

TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, December 6, 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.

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS - Employee of the Month

1. CONSENT CALENDAR

- A. Authorize Amendment of the Position Control Roster by Approving the Reallocation of One Equipment Mechanic I Position to Equipment Mechanic II Within the Central Fleet Services Division
- B. Approve a Memorandum of Understanding between the City of Tracy and the San Joaquin Council of Governments for State and Federal Transit Planning and Programming, and Authorize the Mayor to Execute the Agreement
- C. Authorization to Purchase Nine Trucks and Various Pieces of Field Equipment from Multiple Suppliers in the Amount of \$454,755
- D. Declaring Certain Vehicles and Equipment as Surplus and Approving their Sale
- E. Approve Amendment No. 4 to the Professional Services Agreement Between the City of Tracy and HF&H Consultants, LLC and Approve a Funding Allocation in the Amount of \$34,201 from the Solid Waste Fund
- F. Acceptance of the City Hall Print Room Remodeling Project CIP 71082, Completed by D.M. Alegre, Inc., of Tracy, Ca, Authorization for the City Clerk to File the Notice of Completion and Authorization for the City Engineer to Release the Bonds and Retention Payment
- G. Approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Program Roadway and Recycled Water Improvements, Approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Non-Program Roadway Improvements for Federal Express Ground Facility, and Authorization for the Mayor to Execute Both First Amendments
- H. Approval of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1B Program Roadway and Recycled Water Improvements for Medline Industrial and Office Building, Approval of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1B Non-Program Roadway Improvements for Medline Industrial and Office Building, and Authorization for the Mayor to Execute Both First Amendments

- I. Approve the First Amendment to the Offsite Improvement Agreement for the 2.0 Million Gallon Cordes Ranch Potable Water Tank, and Authorization for the Mayor to Execute the First Amendment
 - J. Award a Construction Contract to the Lowest Responsive and Responsible Bidder for the Overlay Project, CIP 73140A Federal Project Number STPL-5192(041) and Traffic Loop Installation, CIP 72099 and Authorization for the Mayor to Execute the Contract
 - K. Minor Amendment to the Planned Unit Development Zone Final Development Plan for the Northgate Village Shopping Center (Formerly Tracy Outlet Center) to Allow Outdoor Dining/Seating Areas, Located at 1005 E. Pescadero Avenue – Applicant is Messier Benitez and Property Owner is 51 Newco LLC – Application Number D16-0019
 - L. Rejection of all Seven Bids Received for the Larch Road Water Main Replacement Between Corral Hollow Road and Tracy Blvd, CIP 75117, 75122, 75127, and Direct Staff to Include this Project for Consideration in the Fiscal Year 2017-18 Budget
 - M. Find that it is in the Best Interest of the City to Forego the Formal Request for Approval Process and Approve a Master Professional Services Agreement with Jarvis, Fay, Doporto, and Gibson, LLP for Legal Services Related to Land Development Applications and Environmental Analysis (CEQA) Services for a Not to Exceed Amount of \$350,000 Per Year for a Three Year Term; Authorize the Mayor to Execute the Agreement; and Authorize the Development Services Director to Execute Task Orders Under the Agreement
 - N. Adopt a Resolution Approving an Amendment to the Employment Agreement Between Troy Brown and the City of Tracy Relating to Compensation and Benefits and Authorizing an Appropriation of \$13,597 from the General Fund for Fiscal Year 2016-17
2. ITEMS FROM THE AUDIENCE
 3. PUBLIC HEARING TO CONSIDER THE PROPOSED ANNEXATION OF THE VENTANA PROJECT INTO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AS ZONE NO. 43; DECLARE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT AND APPROVE CERTAIN RELATED ACTIONS; CONFIRM THE ANNEXATION OF THE PROJECT INTO THE DISTRICT AS ZONE NO. 43; AND ORDER THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2017/2018
 4. ADOPT A RESOLUTION DECLARING THE RESULTS OF THE NOVEMBER 8, 2016, CITY OF TRACY GENERAL MUNICIPAL ELECTION
 5. OUTGOING MAYOR AND COUNCIL PRESENTATIONS

6. ADMINISTER OATH OF OFFICE AND SEAT NEWLY ELECTED MAYOR AND COUNCIL MEMBER
7. DETERMINE WHETHER TO FILL CITY COUNCIL VACANCY BY SPECIAL ELECTION OR BY APPOINTMENT, AND, IF BY APPOINTMENT, DETERMINE THE DETAILS OF THE PROCESS TO BE USED
8. ITEMS FROM THE AUDIENCE
9. COUNCIL ITEMS
10. ADJOURNMENT

AGENDA ITEM 1.A

REQUEST

AUTHORIZE AMENDMENT OF THE POSITION CONTROL ROSTER BY APPROVING THE REALLOCATION OF ONE EQUIPMENT MECHANIC I POSITION TO EQUIPMENT MECHANIC II WITHIN THE CENTRAL FLEET SERVICES DIVISION.

