding plants shall be irrigated consistent with this section. In this subsection, the term "new" means the earth was tilled for the express purpose of growing such plants, and the irrigation establishing the plants is for 30 days or less.
- (g) All ornamental fountains, ponds and water features must have a recirculating system as part of its operation or must be turned off.

"11.28.190 - Phase III water restrictions.

In addition to the restrictions of Phases I and II, the following restrictions apply:

- (a) Landscapes, including residential, commercial, industrial, municipal and other public agencies or entities, may be irrigated only as follows:
 - (1) Odd-numbered addresses may irrigate only on Mondays, Wednesdays and Saturdays between 7:00 p.m. and 9:00 a.m.
 - (2) Even-numbered addresses may irrigate only on Tuesdays, Thursdays and Sundays between 7:00 p.m. and 9:00 a.m.
- (b) Public agencies may not use potable water to irrigate ornamental turf or grass on public street medians.
- (c) No restaurant may serve water except upon customer request. Restaurants shall post at every table and in restrooms a notice of drought conditions and water restrictions. Acceptable methods of notification to patrons include notices or tables tents placed on the tables or in the menus and in restrooms.
- (d) The owner and manager of every hotel, motel, inn, guest house, and every other short-term commercial lodging shall post notice of drought conditions information in each guest room."

"11.28.200 - Phase IV water restrictions

In addition to the restrictions of Phases I, II and III, the following restrictions apply. This phase has a goal of 25% or more reduction in consumer water usage. If information is available, the City may establish a water budget for each consumer household, consistent with California Water Code section 10608.20.

- (a) Except as otherwise provided, individual residential car washing shall be allowed only with the use of a bucket.
- (b) Automobile and recreational vehicle dealerships are allowed to continue washing vehicles with a hose that is fitted with a shut-off nozzle or flow restriction device attached to it that causes it to cease dispensing water immediately when not in use, under the following conditions:

- (1) Automobiles and recreational vehicles may be washed only on Fridays using the method outlined above.
- (2) An automobile, motorcycle, boat or motorhome may be washed the day before or the day of delivery to the purchaser using the method outlined above.
- (c) There are no restrictions on laundromats.
- (d) There are no restrictions for car wash facilities employing the use of water recirculating equipment.
- (e) The owner and manager of every facility with a public restroom shall post in every such public restroom a placard or decal with notice of drought condition information.
- (f) The owner or manager of a newly constructed home or business may only irrigate the landscaping with potable water in a manner consistent with regulations or other requirements established by the California Building Standards Commission.
- (g) No one may add water or refill a swimming pool, spa or hot tub unless it has a separation tank and water recovery system installed in the filter backwash system, with a 90% water recovery standard.”

RESOLUTION _____

AUTHORIZING IMPLEMENTATION OF PHASE II WATER RESTRICTION IN TRACY
MUNICIPAL CODE 11.28 WATER MANAGEMENT

WHEREAS, Governor Brown has declared a continued drought directing actions aimed at using water wisely, reducing water waste and improving water efficiency for years to come, and

WHEREAS, the State Water Board has adopted a statewide water conservation approach that replaces the prior percentage reduction-based water conservation standard with a local approach that mandates urban water suppliers to act now to ensure at least a three year supply of water, and

WHEREAS, Winter 2016 saw improved hydrologic conditions in parts of California and due to its water storage and conveyance systems, concerns over supply reliability have eased compared to last year throughout urban California, and

WHEREAS, statewide water conservation for the past 10 months alone has had nearly a 24 percent savings in water as compared to the same period in 2013 with the City of Tracy on average conserving nearly 25%, and

WHEREAS, The need for water conservation will continue until adequate precipitation alleviates the drought, and if the drought continues additional emergency water conservation regulations may be required, and

WHEREAS, Tracy Municipal Code Section 11.28.130, Drought declaration, authorizes the City Council to make changes in the phases of water restrictions by Resolution;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby authorizes implementation of Phase II water restrictions under Tracy Municipal Code section 11.28.180.

The foregoing Resolution 2016-_____ was adopted by Tracy City Council on the 5th day of July, 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 6

REQUEST

PUBLIC HEARING TO CONSIDER APPROVING A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN TO CONSTRUCT AN APPROXIMATELY 16,900 SQUARE FOOT AUTOMOTIVE REPAIR FACILITY WITH ASSOCIATED PARKING AND LANDSCAPING LOCATED ON THE NORTH SIDE OF AUTO PLAZA DRIVE BETWEEN THE VOLKSWAGEN DEALERSHIP AND THE TRACY COLLISION AUTO BODY SHOP

EXECUTIVE SUMMARY

The request is a Planned Unit Development Preliminary and Final Development Plan (Application No. D16-0002) to develop an auto body repair facility (Caliber Collision) along Auto Plaza Drive (Assessor Parcel Number 212-270-14). The request includes the sale of a City-owned, unused, 42-foot-wide strip of property to the business owner for development with the project. Staff and the Planning Commission recommend approval of the project.

DISCUSSION

Project Location

The proposal is to establish a 16,900 square foot, single-story, automotive repair facility (Caliber Collision) on approximately 2.5 acres. The site is located on the north side of Auto Plaza Drive (Attachment A) adjacent to the east of the recently approved Tracy Collision automotive repair facility. The City-owned storm drainage basin, Detention Basin 10 (DB10), is adjacent to the north of the site (APN 212-040-11). The vicinity of the site is characterized as a consumer and business service neighborhood adjacent to the West Valley Mall and Tracy Pavilion regional retail area. Other nearby businesses include auto body repair, a tire store, and numerous auto dealers with auto service.

Land Use Compatibility

The site is designated Commercial in the General Plan, located within the I-205 Corridor Specific Plan area, and designated Service Commercial. Automotive repair uses are conditionally permitted uses in this land use designation.

Vehicle repairs will be conducted inside the facility, thereby reducing noise and visual impacts on surrounding businesses. The proposed automotive repair facility shares many characteristics with the surrounding consumer-oriented businesses, including the recently approved Tracy Collision shop, in terms of size and scale of the building, hours of operation, and nature of customers. The project and proposed land use are anticipated to be well suited to the proposed location and its vicinity.

Proposed Preliminary and Final Plan

The project meets City standards regarding the site design, architecture, parking, landscaping, and other design elements. Attachment B is the site plan, preliminary grading and utility plan, preliminary landscape plan, and exterior building elevations for the proposed project. The building will be centrally located on the site, with the primary entrance and porte cochere fronting onto Auto Plaza Drive and parking on all four sides of the building. One-hundred and twenty off-street parking spaces are proposed, which is in excess of the number required by I-205 Corridor Specific Plan standards for automotive repair. The rear two-thirds of the site will be enclosed with a decorative wrought iron fence, with gates on both sides of the building, to match the quality of the fencing used on nearby sites. Two two-way drive aisles are proposed on Auto Plaza Drive, one of which is shared with the adjacent Tracy Collision site per a condition of the parcel map that subdivided these lots in the 1990's.

The building is constructed of metal finished with beige EIFS veneer and an earth-toned stone wainscot around all four sides of the building. The front entry is architecturally emphasized with a tower and a porte cochere and is finished with a combination of stone, brick veneer, and storefront glazing. These finishes will complement the quality of architecture present in the vicinity. Rooftop equipment will be conditioned to be fully screened from public view by a parapet, and ground-mounted equipment will be conditioned to be screened by the building and landscaping or screen walls.

Sale of City-Owned Property

The subject property is adjacent to a City-owned and maintained storm-drain pond (DB10). The City acquired and developed DB10 approximately 20 years ago.

Between the City's DB10 and the proposed Caliber Collision site is an approximately 42-foot-wide strip of property (approximately 11,805 square feet in area), formerly used as a drainage ditch by the surrounding farmland in the Naglee-Burke Irrigation District. This strip is not a separate, legal lot of record; it is part of the parcel purchase by the City approximately 20 years ago, for the development of DB10. Use of the ditch by area farms was discontinued many years ago. The City has no plans or intention to use the 42-foot-wide strip of property. All of the City's DB10 improvements, including perimeter fence and raised service drive, are outside of the 42-foot-wide strip of property. In its current, undeveloped condition, the 42-foot-wide strip of property is a maintenance issue for the City and an attractive nuisance for members of the public.

When Caliber Collision began its preliminary application discussions, City staff asked Caliber Collision if it would be interested in enlarging its site by approximately 42 feet by purchasing that strip of City-owned property. This would be in keeping with the adjacent Tracy Collision and Volkswagen dealership which developed their sites by incorporating the City-owned strip of property into their projects.

Caliber Collision has expressed interest in purchasing the strip. This will give Caliber Collision the right to maintain it at a standard consistent with the rest of the site and

also give it the opportunity to expand its site in the future. The sale would also relieve the City from future maintenance of the unused strip. Sale of the strip is consistent with the City's General Plan, which designates the subject property Commercial. State law (Government Code Section 65402(a)) requires the Planning Commission to make such a determination prior to sale of City property

Recognizing that this potential purchase of City-owned property would occur after consideration of this application, staff has included findings and conditions of approval for development of the existing City-owned property if the purchase is approved and finalized. This will prevent the Applicant from having to come back to the Commission for permit amendments just to incorporate and landscape the 42-foot wide strip into the planned development. Prior to the sale of the City-owned property, staff will initiate the process for sale of City-owned property and request City Council approval of the sale and purchase price of the land, which has not yet been determined.

CEQA Documentation

The project is Categorically Exempt from CEQA, pursuant to CEQA Guidelines Section 15332, In-Fill Development Projects. The Section 15332 exemption pertains to projects that meet the following criteria: the project is consistent with the General Plan designation and zoning, the site is located within the City limits, the site is on less than five acres and is substantially surrounded by urban uses, the site has no value as habitat for protected species of plants or animals, the site can be served by required public utilities and services, and the project would not result in significant effects relating to traffic, noise, air quality, or water quality. The project meets all of these criteria, and therefore, is categorically exempt from additional CEQA documentation.

Planning Commission Consideration of the Project

On June 8, 2016, the Tracy Planning Commission conducted a public hearing to review the project. A letter of opposition was submitted that evening by Tracy Collision, a neighboring property owner. Tracy Collision requested denial of the project, citing concerns related to business competition in the immediate vicinity and questioning the business practices of Caliber Collision. Because these matters are not related to zoning and land use, the Planning Commission was not able to consider project denial based on those matters alone. By a majority vote with one recusal, the Planning Commission took the following actions:

1. Approved a Conditional Use Permit (CUP) for the project, subject to the condition that the CUP will not take effect until and unless the City Council approves the PUD Preliminary and Final Development Plan
2. Recommended that the City Council approve the Planned Unit Development Preliminary and Final Development Plan
3. Determined that the potential sale of the approximately 42-foot-wide strip of property from the City to the Tracy Collision developer is in conformance with the General Plan

STRATEGIC PLANS

The proposal is a routine item without direct connection to the Council's Strategic Plans.

FISCAL IMPACT

This agenda item will not require any specific expenditure from the General Fund.

RECOMMENDATION

Staff recommends that the City Council approve the Caliber Collision Planned Unit Development Preliminary and Final Development Plan.

Prepared by: Kimberly Matlock, Associate Planner

Reviewed by: Bill Dean, Assistant Development Services Director
Andrew Malik, Development Services Director

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Location Map

Attachment B – Site Plan, Civil Plans, Landscape Plan, Building Elevations, and Details*

*Attachment is oversized and available for review at the Development Services Department

LOCATION MAP



RESOLUTION 2016-_____

APPROVING A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR AN APPROXIMATELY 16,900 SQUARE FOOT AUTOMOTIVE REPAIR FACILITY WITH ASSOCIATED PARKING AND LANDSCAPING ON AN APPROXIMATELY 2.5-ACRE SITE LOCATED ON THE NORTH SIDE OF AUTO PLAZA DRIVE BETWEEN THE VOLKSWAGEN DEALERSHIP AND THE TRACY COLLISION AUTO BODY SHOP

WHEREAS, On January 5, 2016, Stantec Architecture, Inc. filed a development application for Caliber Collision, an approximately 16,900 square foot automotive repair facility on a 2.5 acre site on Auto Plaza Drive, which includes an application for a Planned Unit Development (PUD) Preliminary and Final Development Plan (D16-0002) and a Conditional Use Permit (CUP16-0004) (the “project”), and

WHEREAS, The subject property is located within the I-205 Corridor Specific Plan, which requires PUD Preliminary and Final Development Plan for new building and site development, and

WHEREAS, In accordance with Tracy Municipal Code (TMC) Section 10.08.1830, the Planning Commission shall review and make recommendation to the City Council regarding a PUD Preliminary and Final Development Plan, and TMC Section 10.08.4250 et seq. authorizes the Planning Commission to take final action on a Conditional Use Permit application, and

WHEREAS, The project is consistent with the City of Tracy General Plan, in that the site is designated Commercial by the General Plan, and automotive repair and other vehicle services are among the allowed uses in the Commercial land use designation; the project will pay all applicable development impact fees to mitigate its proportionate impact on public facilities; and the project is consistent with goals and policies of the General Plan, including economic development, circulation, noise, and air quality, and

WHEREAS, The project is consistent with the I-205 Corridor Specific Plan and the City Design Goals and Standards, including public utilities, site design, architecture, off-street parking and circulation, land use, and landscaping

WHEREAS, The project is categorically exempt from CEQA based on Guidelines Section 15332 which applies to in-fill projects which are consistent with the General Plan and zoning regulations, and other specified characteristics, all of which apply to this project, and

WHEREAS, The Planning Commission conducted a public hearing to consider the project on June 8, 2016, and

WHEREAS, The City Council conducted a public hearing to consider the project on July 5, 2016;

NOW, THEREFORE, BE IT RESOLVED, The City Council approves the PUD Preliminary and Final Development Plan (D16-0002), subject to the conditions contained in Exhibit 1.

* * * * *

|

The foregoing Resolution 2016-_____ was adopted by the City Council on the 5th day of July, 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

City of Tracy
Conditions of Approval
Caliber Collision Auto Body Shop
Application No. D16-0002
July 5, 2016

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: An approximately 16,900 sq ft automotive repair facility and associated parking and landscape areas

The Property: An approximately 2.5-acre site located on the north side of Auto Plaza Drive (Assessor's Parcel Number 212-270-14) and potential future purchase of an approximately 42-foot wide strip of Detention Basin 10 (Assessor's Parcel Number 212-040-11) approximately 0.27 acres in size. The potential total development area is approximately 2.77 acres.

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Development Services Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code ordinances, resolutions, policies, procedures, the I-205 Corridor Specific Plan, and the City's Design Documents (including the Standard Plans, Standard Specifications, and relevant Public Facility Master Plans).
- d. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project, Application Number D16-0002. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the plans received by the Development Services Department on May 25, 2016, which include the site plan, civil plans, landscape plan, floor plan, and elevations.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
- the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
 - California State Title 24 and Title 19
- A.6. Compliance with City regulations. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City regulations, including, but not limited to, the Tracy Municipal Code (TMC), Standard Plans, the I-205 Corridor Specific Plan, and Design Goals and Standards.
- A.7. Protest of fees, dedications, reservations, or other exactions. Pursuant to Government Code section 66020, including section 66020(d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.

B. Development Services Department, Planning Division Conditions

Contact: Kimberly Matlock (209) 831-6430 kimberly.matlock@ci.tracy.ca.us

- B.1. Potential Future Purchase of City-owned Property. In the event the developer purchases the approximately 42-foot-wide strip of City-owned property (approximately 0.27 acres of APN 212-040-11), that is adjacent to the north of their parcel, the following condition shall apply:

Prior to the issuance of a building, grading, or other construction permit for the currently owned strip of City property, the developer shall obtain written permission from the City to access, use, and improve the strip as shown in the plans received on May 25, 2016. Prior to final inspection and Certificate of Occupancy, the developer shall:

- a. Record the transfer of title of the approximately 42-foot-wide strip of purchased City property and submit a copy of the Grant Deed to the City.
- b. Apply for a lot line adjustment or other instrument which shall be approved by the City and which Developer shall record to relocate the property line at the north end of APN 212-270-14 approximately 42 feet north, resulting in one lot

for the approximately 2.77-acre site, in accordance with a purchase agreement or other written agreement with the City for the purchase of this property and in compliance with this development application.