EXECUTIVE SUMMARY

This report recommends the reallocation of one Equipment Mechanic I to the position of Equipment Mechanic II within the Fleet Services Division.

Costs related to the reallocation of the position will be approximately \$2,200 and can be absorbed in the FY 2016-17 adopted budget from the Central Garage Fund 601.

DISCUSSION

Periodically, the Human Resources Department receives requests for classification studies to allow for changes that have occurred in areas such as job responsibilities, organizational structure, and/or service needs. Based on the results of a discussion with the Public Works Superintendent over the Fleet Services Division and the Public Works Director, the Human Resources Department recommends the reallocation of one Equipment Mechanic I position to Equipment Mechanic II within the Fleet Services Division.

The existing Equipment Mechanic I position will be vacated in January 2017 by a long-term incumbent. After evaluating the needs of the Fleet Services Division, and based upon the comprehensive services the division provides to the entirety of the City's vehicle and equipment fleet, the department recognized a need to modify the existing duties to include higher level mechanical responsibilities for this position. Key new responsibilities requiring a reallocation of the position include repairs to diesel and gasoline engines, repair/replacement of transmissions, brake systems, system hydraulics, and the ability to perform California Highway Patrol (CHP) Biennial Inspection of Terminals (BIT). The position will be primarily responsible for the mechanical repair of 249 City vehicles and 145 pieces of equipment.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1a: Gather data on and develop solutions for issues facing the organization.

FISCAL IMPACT

This was not budgeted for FY16/17, however the approximate additional cost of \$2,200 can be absorbed in the FY 16/17 adopted budget from the Central Garage Fund 601. Future year costs will be included in its respective operating budget.

RECOMMENDATION

That the City Council, by resolution, authorize the Human Resources Director or designee to amend the City's Classification and Compensation Plan; and the Budget Officer to amend the Position Control Roster by approving the reallocation of one Equipment Mechanic I position to Equipment Mechanic II.

Prepared by: JoAnn Weberg, Human Resources Analyst
Bob Gravelle, Public Works Superintendent

Reviewed by: Midori Lichtwardt, Human Resources Director
Don Scholl, Public Works Director
Martha Garcia, Interim Finance Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING AN AMENDMENT OF THE CITY'S POSITION CONTROL ROSTER BY APPROVING THE REALLOCATION OF ONE EQUIPMENT MECHANIC I POSITION TO EQUIPMENT MECHANIC II

WHEREAS, The City has a Position Control Roster, and

WHEREAS, The City has completed a classification review and determined it is in the best interest and efficiency of the Public Works Department to reallocate one existing Equipment Mechanic I position to an Equipment Mechanic II.

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes the Human Resources Director or designee to amend the City's Classification and Compensation Plan; and the Budget Officer to amend the Position Control Roster by approving the reallocation of one Equipment Mechanic I position to Equipment Mechanic II.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 6th day of December, 2016, by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE SAN JOAQUIN COUNCIL OF GOVERNMENTS FOR STATE AND FEDERAL TRANSIT PLANNING AND PROGRAMMING, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The Federal Transit Administration (FTA) requires the San Joaquin Council of Governments (SJCOG) execute a Memorandum of Understanding (MOU) for State/Federal Transit Planning and Programming with each transit operator in the region. According to FTA, the MOUs are mandated for federal transit fund expenditure and reimbursement. The existing MOU with SJCOG dates back to 2002 and needs to be revised in order to reflect current legislation.

DISCUSSION

With the passage of the Fixing America's Surface Transportation (FAST) Act, the new transportation law signed by President Obama in December 2015, the FTA directed SJCOG to update all transit MOUs. The FTA wanted to reflect provisions from the FAST Act and to update any language before the end of the calendar year. The purpose of this MOU is to outline federal role and responsibilities of SJCOG and each transit operator in compliance with federal regulations. The MOUs do not explicitly call out specific funding policies, as those policies or allocation procedures may change periodically. Rather, the MOU focuses on the individual roles and procedures that would happen in policy implementation.

The original MOU with SJCOG dates back to 2002 and references old transportation laws. This underscores the need for an update to ensure relevancy and accurateness in the transit planning and programming process.

The MOU does not articulate specific funding allocations or pre-determine programming. It primarily identifies roles and responsibilities of the City as a transit operator and SJCOG in this process and related commitment to implement any approved policies and federal regulations.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no impact to the General Fund or Transit Fund for this item.

Agenda Item 1.B
December 6, 2016
Page 2

RECOMMENDATION

That the City Council approve a Memorandum of Understanding between the City of Tracy and the San Joaquin Council of Governments for State and Federal Planning and Programming, and authorize the Mayor to execute the agreement.