- B.2. Parking area. Before the approval of a building permit, the applicant shall submit the following to the satisfaction of the Development Services Director:
- B.2.1 Site plans and construction details that demonstrate 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.
 - B.2.2 Detailed plans that demonstrate the parking lot is striped in accordance with Standard Plan 154.
 - B.2.3 Detailed plans that demonstrate sidewalk, landscape planters, and bio-retention areas perpendicular to parking stalls overhang up to 24 inches into the parking stall in place of wheel stops where feasible. Any landscape planter overhang may not be double-counted toward the required amount of parking area landscaping.
 - B.2.4 Bicycle parking spaces shall be provided in accordance with Tracy Municipal Code Section 10.08.3510.
- B.3. Landscaping & irrigation. Before the approval of a building permit, the applicant shall submit the following to the satisfaction of the Development Services Director:
- B.3.1. Detailed landscape and irrigation plans consistent with the Tracy Municipal Code and the I-205 Corridor Specific Plan for parking area landscaping.
 - B.3.2. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.
 - B.3.3. Each planter shall contain a combination of trees, shrubs, and groundcover. No planter area shall be comprised of solely of mulch or rock, including the landscape strips adjacent to parking stalls along the east and west perimeters of the site.
 - B.3.4. Where trees are planted ten feet or less from a sidewalk or curb, root barriers dimensioned 8 feet long by 24 inches deep shall be provided adjacent to such sidewalk and curb, centered on the tree.
 - B.3.5. Landscape & Irrigation Maintenance. Prior to the issuance of a building permit, the Developer shall execute a two-year landscape and irrigation maintenance agreement and submit financial security, such as a performance bond, to ensure the success of all on-site landscaping for the term of the agreement. The security amount shall be equal to \$2.50 per square foot of the landscaped area or equal to the actual labor and material installation cost of all on-site landscaping and irrigation.

- B.4. Architecture. Before final inspection or certificate of occupancy, the applicant shall do the following to the satisfaction of the Development Services Director:
- B.4.1. The exterior paint booth walls and any doors located adjacent to a wall that is two tones in color shall be painted to match the two color tones.
 - B.4.2. The back of parapets and towers that are visible from any public right-of-way will be fully finished match the front of the parapets and towers, which may include cornices, materials, textures, and paints.
- B.5. Lighting. Before the issuance of a building permit, the applicant shall submit detailed plans that demonstrate a minimum of one foot candle throughout the parking area as defined in TMC Section 10.08.3450.
- B.6. Screening utilities and equipment.
- B.6.1. Before final inspection or certificate of occupancy, no roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from any public right-of-way, including, but not limited to, Auto Plaza Drive, Auto Plaza Way, Naglee Road, Larch Road, and Power Road, to the satisfaction of the Development Services Director. Plans to demonstrate such equipment screened behind a parapet wall shall be submitted to the City prior to the issuance of a building permit.
 - B.6.2. Before the issuance of a building permit, the applicant shall submit detailed plans for the construction of the trash and recycling enclosure. The enclosure shall be designed and appropriately sized for this project, including allowance for recycling collection, to the satisfaction of the Development Services Director. The trash and recycling collection enclosure shall include a solid roof structure. The enclosure, including the roof, shall be architecturally compatible with the commercial building, which includes but is not limited to, design, materials, and color. If bollards are desired for additional protection, they shall be constructed internal to the enclosure.
 - B.6.3. Before final inspection or certificate of occupancy, all PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Development Services Director.
 - B.6.4. Before final inspection or certificate of occupancy, all vents, gutters, downspouts, flashing, and electrical conduits shall be internal to the structures and other ground-mounted, wall-mounted, or building-attached utilities shall be painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Development Services Director.

- B.6.5. No bollards are permitted to be installed in the front area of the site where they would be generally visible. Any bollards installed in the rear of the site behind the fencing shall be painted to match the nearest improvement, such as the building wall, to the satisfaction of the Development Services Director.
- B.7. Signs. No signs are approved as a part of this application. Prior to the installation of signage, the applicant shall obtain applicable sign and building permits in accordance with Tracy Municipal Code (TMC) standards to the satisfaction of the Development Services Director.
- B.8. Habitat conservation. Prior to issuance of any permits for ground disturbance, the applicant shall comply with the San Joaquin County Habitat Conservation Division and a signed copy of the Incidental Take Minimization Measures shall be submitted to the City as verification of compliance.
- B.9. Conditions of Approval in Construction Plans. Prior to the approval of a building permit, these Conditions of Approval shall be included in the construction plan set for the building permit.

C. Development Services Department, Engineering Division Conditions

Contact: Criseldo Mina (209) 831-6425 cris.mina@ci.tracy.ca.us

C.1. Grading Permit

The City will not accept grading permit application for the Project as complete until the Developer has provided all relevant documents related to said grading permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.1.1. Grading and Drainage Plans prepared on a 24" x 36" size polyester film (mylar). Grading and Drainage Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil Engineer.
- C.1.2. Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.
- C.1.3. Three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) for the Project with a copy of the Notice of Intent (NOI) submitted to the State Water Quality Control Board (SWQCB) and any relevant documentation or written approvals from the SWQCB, including the Wastewater Discharge Identification Number (WDID#).
 - a. After the completion of the Project, the Developer is responsible for filing the Notice of Termination (NOT) required by SWQCB. The Developer shall provide the City with a copy of the completed Notice of Termination.
 - b. The cost of preparing the SWPPP, NOI and NOT, including the filing fee of the NOI and NOT, shall be paid by the Developer.

- c. The Developer shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the applicable provisions of the City's Storm Water Management Program.

C.1.4. Two (2) sets of the Project's Geotechnical Report signed and stamped by a licensed Geotechnical Engineer licensed to practice in the State of California, as required in Condition C.3.1.a (i) below. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, percolation rate, and elevation of highest observed groundwater level.

C.1.5. A copy of the approved Fugitive Dust and Emissions Control Plan that meets San Joaquin Valley Air Pollution Control District (SJVAPCD)

C.1.6. Documentation of any necessary authorizations from Regional Water Quality Control Board (RWQCB)

C.1.7. Two (2) sets of Hydrologic and Storm Drainage Calculations for the design of the on-site storm drainage system and for determining the size of the project's storm drainage connection, as required in Conditions C.3.1.b (i) below.

C.2. Encroachment Permit

No application for encroachment permit will be accepted by the City as complete until the Developer provides all relevant documents related to said encroachment permit required by the applicable City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.2.1. Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (Mylar) and these Conditions of Approval. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

C.2.2 Two (2) sets of structural calculations signed and stamped by a Structural Engineer licensed in the State of California, as required in Condition C.3.1.a (ii), below.

C.2.3. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.

C.2.4. If required, a signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC), and the OIA. The Developer's obligations in the OIA shall be deemed to be satisfied upon City Council's acceptance of the public improvements and release of the Improvement Security.

- C.2.5. Check payment for the applicable of engineering review fees which include plan checking, permit and agreement processing, testing, construction inspection, and other applicable fees as required by these Conditions of Approval. The engineering review fees will be calculated based on the fee rate adopted by the City Council on April 15, 2014, per Resolution 2014-059.
- C.2.6. Traffic Control Plan signed and stamped by a Registered Traffic Engineer and Tracy Fire Code Official's signature on the Utility Improvement Plans indicating their approval for the Project's fire service connection and fire and emergency vehicle access. The written approval from the Fire Department required in this section shall be obtained by the Developer, prior to City Engineer's signature on the improvement plans.

C.3. Improvement Plans

Improvement Plans shall contain the design, construction details and specifications of public improvements that is/are necessary to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (Mylar) and shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. The Improvement Plans shall be completed to comply with City Regulations, these Conditions of Approval, and the following requirements:

C.3.1. Grading and Storm Drainage Plans

C.3.1.a. Site Grading

- (i) Include all proposed erosion control methods and construction details to be employed and specify materials to be used. All grading work shall be performed and completed in accordance with the recommendation(s) of the Project's Geotechnical Engineer. A copy of the Project's Geotechnical Report must be submitted with the Grading and Storm Drainage Plans.
- (ii) When the grade differential between the Project Site and adjacent property(s) exceeds 12 inches, a reinforced or masonry block, or engineered retaining wall is required for retaining soil. The Grading Plan shall show construction detail(s) of the retaining wall or masonry wall. The entire retaining wall and footing shall be constructed within the Project Site. A structural calculation shall be submitted with the Grading and Storm Drainage Plans.
- (iii) An engineered fill may be accepted as a substitute of a retaining wall, if the grade differential is less than 2 feet and subject to approval by the City Engineer. The Grading and Storm Drainage Plans must show the extent of the slope easement(s). The Developer shall be responsible for obtaining permission from owner(s) of the adjacent and affected property(s). The slope easement must be recorded, prior to the issuance of the final building certificate of occupancy.

- (iv) Site grading shall be designed such that the Project's storm water can surface drain directly to a public street that has a functional storm drainage system with adequate capacity to drain storm water from the Project Site, in the event that the on-site storm drainage system fails or it is clogged. The storm drainage release point is recommended to be at least 0.70 foot lower than the building finish floor elevation and shall be improved to the satisfaction of the City Engineer.

C.3.1.b. Storm Drainage

- (i) The Developer shall design and install the Project's permanent drainage connection(s) to the City's existing storm drainage facility located on Auto Plaza Drive per City Regulations and as approved by the City Engineer. Storm drainage calculations for the sizing of the on-site storm drainage system must be submitted with the Improvement Plans.
- (ii) The design and construction details of the Project's storm drainage connection shall meet City Regulations and shall comply with the applicable requirements of the *Multi-Agency Post-Construction Stormwater Standards (Manual)* adopted July 1, 2015, and any subsequent amendments.
- (iii) Prior to the final inspection of the first building to be constructed on the Property, the Developer shall submit a signed and notarized Stormwater Treatment Facilities Maintenance Agreement (STFMA) as a guarantee for the performance of Developer's responsibility towards the repair and maintenance of on-site storm water treatment facilities. Calculations related to the design and sizing of on-site storm water treatment facilities must be submitted with the STFMA and the Grading and Storm Drainage Plans.
- (iv) Developer shall install an 18" storm drain line within the existing 20' wide private drainage easement for the benefit of the property to the east for future connection. Developer may request establishment of a benefit district or other means acceptable to the City for reimbursement of cost of installation of the storm drain line for the property to the east when it develops and connects to the said storm drain line.

C.3.2. Improvement Plans

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping, relocating existing utilities that may be in conflict with the water connection(s), and other improvements shall be paid by the Developer.

If water main shut down is necessary, the City will allow a maximum of 4 hours water supply shutdown. The Developer shall be responsible for

notifying residents or business owner(s), regarding the water main shutdown. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least 72 hours before the water main shutdown. Prior to starting the work described in this section, the Developer shall submit a Water Shutdown Plan and Traffic Control Plan to be used during the installation for approval by the City.

C.3.2.a. Domestic and Irrigation Water Services:

The Developer shall design and install domestic and irrigation water service connection, including a remote-read water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City Regulations. The domestic and irrigation water service connection(s) must be completed before the final inspection of the building.

The City shall maintain water lines from the water meter to the point of connection with the water distribution main (inclusive) only. Repair and maintenance of all on-site water lines, laterals, sub-meters, valves, fittings, fire hydrant and appurtenances shall be the responsibility of the Developer.

C.3.2.b. Fire Service Line:

The Developer shall design and install fire hydrants at the locations approved by the City's Fire Safety Officer and Chief Building Official. Prior to the approval of the Improvement Plans, the Developer shall obtain written approval from the City's Fire Safety Officer and Chief Building Official, for the design, location and construction details of the fire service connection to the Project, and for the location and spacing of fire hydrants that are to be installed to serve the Project.

C.3.3. Street Improvements

C.3.3.a. Frontage Improvements on Auto Plaza Drive:

The Developer shall design and install improvements on Auto Plaza Drive which shall include replacement of damaged or disturbed curb, gutter and sidewalk, installation of driveways, storm drains, manholes and other improvements as determined by the City Engineer. In addition, the Developer shall overlay street pavement for all utility trench cuts as required in Condition C.3.6 below.

C.3.3.b. All roadway improvements described in these Conditions of Approval must be designed and constructed by the Developer to meet the applicable requirements of the latest edition of the California Department of Transportation Highway Design Manual (HDM) and the California Manual of Uniform Traffic Control Devices (MUTCD), all applicable City Regulations, and these Conditions of Approval, prior to final inspection of the first building to be constructed within the Property.

C.3.4. Traffic Control Plan

The Developer shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic at the work areas within Auto Plaza Drive. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

C.3.5. Utility Services

C.3.5.a. Developer shall prepare joint trench plans in compliance with utility companies' requirements and City regulations, and obtain approval of the plans. All private utility services to serve Project such as electric, telephone and cable TV to the building must be installed underground, and to be installed at the location approved by the respective owner(s) of the utilities.

C.3.5.b. Pavement cuts or utility trench(s) on existing street(s) for the installation of water distribution main, storm drain, sewer line, electric, gas, cable TV, and telephone will require the application of 2" asphalt concrete overlay and replacement of pavement striping and marking that are disturbed during construction. The limits of asphalt concrete overlay shall be 25 feet from both sides of the trench, and shall extend over the entire width of the adjacent travel lane(s) if pavement excavation encroaches to the adjacent travel lane or up to the street centerline or the median curb. If the utility trench extends beyond the street centerline, the asphalt concrete overlay shall be applied over the entire width of the street (to the lip of gutter or edge of pavement, whichever applies).

C.4. Building Permit

No building permit will be approved by the City until the Developer demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

C.4.1. Payment of the San Joaquin County Facilities Fees as required in Chapter 13.24 of the TMC, and these Conditions of Approval.

C.4.2. Payment of the Agricultural Conversion or Mitigation Fee as required in Chapter 13.28 of the TMC, and these Conditions of Approval.

C.4.3. Payment of the Regional Transportation Impact Fees (RTIF) as required in Chapter 13.32 of the TMC, and these Conditions of Approval.

C.4.4. The Project is within 1-205 Specific Plan Parcel GL-2A. Payment of applicable development impact fees (a.k.a. capital in-lieu fees) as specified in the Project's Finance Plan and all fees as required in the 1-205 Infrastructure Cost Allocation Spreadsheet (recent version) and the 1-205 Corridor Specific Plan Finance & Implementation Plan (1-205 FIP) update and these Conditions of Approval. The Developer shall also pay to the City the Project's fair share of the cost of the Non-program Streets and Non-program Traffic

Signals within the 1-205 Specific Plan Area in accordance with 1-205 North Roadway Funding Study approved by the City, and as shown on the Project's Finance Plan, 1-205 Infrastructure Cost Allocation Spreadsheet (recent version) and the 1-205 FIP update.

C.4.5. All fees shall be calculated based on the total site area, which includes the public property acquisition outlined in Condition B.1 above.

C.5. Acceptance of Public Improvements

Public improvements will not be accepted by the City Council until after the Developer completes construction of the relevant public improvements, and also demonstrates to the City Engineer satisfactory completion of the following:

C.5.1. Correction of all items listed in the deficiency report prepared by the assigned Engineering Inspector relating to public improvements subject to City Council's acceptance.

C.5.2. Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Developer, the City shall temporarily release the originals of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As Built" configuration of all improvements.

C.6. Temporary or Final Building Certificate of Occupancy

No Temporary or Final Building Certificate of Occupancy will be issued by the City until after the Developer provides reasonable documentation which demonstrates, to the satisfaction of the City Engineer, that:

C.6.1. The Developer has satisfied all the requirements set forth in Condition C.5, above.