ATTACHMENT

A - Memorandum of Understanding

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: André Pichly, Parks & Recreation Director
Martha Garcia, Interim Administrative Services Director

Approved by: Troy Brown, City Manager

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
SAN JOAQUIN COUNCIL OF GOVERNMENTS
AND
CITY OF TRACY.

“Regarding the Coordination of Ongoing Transit Planning and Programming of Federal Funds that Support the Ongoing and Future Deployment of Transit Services in the San Joaquin Region

This Memorandum of Understanding (MOU) is entered into between the SAN JOAQUIN COUNCIL OF GOVERNMENTS (SJCOG) and the CITY OF TRACY, hereinafter referred to as the (Parties) and singularly as (Party), as of this ___ day of _____, 2016.

WITNESSES THAT:

WHEREAS, CITY OF TRACY is a public transportation operator that provides service in the Tracy urbanized area and is eligible to apply for and receive Federal Transit Administration (FTA) and/or Federal Highways Administration (FHWA) transit funding for capital, operating, and planning assistance for the delivery of public mass transportation; and

WHEREAS, SJCOG is the Regional Transportation Planning Agency (RTPA) for the county of San Joaquin, and the cities therein, and is the Metropolitan Planning Organization (MPO) for the San Joaquin region, directed by a duly comprised Board of Directors of elected officials with a committee structure that represents all of the transit operators in the region, the Interagency Transit Committee (ITC), to advise the SJCOG Board on all planning and policy questions for transit issues of regional concern; and

WHEREAS, SJCOG, CITY OF TRACY, and transit operators in the San Joaquin region rely upon a cooperative relationship to foster comprehensive regional transit planning which feeds directly into state and national planning; and

WHEREAS, this MOU (Contract #C-2017-26), replaces and supersedes the existing Transit MOU between the Parties (Agreement # 2003-025).

WHEREAS, this MOU describes the planning and programming relationship between SJCOG and CITY OF TRACY; and

WHEREAS, the Fixing America’s Surface Transportation Act, or “FAST Act,” requires MPOs to work cooperatively with public transit operators to develop Regional Transportation Plans (RTPs) and Federal Transportation Improvement Programs (FTIPs) for urbanized areas, which are intended to further the national interest to encourage and promote the safe and efficient management, operation, and development of surface transportation systems to serve the mobility of people and freight and foster economic growth and development within and through urbanized areas, while minimizing transportation-related fuel consumption and air pollution; and

WHEREAS, the FAST Act also requires MPOs to work cooperatively with public transit operators to implement performance-based planning and programming for urbanized areas, which are intended to improve enhance the

enhance the safety of the nation’s public transportation systems, ensure that those systems are in a state of good repair, and provide increased transparency into agencies’ budgetary decision-making processes; and

WHEREAS, the FTA in 23 CFR Section 450.310, requires either an MOU or an overall (unified) planning work program between the MPO and all local authorities and transit operators receiving FTA funds to specify the procedures for carrying out transportation planning and fund programming; and

WHEREAS, SJCOG will work cooperatively with the CITY OF TRACY and transit operators in the San Joaquin region to establish a process and a set of guiding principles for the selection of transit projects to be included in the TIP;

NOW, THEREFORE, in consideration of the mutual benefits to the transit operators and jurisdictions hereto, and in consideration of the covenants and conditions herein contained, SJCOG and CITY OF TRACY agree as follows:

SECTION 1: Cooperative Relationship

1.1 MOU Purpose and Intent

The purposes of this MOU are to:

- a) Set forth the basic structure for cooperative planning and decision making regarding transit planning and programming between SJCOG, CITY OF TRACY, and transit operators in the San Joaquin region; and
- b) Foster a mutually beneficial working relationship between the Parties for the provision of comprehensive, effective, and coordinated transit planning between each jurisdiction’s public mass transportation system; and
- c) Identify the regional transit planning responsibilities, in coordination with the State of California, for programming federal funds within the SJCOG Federal Transportation Improvement Program (FTIP); and
- d) Codify the process for selection of transit projects and sub-allocation of federal funds in the Tracy urbanized area (UZA); and
- e) Ensure that federal transit funds are distributed in the region in compliance with federal requirements; and

The intent of this MOU is to:

- a) Articulate a transparent process for funding transit projects with federal dollars in full accordance with federal and state regulations; and
- b) Support implementation of a performance-based approach to transportation decision making; and
- c) Foster economies of scale through assistance in the coordination of funding for mutually beneficial capital projects, including shared transit facilities and bus purchase contracts; and
- d) Provide for coordinated planning and foster coordinated services; and
- e) Apply federal transit dollars to implement transit priorities identified in the SJCOG Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS).