C.6.2. The Developer has completed construction of all required public facilities for the building for which a certificate of occupancy is requested and all the improvements required in these Conditions of Approval. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Developer shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to serve the Project, and the Developer shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.7. Improvement Security

The Developer shall provide improvement security for all public facilities, as required by the OIA and these Conditions of Approval. The form of the improvement security

may be a surety bond, letter of credit or other form in accordance with section 12.36.080 of the TMC. The amount of improvement security shall be as follows:

- C.7.1. Faithful Performance (100% of the estimated cost of constructing the public facilities),
- C.7.2. Labor & Materials (100% of the estimated cost of constructing the public facilities), and
- C.7.3. Warranty (10% of the estimated cost of constructing the public facilities)

C.8. Release of Improvement Security

Improvement Security(s) described herein shall be released to the Developer after City Council's acceptance of public improvements, and after the Developer demonstrates, to the satisfaction of the City Engineer, compliance of these Conditions of Approval, and completion of the following:

- C.8.1. Improvement Security for Faithful Performance, Labor & Materials, and Warranty shall be released to the Developer in accordance with Section 12.36.080 of the TMC.
- C.8.2. Written request from the Developer and a copy of the recorded Notice of Completion.

C.9. Special Conditions

- C.9.1. The Developer shall comply with all applicable requirements of the I-205 Corridor Specific Plan, approved by the City Council on August 21, 1990, pursuant to Resolution No. 90-328, and the I-205 Corridor Specific Plan Amendment, approved by the City Council on July 6, 1999, pursuant to Resolution No. 99-240.
- C.9.2. All streets and utilities improvements within City's right-of-way shall be designed and constructed in accordance with City Regulations, and City's Design documents including the City's Facilities Master Plan for storm drainage, roadway, wastewater and water adopted by the City, or as otherwise specifically approved by the City.
- C.9.3. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Developer shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection. The Developer shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.
- C.9.4. The Developer shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve

existing adjacent agricultural uses, the Developer will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Developer.

- C.9.5. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the Grading Permit, Encroachment Permit, Building Permit, Improvement Plans, OIA, and DIA, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

D. Utilities Department, Water Resources Division Conditions

Contact: Stephanie Hiestand (209) 831-4333 stephanie.hiestand@ci.tracy.ca.us

- D.1. Stormwater Quality. Before the approval of a grading or building permit, the applicant shall demonstrate compliance with the Multi-Agency Post-Construction Stormwater Standards (Manual) adopted July 1, 2015, obtain approval of the submitted Project Stormwater Plan by the Utilities Director, and provide a maintenance agreement in accordance with the Manual.
- D.2. Compliance with Codes. Before the approval of a grading or building permit, the applicant shall demonstrate compliance with Tracy Municipal Code Chapter 11.28 Water Management and California Green Building Standards Code Chapter 5 for Non-Residential occupancies. A Stormwater Pollution Prevention Plan (SWPPP) and WDID number will be required prior to a grading permit issuance.
- D.3. Landscape plans. Before the approval of a building permit, the applicant shall submit detailed landscape and irrigation plans that demonstrate compliance with the Department of Water Resources' 2015 Water Efficient Landscape Ordinance to the satisfaction of the Utilities Director.

E. Public Works Department Conditions

Contact: Don Scholl (209) 831-6360 don.scholl@ci.tracy.ca.us

- E.1. Maintenance of City-owned 42-foot strip of property. In the event the developer does not purchase the approximately 42-foot-wide strip of City-owned property (approximately 0.27 acres of APN 212-040-11), prior to final inspection and Certificate of Occupancy for the project, the developer shall record an easement that provides unobstructed access for City maintenance equipment and vehicles to allow for City to perform all necessary maintenance activities for the strip to the satisfaction of the Public Works Director.

F. Development Services Department, Building & Fire Safety Conditions

Contact: Kevin Jorgensen (209) 831-6415 kevin.jorgensen@ci.tracy.ca.us

- F.1. Accessible path. Before the approval of a building permit, the applicant shall submit plans detailing continuous four-foot minimum width of public sidewalk at driveway per the California Building Code (CBC).
- F.2. Operational permit. Before the issuance of Certificate of Occupancy, an operational permit shall be secured for spray operations, repair garage, hazardous materials and welding operations per the current California Fire Code (CFC).
- F.3. Hydrants. Before the approval of a building permit, the applicant shall submit plans that show at least one fire hydrant within 100 feet of an FDC.
- F.4. Fire Department Access. Before the approval of a building permit, the applicant shall submit plans detailing accessibility of access gates for fire department access, including, but not limited to, noting whether the gates are manually or automatically operated, whether there will there be a Knox Box at each gate or Knox Padlock at each manual gate, and if such gates are automatic, whether they strobe and infrared receivers and Knox Switches to operate both sides of each gate per the City's Fire Prevention Standards.
- F.5. Emergency Radio Coverage. Before the approval of a building permit, the applicant shall submit plans specifying that building will provide adequate emergency radio coverage per current CFC (either by radio amplification system or otherwise).
- F.6. Gas Detection Systems. Before the approval of a building permit, the applicant shall submit plans detailing gas detection systems where repair of vehicles fueled by nonodorized gases (hydrogen or nonodorized LNG e.g.) per current CFC.

AGENDA ITEM 7

REQUEST

AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR THE CIVIC CENTER WATER TOWER REPAINTING PROJECT CIP 71080, AUTHORIZE A SUPPLEMENTAL APPROPRIATION OF BETWEEN \$9,800 AND \$59,850 FROM GENERAL FUND 301, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT

EXECUTIVE SUMMARY

City staff requests that City Council award a contract for the Civic Center Water Tower Repainting Project and to choose between several options for painting a City logo on the tank.

DISCUSSION

The 140 foot tall inactive water tower in front of City Hall was built in the early 1920's. This civic landmark is in need of repainting due to graffiti and resultant mismatched cover-up painting. Based on a recent inspection, the tower was found to be structurally sound except for localized corrosion on the tank portion and at the tower base plates due to irrigation overspray.

In advance of repainting, welding and drilling was performed to structurally reinforce connections at the base plates and provide for installation of supplemental anchor bolts.

Engineering staff prepared the plans and specifications and advertised the project for competitive bids on April 15, and 22, 2016.

Staff divided the bid document into a base bid and additive bid items to allow flexibility to award the construction contract based on the base bid with or without the additive bids, depending upon the bid amounts and availability of funds. The bid proposal states that the low bidder will be selected on the basis of the base bid without consideration of the additive bid items. The bid items are as follows:

1. Base Bid Items: Solvent cleaning, rust removal, priming, repainting, installing supplemental anchor bolts, landscaping modifications to eliminate irrigation overspray, replacing corroded truss rod pins, adding concrete aprons around bases
2. Additive Bid Item A: Repainting the existing "Tracy" logo
3. Additive Bid Item B: Adding a new Tracy "triangle" Logo
4. Additive Bid Item C: Logo Lighting

Two bids were received and publicly opened at 2:30 p.m. on Tuesday, May 17, 2016, with the following results:

Contractor	Base Bid	Additive Bid Items		
		A	B	C
Blastco Inc., Downey	\$152,050	\$9,800	\$18,500	\$15,000
FD Thomas Inc., Sacramento	\$459,600	\$15,000	\$36,000	\$18,000

Bid analysis indicates that the lowest monetary bid is responsive and the bidder, Blastco Inc, of Downey, California, is responsible. The bidder has the appropriate contractor's license in active standing with the State of California, and has completed similar projects for other public agencies.

The total estimated cost of this project, if awarded to the low bidder, is as follows:

<u>Construction Cost</u>	
Contractor's Base Bid Construction	\$152,050
Additive Bid Items A, B, C	<u>\$ 43,300</u>
Construction Contract	\$195,350
Contingency @ 10%	<u>\$ 19,500</u>
Total Construction Cost	\$214,850
Total Design and Construction Management Cost	\$ 14,000
Total Project Costs	<u>\$228,850</u>

Tracy Municipal Code Section 2.20.090(b) authorizes the Department Head to approve change orders up to Twenty-five Thousand (\$25,000) Dollars provided such change order is still within the contingency amount approved by Council. City staff recommends the contingency amount for this project to be \$19,500, which is 10% of the bid price.