1.2 Representation on SJCOG Interagency Transit Committee

The Interagency Transit Committee (ITC) was created to improve communication among the transit agencies within San Joaquin County and serves as the primary committee to coordinate regional transit planning and programming of federal transit related funds. Representatives from transit operators in the region, as well as from SJCOG member agencies, are invited to serve on the ITC. Each Party shall provide one (1) representative and one (1) alternate to serve on ITC on matters that pertain to this MOU, or shall identify an ITC representative from another agency/jurisdiction to serve as their representative. Each Party agrees to work cooperatively with SJCOG, other transit operators and member agencies in ensuring the provision of coordinated, region-wide transit services. SJCOG shall coordinate and facilitate activities related to the ITC.

1.3 Communication and Agreements

A critical component of coordination involves open and productive communication. SJCOG is required to update the FTIP/RTP every even-numbered year and the RTP every four (4) years. Responsive communication between the Parties is imperative in order to meet this mandate.

Within the designated urbanized area, transit operators that meet the applicable federal requirements are eligible to apply for FTA and/or FHWA transit funding for capital, operating, and planning assistance for the delivery of public mass transportation under arrangements made through an MOU between the Party and SJCOG consistent with FTA and FHWA requirements or MOUs between Parties who will be recipients of federal funds.

Annual Certifications and Assurances Regarding FTA Grant Programs

By signing this Agreement, each Party, and its subrecipients, certifies to comply with the applicable Annual Certifications and Assurances for FTA Grant Programs, including the Urbanized Area Formula Grants (5307), published annually in the Federal Register, and agree to forward to SJCOG a signed copy of the Certifications and Assurances form for each year prior to the time the Party receives its first FTA Urbanized Area Formula Grants (5307) and Bus and Bus Facilities (5339) Programs grant award for the year.

Public Involvement

The federal regulations for metropolitan planning under FAST Act are incorporated within the SJCOG adopted public participation plan. Federal law requires that the MPO work cooperatively with the state department of transportation and the regional transit operators to provide citizens, affected public agencies, representatives of transportation agencies, freight shippers, private providers of transportation, representative users of public transit, and other interested transit operators and jurisdictions a reasonable opportunity to comment on proposed transportation plans and programs.

To receive a FTA grant, a grant applicant must meet certain public participation requirements in development of the FTA programs. Per FTA Circular 9030.1D, Chapter IV, FTA considers a grantee to have met the public participation requirements associated with the annual development of the Program of Projects (POP) when the grantee follows the public involvement process outlined in the FHWA/FTA planning regulations for the TIP (see MOU Section 3).

All SJCOG public involvement efforts are consistent with Title VI of the Civil Rights Act and the Executive Order on Environmental Justice.

1.4 Responsibilities

The Executive Director of SJCOG and City Manager of CITY OF TRACY are the primary individuals responsible for ensuring compliance with the provisions specified in this MOU.

SECTION 2: Transit Planning

2.1 Planning Assistance

Upon request, or in order to maintain eligibility for federal funds, SJCOG will assist in the development of transit planning documents produced by the Party. The type of assistance provided by SJCOG will include, but is not limited to, the following:

- a) Obtain and analyze data from various sources to develop concrete demographic, growth, and use assumptions for the purpose of transit forecasting and development (e.g., trip generation tables, census information, maps);
- b) Assist in obtaining state and federal funding of projects consistent with the SJCOG RTP/SCS and FTIP/RTP (e.g., completing paper work, facilitating FTIP/RTP amendments);
- c) Provide a program through the FTIP/RTP or Overall Work Program (OWP) through which federal funds can be authorized for expenditure; and
- d) Support operators in our MPO function in compliance with FAST Act mandates

A final copy of all transit planning documents, including FTA Triennial Audits, National Transit Database, and State Controller Reports, as well as the transit asset management plans and safety plans produced by the Party, will be forwarded to SJCOG. This will assist SJCOG in overall transit planning coordination as well as ensuring that FTA and FHWA transit funds are used as planned, as per FTA and FHWA requirements.

2.2 Regional Planning (Regional Transit Coordination)

SJCOG will provide a forum that will foster partnerships and coordination in the development of public transit services throughout the San Joaquin region. Items to be considered should include fares, transfer and pass policies, transit information, marketing, schedules, service coordination, data needed to meet periodic reporting requirements, and other activities as required.

As part of its MPO role, SJCOG will continue the cooperative and coordinated planning of the transportation system in each jurisdiction Party to this MOU and the relationship of the regional and interregional transit network within the regional transportation system.

As MPO, SJCOG will also be responsible for the development of required regional planning documents for the San Joaquin region, such as the RTP/SCS. The Party will provide technical information during the development of these regional planning documents through the SJCOG committee structure.

2.3 Long-Range Regional Transportation Plan - Regional Transportation Plan

SJCOG agrees to prepare, adopt and maintain, as required, a long-range Regional Transportation Plan (RTP). In accordance with the planning regulations and FTA and FHWA guidance, the Party to this MOU will participate in the development of SJCOG's RTP, referred to as the Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS). The RTP/SCS will assess the transportation needs of the region and set forth improvements necessary to address those needs over a minimum twenty (20) year period. SJCOG updates its RTP/SCS every four (4) years, consistent with federal and state guidelines.