The Water Tower repainting project is an approved CIP with a current General Fund balance of \$169,000. Project costs exceed the available budget. Due to peak season bidding, interest was low and prices were slightly higher than expected. Staff recommends that additional funding be appropriated to award the contract.

If Additive Items A, B, and C are also awarded, up to an additional \$59,850 would be needed to complete the project. Depending on Council's selection of Additive Bid Items, the construction contract and total construction amounts will be adjusted by resolution and the excess returned to the General Fund.

STRATEGIC PLAN

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

FISCAL IMPACT

Approximately \$169,000 is available in CIP 71080. A supplemental appropriation of up to \$59,850 from Fund 301 is needed for Additive Bid Items A, B, and C.

RECOMMENDATION

That City Council, by resolution, award a construction contract to Blastco Inc, of Downey, California, for the Civic Center Water Tower Renovation Project, CIP 71080, in the amount of up to \$195,350, depending on the additive items chosen, authorize a supplemental appropriation of between \$9,800 and \$59,850 from General Fund 301, authorize the Department Head to approve change orders up to the specified project contingency amount of \$19,500, if needed, and authorize the Mayor to execute the construction contract.

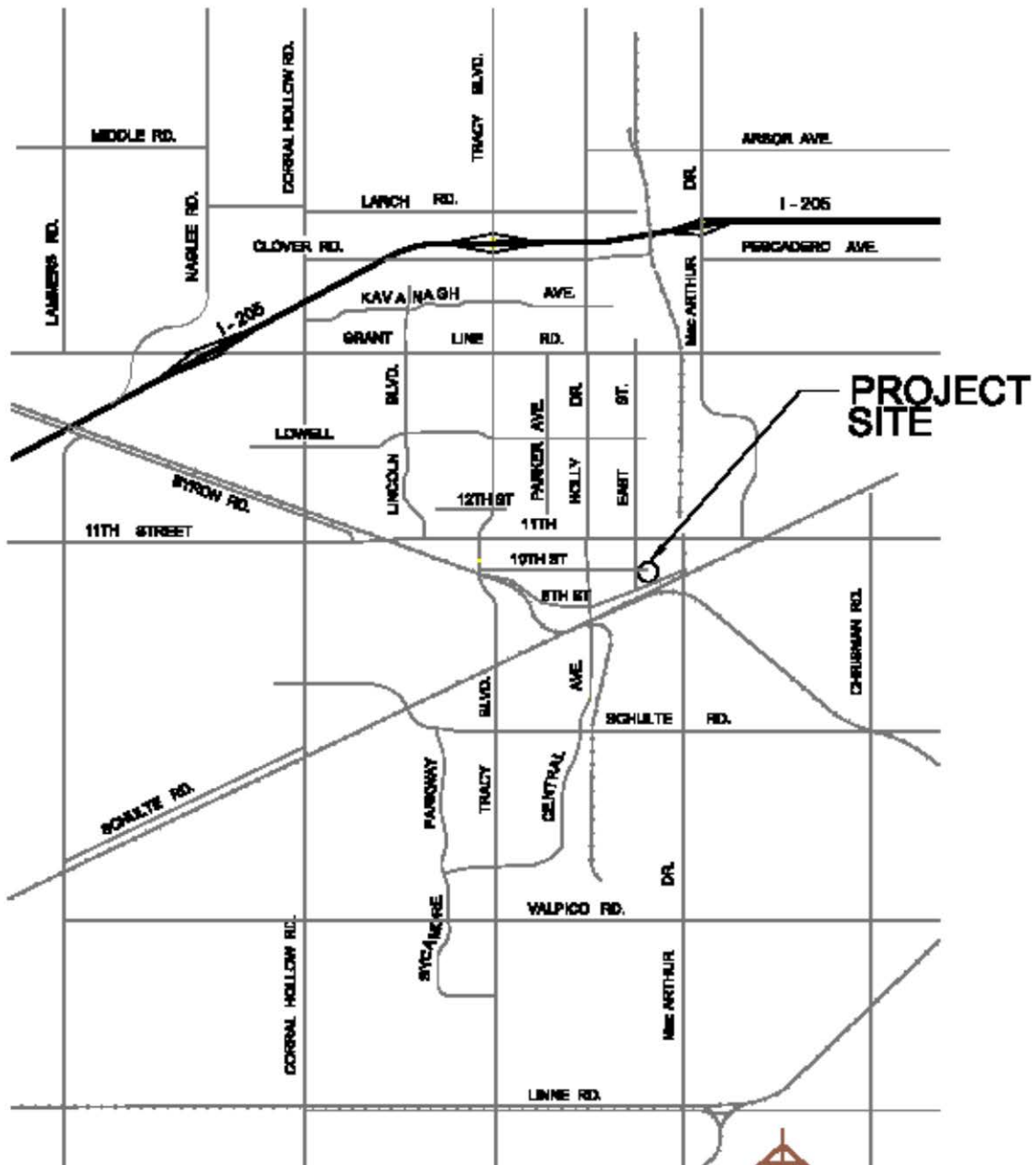
Prepared by: Binh Nguyen, Senior Civil Engineer
Zabih Zaca, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer/Assistant Director Development Services
Andrew Malik, Development Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A - Location Map
Attachment B – Water Tower Logo Options



TRACY VICINITY MAP
CIVIC CENTER WATER TOWER



N.T.S.

LOGO OPTIONS



- Water Tower Painting and Repair Project Base Bid \$152,050
- A - Existing Logo = \$9,800
- B - New Logo = \$18,500
- A+B - Existing Logo + New Logo = \$28,300
- C - Lighting = \$15,000



Existing Logo
\$9,800





New Logo
\$18,500



LIGHTING – \$15,000



Think Inside the Triangle™



RESOLUTION 2016 - _____

AWARDING A CONSTRUCTION CONTRACT FOR THE CIVIC CENTER WATER TOWER RENOVATION, CIP 71080, AUTHORIZING A CONTINGENCY AMOUNT OF \$19,500, AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT, AND AUTHORIZING A SUPPLEMENTAL APPROPRIATION OF BETWEEN \$9,800 AND \$59,850 FROM FUND 301 TO CIP 71080

WHEREAS, The Civic Center Water Tower, located in front of City Hall, was built in the 1920's, is a civic landmark, and

WHEREAS, The tower is in need of repainting due to graffiti and localized corrosion, and

WHEREAS, The project includes cleaning, priming, and repainting the tower and base plate renovation, and

WHEREAS, The project was advertised for competitive bids on April 15, and April 22, 2016, and bids were received and publicly opened on Tuesday, May 17, 2016, and

WHEREAS, Blastco Inc. of Downey, CA, was the lowest monetary bidder, bid analysis indicates their bid is responsive and the bidder is responsible, and

WHEREAS, Project construction documents include Base Bid Items and Additive Bid Items, and based on available funds, the Base Bid items and Additive Items A, B, and C are awarded, and

WHEREAS, The anticipated cost for construction of this project, if awarded to Blastco Inc. is estimated as follows:

Construction Base Bid Amount	\$152,050
Additive Bid Items A, B, C	\$ 43,300
Construction Contract	\$195,350
Contingency (~10%)	\$ 19,500
Design and Construction Management	\$ 14,000
Total Project Cost	\$228,850
Available Budget	\$169,000

WHEREAS, Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager to approve change orders up to the contingency amount approved by City Council. The recommended contingency amount for this project is \$19,500, and

WHEREAS, A supplemental appropriation of up to \$59,850 from General Fund 301 is needed to complete the project, and

NOW, THEREFORE BE IT RESOLVED, That City Council awards a construction contract to Blastco Inc, of Downey, California, for the Civic Center Water Tower Renovation, CIP 71080 in the amount of up to \$195,350, authorizes a contingency amount of \$19,500, authorizes a supplemental appropriation of between \$9,800 and \$59,850 from Fund 301 to CIP 71080, and authorizes the Mayor to execute the construction contract.