In order to comply with the planning regulations and federal guidance for the development of the RTP/SCS, the Party agrees to work cooperatively in the refinement of the RTP through the conduct of and participation in multimodal transportation studies. The Party also agrees to provide information required to fully comply with the federal requirements. Examples of the type of information required to be provided to SJCOG by transit operators include, but are not limited to, the following:

- a) An overview of key performance measures of existing transit systems;
- b) Transit demand projections;
- c) Anticipated fleet replacement and expansion needs (Transit Asset Management Plan and targets and Agency Safety Plans and targets);
- d) Anticipated equipment replacement and rehabilitation needs;
- e) Anticipated facility needs;
- f) System improvement strategies with time frames for action;
- g) A financial plan, including expected revenues, planned expenditures, documentation of fiscal ability to operate and expand services and strategies to deal with potential funding support changes; and

To the extent that a current, adopted Short-Range Transit Plan, required by FTA for direct receipt of federal transit funding, includes the foregoing information, then providing SJCOG with a copy of a Short-Range Transit Plan will be deemed in compliance with the RTP information submittal requirements.

2.4 Short-Range Transit Plan

In response to FTA and FHWA planning regulations and guidance, the Party will prepare Short-Range Transit Plans (SRTPs) that set out transit planning and programming for a ten-year period. The SRTP will be updated every five (5) years. These SRTPs will provide input for SJCOG's preparation of the Transportation Improvement Program. The SRTPs will address unmet transit needs and service level sustainment, in addition to other agency-specific concerns. Future SRTPs shall contain a list of projects for future FTA and FHWA transit funding. The project list shall:

- a) Identify and describe the scope of the specific projects and services, which address ongoing and increased transit demands. These projects and services, which include but are not limited to, Americans with Disabilities Act (ADA) and Transportation Control Measures (TCMs), shall be described with sufficient detail (design, concept, and scope) to permit air quality conformity analysis to be performed by SJCOG. The list shall also address the issues related to unmet transit needs that are reasonable to meet.
- b) Identify the amount and type of federal and non-federal funds required to support the projects for each year represented in the Plan. In addition, the list shall identify anticipated discretionary funding estimates for the FTIP/RTP and RTP.

SJCOG will work cooperatively with the Party in their efforts to generate information needed to prepare their SRTPs and future updates.

2.5 Air Quality

Currently, the San Joaquin Valley (or portions thereof) is designated as nonattainment with respect to Federal air quality standards for ozone, and particulate matter under 2.5 microns in diameter (PM_{2.5}); and has a maintenance plan for particulate matter under 10 microns in diameter (PM-10), as well as a maintenance plan for carbon monoxide (CO) for the urbanized/metropolitan areas of Kern, Fresno, Stanislaus and San Joaquin Counties. Therefore, transportation plans and programs for the nonattainment areas for the San Joaquin County area must satisfy the requirements of the Federal transportation conformity regulation.

In nonattainment areas for air quality standards, the MPO is responsible for determining conformity of the TIP and RTP with the State Implementation Plan to achieve air quality standards. The goal is to ensure that transportation plans, programs, and projects do not adversely affect the region's air quality standards.

Conformity consultation in the San Joaquin Region is to be done in accordance with 40 CFR 93.105. Under these requirements, SJCOG consults with local governments and appropriate State and federal agencies on the TIP, RTP, conformity analysis, and the SJCOG Overall Work Program. For local government consultation, the Party and SJCOG will work collaboratively on amendments to the TIP and RTP and ensure those amendments are in compliance with air quality conformity requirements.

2.6 Overall Work Program

Since 1969, SJCOG has filled a variety of roles for its member jurisdictions and San Joaquin County, including serving as the Regional Transportation Planning Agency, Metropolitan Planning Organization, Airport Land Use Commission, Census Data Center, Congestion Management Agency, Local Transportation Authority, Regional Housing Needs Allocation, Lead Agency – Transportation Air Quality Attainment, and San Joaquin County Multi-Species Conservation Plan.

The Overall Work Program (OWP) is a management tool and is developed to address the core planning functions, tasks, and products that SJCOG will undertake to deliver during each fiscal year. SJCOG develops its annual program of projects in consultation with interested transit operators and local government agencies. Through a collaborative process with federal, state and local agencies, SJCOG also seeks input on the OWP from the public on key issues facing the San Joaquin region. Planning for the OWP is a continuous process. Each year, the draft OWP is provided to local, state and federal agencies for review. The draft OWP is presented to the SJCOG Board in the month of February and, upon approval, is sent to Caltrans and FTA/FHWA, and posted on the web site for general public review. SJCOG then responds to the comments received and the Board adopts the Final OWP by April 1 of each year.

SECTION 3: Programming of Federal Funds

3.1 Federal Funds Sub-Allocation Process (FTA Grant Process)

FTA planning guidelines state that using a predetermined split or formula for sub-allocating funds in the Urbanized Area (UZA) is not necessarily consistent with the goals of the metropolitan planning process.

Therefore, to sub-allocate FTA Urbanized Area Formula Grants (5307) and Bus and Bus Facilities (5339) Program funds, SJCOG, in cooperation and coordination with the CITY OF TRACY (direct and/or subrecipients of the Federal formula funds in the Tracy UZA), will develop a locally-acceptable methodology for the programming of the Federal formula funds. This methodology will be re-visited on an annual basis through a comprehensive planning process and will include collaboration with all transit stakeholders in the UZA. The methodology will go through the ITC committee for a region-wide consultation process. Changes to this methodology that are approved by the Parties will also go through regular ITC meetings.

The same notices of intent, publication of proposed projects, and public involvement and review also shall be used to fulfill the public hearing requirements of 49 USC Section 5307, covering review and approval of FTA grant applications for FTIP/RTP projects.

3.2 Federal Transportation Improvement Program (FTIP) Programming

The parties agree to use the Earned Share Sub-allocation process as the focal point for making an annual determination regarding the distribution of federal funds available for allocation by SJCOG within the Tracy urbanized area. The Parties agree that it is desirable to ensure that a stable funding stream is available for all area operators that allows the operators to carry out coordinated services throughout the urbanized area.

SJCOG will use the Sub-Allocation process to develop its biennial program of projects for FTA formula funds. Following direct consultation with the Party, as well as all transit operators and member agencies, SJCOG distributes notices of intent to develop or amend the FTIP/MTIP, publishes the proposed program of projects to be adopted, and carries out a public involvement and review process for FTIP/RTP adoption or amendment, in compliance with 23 CFR Sections 450.312 and 450.324. Any transit operator or member agency seeking FTIP/RTP programming and subsequent grant approvals will provide SJCOG with sufficient project detail to convey understanding of the projects by all interested agencies and persons, meet FTA grant application requirements, and provide a clear linkage to FTIP/RTP project descriptions.

As part of the FTIP/RTP process, projects are programmed in the FTIP/RTP on behalf of all transit providers receiving federal funds. SJCOG, the Party, and all other transit operators affected by the UZA funding, shall meet annually to use the locally-developed Sub-Allocation process and recommend a prioritized list of projects for the allocation of federal funds, which would include all FTA 5307 funds apportioned to the UZA plus additional federal funds that may be available for distribution from FTA and FHWA.

The ITC will identify priority projects and endeavor to program the use of said funds based on factors that are cooperatively developed by the SJCOG, the Party, and other affected transit operators, with final approval by SJCOG Board.

3.3 Applications for Transit Funding (FTA Grant Administration)

As the Metropolitan Planning Organization, SJCOG is responsible for programming federal formula funds allocated under the Federal Transit Act and identifying these funds in the federal transportation improvement program. Participation in this MOU is required for the receipt of Federal FTA and/or FHWA funds, specifically the FTA Urbanized Area Formula Grants (5307) and Bus and Bus Facilities (5339) Programs.

After the completion of the Sub-allocation process, each Party seeking federal transit funding, in association with the other transit operators and jurisdictions, will prepare applications to the FTA or FHWA for federal transit funding. Draft applications will be submitted to SJCOG using the FTA TrAMS, or another mutually agreed upon method, in advance of the FTA or FHWA submittal to confirm accuracy and consistency with FTIP/RTP programming requirements and with the local SRTP and SJCOG RTP/SCS, as required by federal guidelines.

All Parties agree to work in good faith to develop consistent programming, documentation, and funding requests in a manner consistent with FTA or FHWA requirements.

SECTION 4: FTIP Project Monitoring & Maintenance

4.1 Progress Reporting

SJCOG is responsible for tracking the overall progress of all projects in the FTIP/RTP and is required to produce an annual list of projects for which federal funds have been obligated in the preceding year and will ensure that it is made available for public review.