The foregoing Resolution 2016-_____ was adopted by the Tracy City Council on the 5th day of July 2016, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 8

REQUEST

INTRODUCE AN ORDINANCE AMENDING AND UPDATING THE PURCHASING ORDINANCE (CHAPTER 2.20) REGARDING (1) ASSISTANT CITY MANAGER AUTHORITY, (2) CITY ATTORNEY AUTHORITY, (3) AUTHORIZING THE CITY ENGINEER TO APPROVE PUBLIC IMPROVEMENT PLANS AND SPECIFICATIONS AND (4) REVISING SECTION 2.20.180 RELATING TO PUBLICATION

EXECUTIVE SUMMARY

The proposed Purchasing Ordinance amendments would update the ordinance to include the Assistant City Manager and the City Attorney. The amendment will grant the Assistant City Manager the same authority as that provided to other Department Heads. The amendment will grant the City Attorney the same authority as the City Manager for contracts for legal services. A third amendment is to authorize the City Engineer to approve plans for public improvement projects, and this will provide the City design immunity for claims arising out of design defects. Finally, an amendment will revise the publication requirement so all calls for bids will be posted on the City's website.

DISCUSSION

The City's Purchasing Ordinance is set forth in Municipal Code Chapter 2.20. It contains procedures and authority for the purchase of supplies, equipment, professional services, and public improvement projects. The Purchasing Ordinance was last updated in 2009 and some updates are needed. This ordinance proposes changes to four sections, each discussed below.

Section 2.20.100, Department head authority.

The proposed ordinance will update this section to include the Assistant City Manager position as having the same authority as Department Heads. The Assistant City Manager has been treated as having this authority, but the explicit designation would make this authority clearer. Under this amendment, the Department Heads (including the Assistant City Manager) have the authority to approve a contract: (a) which is for the purchase or lease of commodities, equipment, general services, and professional services; (b) which contains a maximum compensation amount of \$25,000 (plus changes orders up to 25% of the contract amount); and (c) which is not required by state law to be let to the lowest responsible bidder.

Section 2.20.095 City attorney authority.

The proposed new section addresses the City Attorney's contract authority and mirrors the authority of the City Manager in several respects. The amendment would authorize the City Attorney to enter into contracts for equipment and general services in the amount and under the terms established for the City Manager. It provides similar authority for contracts for professional legal services agreements. Although the City Attorney is hired directly by the City Council, the current Purchasing Ordinance does not include the City Attorney's authority to enter into contracts for legal services, among other things. This authority is necessary for the ongoing work of the City Attorney's

office, including the ability to retain outside legal counsel on very little notice for some matters or lawsuits that arise. The proposed ordinance would rectify this omission. Based on a review of other cities' purchasing ordinances, the proposed authority is consistent with other cities surveyed including Livermore (\$50,000), Folsom (\$53,000), Stockton (\$75,000), Benicia (\$50,000). The survey also indicated that some city councils do not set a limit for contracts to engage outside counsel or for legal matters for which the city attorney is determined to be the awarding authority. As with the Manager's authority, the authority is always limited to amounts that have been appropriated and for which there is a balance sufficient to pay the expense of the contract.

Section 2.20.255 City engineer approval.

The proposed amendment to Section 2.20.255 is under the Public Projects portion of the Purchasing Ordinance. This amendment authorizes the City Engineer to approve project design and plans before the City seeks bids on a project. By authorizing the City Engineer to approve plans and specifications, the City will expedite and bidding process and ensure that the City is entitled to the Government Code's design immunity if there is a later claim based on design of an improvement.

Each year the City of Tracy implements its Capital Improvement Program. Plans and specifications are completed by either City Staff or professional consultants so that public improvements may be built throughout the city. Government Code Section 830.6 provides immunity to public entities and public employees from claims arising out of design defect, if the design has been approved in advance by the City Council or by an employee who is provided with the authority. The purpose of the defense is to prevent a jury from reweighing the same factors considered by the governmental entity that approved the design.

To use the design immunity defense, the City Council must either approve every design in advance, or delegate that authority. Given that the City Engineer routinely reviews, oversees, and approves the City's public works projects, it is prudent to delegate the approval authority noted in Government Code Section 830.6 to the City Engineer or his designee. This is consistent with the practice of many cities throughout California.

The City Engineer currently approves improvement plans under Tracy Municipal Code section 12.36.060; the additional designation will clarify that this approval is in accordance with Government Code Section 830.6. The City Engineer position requires registration as a Professional Civil Engineer in the State of California. This appointment would ensure that the City is provided the immunity granted under Government Code Section 830.6 for all public projects and change orders. This does not release the design-engineering firm contracted to complete the plans and specifications from its liability for the design.

Presently, projects are presented to the City Council for approval of Plans and Specifications at the acceptance of the bids from Contractors. By designating the City Engineer with approval signature authority, City project delivery can be streamlined by removing the additional step of presenting the design package to the City Council for approval before proceeding. Also, changes occur in the field during construction. The City Engineer approval of the field changes through the change order process and/or approval of as-built plans would provide the City with the design immunity protection for

those changes. Council will still have the final authority whether to award the construction contract after bids are received.

Section 2.20.180(a)(1)(i) Published notice.

This subsection, relating to purchases of commodities, equipment and general services with a value over \$50,000, currently requires that a notice inviting bids be published at least ten days before the bid opening. This likely does not provide much notice to vendors that will be bidding in that they would not know to look in the newspaper for the notice, can cause delays in obtaining these items and in addition, the publication adds unnecessary costs to the project. It is recommended that the section be revised to require publication on the City's website. It is currently the most-used process for advertising bids for these types of items.

FISCAL IMPACT

There is no anticipated impact to the General Fund. There may be some savings due to the streamlining the existing process to CIP budgets. In addition, the cost of publication of bids can be saved. Furthermore, approval may limit or eliminate liability to the City; loss prevention may exceed hundreds of thousands of dollars in legal fees and risk avoidance by providing the design immunity protection for all plans, specifications, and projects in the City (Capital Improvements, change orders, development plans, etc.).

RECOMMENDATION

It is recommended that the City Council introduce an Ordinance Amending and Updating the Purchasing Ordinance (Chapter 2.20) Regarding (1) Assistant City Manager, (2) City Attorney Authority, (3) Authorizing the City Engineer to Approve Public Improvement Plans and Specifications, and to (4) revise the publication requirements for certain bids, as set forth in the attached ordinance.

Prepared by: Robert Armijo, City Engineer
Debra Corbett, Special Counsel
Judith Robbins, Special Counsel

Reviewed by: Bill Sartor, City Attorney
Andrew Malik, Development and Engineering Services Director
Stephanie Garrabrant-Sierra, Assistant City Manager
Martha Garcia, Acting Administrative Services Director

Approved by: Troy Brown, City Manager

Attachments
Exhibit A - Ordinance

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTIONS 2.20.100 AND 2.20.180(a)(1)(i), ADDING SECTIONS 2.20.095 AND 2.20.255 TO CHAPTER 2.20 (CONTRACTS AND PURCHASING) OF THE TRACY MUNICIPAL CODE

WHEREAS, The proposed amendments to the Purchasing Ordinance would update the ordinance to grant authority to the Assistant City Manager and the City Attorney, authorize the City Engineer to approved plans for public improvement projects, and revise the publication requirements for calls for bids; and

WHEREAS, The Purchasing Ordinance was last updated in 2009 and revisions are necessary to improve the purchasing process to make it more efficient.

The City Council of the City of Tracy does ordain as follows:

SECTION 1: Section 2.20.100, Department head authority, of the Tracy Municipal Code is amended to read as follows:

“2.20.100, Department head authority.

Department heads, including the Assistant City Manager, are authorized to enter into and sign on behalf of the City, without the prior approval of the City Manager or City Council, a contract:

- (a) Which is for the purchase or lease of commodities, equipment, general services, and professional services;
- (b) Which contains a maximum compensation amount up to \$25,000.00 Dollars. As to a change order, the limit of authority is 25% of the original contract, not to exceed a cumulative amount of \$31,250.00 Dollars; and
- (c) Which is not required by any State law to be let to the lowest responsible bidder.

SECTION 2: A new section 2.20.095, City attorney authority, is added to the Tracy Municipal Code to read as follows:

“2.20.095 City Attorney authority.

- (a) The City Attorney is granted, for purposes related to legal services and the activities or functions of the office of the city attorney, the same authority as the City Manager as set forth in section 2.20.090(a)(1) and (2).
- (b) The City Attorney is granted the authority to execute for City-managed professional legal services in an amount up to One Hundred Thousand Dollars and no/100ths (\$100,000.00) Dollars if the following criteria are met:
 - (1) A cost recovery agreement exists
 - (2) An applicant for development has deposited the required amount under the contract with the City; and
 - (3) The funds are to be used for development related legal services.
- (c) The City Attorney is granted authority to approve, without city council approval, contracts

which appoint and retain outside legal counsel to prosecute lawsuits for the city or defend lawsuits against the city provided that monies have been appropriated and for which there is an unexpended and unencumbered balance of such appropriation sufficient to pay the expense of the contracts.

- (d) In addition to the authority granted in section 2.20.095(a), the informal request for proposal procedure in section 2.20.130(a) may be dispensed with when the City Attorney in his or her best judgment makes a written finding that compliance with these procedures is not in the best interest of the City.”

SECTION 3: A new Section 2.20.255, City engineer approval, is added to the Tracy Municipal Code to read as follows:

“2.20.255 City engineer approval.

The city engineer is authorized to approve project design and plans before the city seeks bids on a project. (Reference: Gov’t. Code §§830, 835.)”

SECTION 4: Section 2.20.180(a)(1)(i) is amended to read as follows:

“(i) Published notice. The notice inviting bids shall be posted at least ten days before the date of the opening of the bids on the City’s website”.

SECTION 5: This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 6: This Ordinance shall either (1) be published once in the TriValley Times, a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk’s office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov’t. Code §36933.)

* * * * *

Ordinance _____
Page 3

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on _____, 2016, and finally adopted on _____, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 9

REQUEST

REPORT REGARDING THE CITY OF TRACY'S BOARDS AND COMMISSIONS

EXECUTIVE SUMMARY

On May 3, 2016, Council requested that staff provide a report listing the City's boards and commissions, a description of their purview and duties, as well as a schedule of an annual report out from each Commission.

DISCUSSION

Listed below are the various Commissions and their responsibilities:

Planning Commission

The Planning Commission was established by Chapter 10.04 of Title 10 of the Tracy Municipal Code in 1953 and meets the second and fourth Wednesday of each month. It consists of five (5) members appointed by the City Council. The Commission prepares and recommends adoption, amendment or repeal of the City's General Plan; makes recommendations to the proper City officials regarding maps or plots of land subdivision; hold hearings on planning and zoning matters per State and City laws; and advises and makes recommendations regarding acquisition, use, or disposition of City-owned property. The Planning Commission does not prepare an annual report for Council at this time.

Measure E Residents' Oversight Committee

The Measure E Residents' Oversight Committee was established in 2011 and consists of five (5) members appointed by the City Council. It meets quarterly on the 3rd Monday of January, April, July and October. The Committee reviews expenditures and revenues through the annual independent financial audits, has oversight of revenues generated by Measure E and expenses related to Measure E, and serves in an advisory role to the City Council. City Council retains final authority in all decisions. The Oversight Committee's role is to advise the City Council of its findings and make recommendations during the term of the Committee. The Committee presents an annual written report documenting its findings to the City Council in February of each year.

Parks & Community Services Commission

The City Council established the Parks & Community Services Commission in 2004, and consists of seven (7) members, six of whom are appointed by City Council. The seventh member is appointed by the Tracy Unified School District. All seven members serve a four-year term and serve at the pleasure of the City Council. The Parks & Community Services Commission is charged with advising on rules and regulations governing the conduct of recreation programs, protection of property, and activities of persons in all parks. The Commission meets the first Thursday of each month at 7:00 p.m., at City Hall and holds public meetings on recreation programming and facility usage. They

advise the City Council on recreation and facility master planning and development, and they review grant opportunities and details. The Parks & Community Services Commission is an advisory body to the City Council on all quality of life matters that pertain to senior citizens, adults, teens and youth, teens, and adults. They receive reports on programming, such as activities at the Senior Center, After School Program, special events, and youth and adult sports. They receive reports on public recreation facilities development and use. With both programming and facilities, the Commission provides valuable feedback and helps the department set the direction for the prioritization of projects and use of resources. The Senior Citizen annual report is presented to Council in January. The Community Conversation with the senior community takes place each May. The Commission does not prepare an annual report for Council at this time.

Transportation Advisory Commission

The City Council established the Transportation Advisory Commission in 2007. It consists of nine (9) members, each serving a four-year term. The Commission meetings are held on the second Tuesday of each month at 7:00 p.m., at the Transit Center. The Commission acts in an advisory role to the City Council on matters relating to transportation in the community. The purpose of the Transportation Advisory Commission is to address various public transportation issues including transit (TRACER bus service, San Joaquin Regional Transit District (SJRTD), Altamont Corridor Express (ACE Train), taxis), airport, and bikeways. The Commission gathers information by participating in public outreach at various City-sponsored events and by speaking with various groups and individuals with whom they have contact within the community. Additionally the Commission reviews and provides input on City-wide public transportation and airport planning documents, advises on service levels and routes, recommends rules and procedures including rates, fares, and user fees for the use of transportation service programs and facilities. The Commission identifies transportation infrastructure needs and provides recommendations to improve connectivity for transit users. The Commission also recommends and promotes marketing strategies for community outreach programs to strengthen the use of the transit system with a particular emphasis on seniors/ADA passengers and students. Transportation Advisory Commission does not prepare an annual report for Council at this time.

Youth Advisory Commission

The Youth Advisory Commission (YAC) was established in 1998 and consists of eight (8) to 14 members. The purpose of the YAC is to provide youth with an opportunity to make a positive impact in the Tracy community. The YAC meets the second Wednesday of each month at City Hall. The role of the YAC is to foster increased involvement of youth in the affairs of municipal government. Some of the responsibilities include: addressing issues, activities and concerns of youth especially as they relate to municipal programs and projects of the City of Tracy, holding forums on safety, recreation and school issues, making recommendations to the Parks & Recreation Department regarding the planning and implementation of programs; and

participating in Youth Advisory Commission Activities. The YAC annual report is presented to Council in January of each year.

Tracy Arts Commission

The City Council established the Tracy Arts Commission (“TAC”), previously known as the Cultural Arts Commission and Community Cultural Arts Commission, by City Council Ordinance 501 in July of 1991. The seven member body is appointed by the City Council to serve four-year terms. Meetings are held on the second Tuesday of each month at the Grand Theatre. City Council’s charge to the TAC is to preserve and cultivate the expression and appreciation of the arts in Tracy. The TAC represents the diversity of the creative community including arts patrons, architecture, engineering, historical preservation, design arts, arts administration, arts education, visual arts and the performing arts. In addition, the TAC maintains the Civic Art Plan, advises the City Council on the City-wide public art, and advises staff on activities and programming. The TAC may perform other arts-related duties and functions as the City Council may direct. The TAC uses Budget, Civic Art and Special Events Subcommittees to carry out their duties, provide programming recommendations, and collaborate with the educational, business, and creative communities. TAC does not prepare an annual report for Council at this time.

General Commission Information

All Commissioners must be city residents and cannot be employees of the City of Tracy. All Commissioners (except Youth Advisory and Measure E Residents Oversight) are paid a \$50 per meeting stipend.

STRATEGIC PLAN

This item is not related to the Council’s Strategic Plans.

FISCAL IMPACT

There is no fiscal impact as a result of this agenda item.

RECOMMENDATION

Staff recommends that the City Council receive the report.

Prepared by: André Pichly, Parks & Recreation Director
Andrew Malik, Development Services Director

Reviewed by: Stephanie Garrabrant-Sierra, Assistant City Manager

Approved by: Troy Brown, City Manager