The Party will assist SJCOG's efforts to track the overall progress of transit projects in the FTIP/RTP through providing basic access to their FTA TrAMS accounts. At a minimum, milestone/progress reports submitted to FTA and reviewed by SJCOG shall contain all of the information required in FTA Circular 5010, as amended, for grant administration procedures. If project specific questions are raised by FTA or SJCOG that cannot be answered through review of the TrAMS documentation, the Party will, upon request, provide SJCOG additional information. Examples of information that may be periodically requested may include the following:

- a) A classification of the projects by the individual categories, as identified in the FTIP/RTP;
- b) A documentation of the stage of project implementation;
- c) An explanation for any project delays if the project is behind schedule;
- d) The reasons for any cost overruns if the project is over budget;
- e) A status update on the amount of federal funding obligated, received, and used to support projects;
- f) Any identified needs for an FTIP/RTP amendment; and
- g) Project savings to be reverted, if any, at project completion;

4.2 FTIP/RTP Amendments

SJCOG processes FTIP/RTP modifications and amendments periodically. Each transit operator or member agency receiving transit funding is responsible for notifying SJCOG if there is the need to amend the FTIP/RTP. Amendments may require three to four months to process for approval. SJCOG typically processes FTIP/RTP amendments on a quarterly basis. A formal request for changes in project cost, scope, or schedule must be made to be incorporated in an amendment. Certain minor adjustments and administrative and project budget modifications can be made outside the formal amendment process, but must be requested in writing. Due to the complexity of making federal funding changes, the Transit Agency should allow plenty of time and engage SJCOG early.

As part of the quarterly progress report, or more frequent reporting if required, each transit operator or member agency receiving transit funding will notify SJCOG regarding the reasons an amendment to the FTIP/RTP is needed. Amendments may be needed to address issues such as funding shortfalls, delays in project implementation, and/or new projects that need to be included in the FTIP/RTP. Subrecipients of FTA funding shall regularly update SJCOG on project status, and SJCOG shall periodically provide a grant status review to the ITC.

SECTION 5: Additional Terms and Conditions of the MOU

5.1 MOU Amendments

This AGREEMENT may be amended at any time by mutual written agreement of the parties hereto.

5.2 MOU Withdrawal; MOU Termination

Participation in the MOU may be terminated by any of the parties hereto provided that the terminating party provides notice to the other party at least ninety (90) days prior to the date of termination. Termination or withdrawal by any single Party will result in the halt of certain activities, which in turn, may affect the selecting, funding, and grant application of state and federally funded transit projects. It also does not relieve any Party from state and federal mandates. Furthermore, a termination or withdrawal means that all Parties who are signatory to the MOU will need to meet and confer. All Parties must determine how best to continue the purpose and intent of the MOU and discuss how to get a replacement MOU implemented.

5.3 Notice

Any notice under this MOU shall be in writing and either personally delivered or sent by First Class U.S. Mail, postage pre-paid, addressed as follows:

SJCOG

Andrew Chesley
Executive Director
San Joaquin Council of Governments
555 E. Weber Avenue
Stockton, CA 95202

CITY OF TRACY

Troy Brown
City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

5.4 Counterparts

The Parties agree that this MOU may be signed in one or more counterparts, each of which will constitute an original and all of which taken together shall constitute one and the same instrument.

5.5 MOU Authorization

By our signature below, we certify that our respective Boards of Directors or City Councils have authorized us to enter into this MOU on behalf of our agency.

Troy Brown Date
City Manager, CITY OF TRACY

Andrew Chesley Date
SJCOG Executive Director

APPROVE AS TO FORM:

APPROVE AS TO FORM:

Bill Sartor Date
City Attorney

Steve Dial, Deputy Executive Date
Director/CFO

RESOLUTION 2016-_____

APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE SAN JOAQUIN COUNCIL OF GOVERNMENTS FOR STATE AND FEDERAL TRANSIT PLANNING AND PROGRAMMING AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Due to the Fixing America’s Surface Transportation (FAST) Act being signed into law, the Federal Transit Administration (FTA) directed the San Joaquin Council of Governments (SJCOG) to update all transit Memorandums of Understanding (MOU) with all transit operators in the region, and

WHEREAS, The existing MOU between the City of Tracy and SJCOG dates back to 2002 and references old transportation laws, and

WHEREAS, The FTA wants the MOU to reflect provisions from the FAST Act and to update any language before the end of the calendar year, and

WHEREAS, The purpose of the MOU is to outline federal roles and responsibilities of SJCOG and the City of Tracy in compliance with federal regulations;

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves a Memorandum of Understanding between the City of Tracy and the San Joaquin Council of Governments for State and Federal transit planning and programming and authorizes the Mayor to execute the agreement.

* * * * *

The foregoing Resolution 2016-_____ was adopted by the Tracy City Council on the 6th day of December, 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**AUTHORIZATION TO PURCHASE NINE TRUCKS AND VARIOUS PIECES OF FIELD EQUIPMENT FROM MULTIPLE SUPPLIERS IN THE AMOUNT OF \$454,755**EXECUTIVE SUMMARY

Periodically, the City has a need to replace vehicles and equipment as part of the replacement process. A current need exists to purchase vehicles and equipment needed for the operation and maintenance of Legacy Fields. This process is explained further in the subsequent staff report.

DISCUSSION

As part of the vehicle and equipment replacement program for the City, a number of trucks and pieces of field equipment need replacement. Also, additional vehicles and equipment are needed for the operation and maintenance of Legacy Fields. Several vendors are being used for these purchases to reflect responsive bidders, lowest bidder, local vendor preference, sole source, and/or National Joint Powers Alliance (NJPA) and California Multiple Award Schedules (CMAS) contract pricing.

The Public Works Department is responsible for managing most of the City's vehicle and equipment fleet and has an existing need to replace numerous trucks and various pieces of field equipment for several departments throughout the City. The Public Works Department received authorization through the Fiscal Year 2016-2017 budget process to replace the vehicles and equipment. Council approved additional funding on October 18, 2016 (Resolution # 2016-220) for the purchase of various vehicles and equipment for the operation and maintenance of Legacy Fields.

The City contacted several vendors and received bids for the vehicles and equipment needing to be replaced and purchased. Per the responses, several vendors were selected in accordance with the City purchasing ordinance. Below is a list of the vehicles and equipment being purchased and the vendors that will be used.

Description	Vendor	Cost	Reason for Award of Purchase
Toyota Tacoma	Livermore Toyota	\$28,830	Only Responsive Bidder
Toyota Tacoma	Livermore Toyota	\$28,831	Only Responsive Bidder
Ford F-150 1/2 Ton Pickup Truck	Tracy Ford	\$31,083	Low Bidder
Ford F-250 3/4 Ton Pickup Truck w/ Lift Gate	Tracy Ford	\$36,041	Low Bidder - Local Vendor Preference
Ford F-250 3/4 ton with utility bed	Tracy Ford	\$36,376	Low Bidder - Local Vendor Preference
Ford Escape 4x4	Tracy Ford	\$25,455	Low Bidder - Local Vendor Preference
Ford F-250 3/4 ton pickup truck (regular cab)	Downtown Ford	\$27,595	CMAS Contract #1-16-23-20A
Ford F-250 3/4 ton pickup truck (crew cab)	Downtown Ford	\$30,286	CMAS Contract #1-16-23-20A
Ford F-350 1 ton truck cab and chassis only	Downtown Ford	\$29,357	CMAS Contract #1-16-23-20A
John Deere 5085E Tractor w/ long reach/slope mower	Belkorp Ag	\$101,663	NJPA Contract #021815-DAC
Large Area Rotary Mower	Turf Star	\$79,238	CMAS Contract #4-07-51-0020A
	TOTAL	\$454,755	

The NJPA is a municipal contracting government agency that serves education and government agencies nationally through competitively bid and awarded contract purchasing solutions. The City of Tracy is an established customer with the Alliance (customer number 18531). The CMAS is a competitive bid cooperative purchase program which offers a wide variety of commodities at prices which have been assessed to be fair, reasonable, and competitive. The City is authorized to make purchases using both the NJPA and CMAS cooperative purchasing agreements per Tracy Municipal Code section 2.20.220.

STRATEGIC PLAN

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

FISCAL IMPACT

Funding was budgeted and is available in the fiscal year 2016-2017 equipment replacement budget for the acquisition of these vehicles and field equipment and additional funding was appropriated by Council on October 18, 2016 (Resolution #2016-220) for the purchase of various vehicles and equipment for Legacy Fields.

RECOMMENDATION

That City Council, by resolution, authorize the purchase of nine trucks and various pieces of field equipment from multiple suppliers in the amount of \$454,755.

Prepared by: Connie Vieira, Management Analyst

Reviewed by: Bob Gravelle, Public Works Superintendent
Don Scholl, Public Works Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING THE PURCHASE OF NINE TRUCKS AND VARIOUS PIECES OF FIELD EQUIPMENT FROM MULTIPLE SUPPLIERS IN THE AMOUNT OF \$454,755

WHEREAS, As part of the vehicle and equipment replacement program for the City, there are a number of trucks and pieces of field equipment needing replacement, which is funded in the Fiscal Year 2016-2017 budget, and

WHEREAS, On October 18, 2016, Council appropriated funds to purchase various vehicles and equipment for the operation and maintenance of Legacy Fields (Resolution #2016-220), and

WHEREAS, Several vendors are being used for these purchases to reflect responsive bidders, lowest bidder, local vendor preference, sole source, and/or National Joint Powers Alliance (NJPA) and California Multiple Award Schedules (CMAS) contract pricing;

NOW, THEREFORE, BE IT RESOLVED, That City Council authorizes the purchase of nine trucks and various pieces of field equipment from multiple suppliers in the amount of \$454,755 as set forth in the staff report accompanying this item.

* * * * *

The foregoing Resolution _____ is hereby passed and adopted by the Tracy City Council this 6th day of December, 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

DECLARING CERTAIN VEHICLES AND EQUIPMENT AS SURPLUS AND APPROVING THEIR SALE

EXECUTIVE SUMMARY

The City periodically declares equipment and commodities that have been used beyond their economical and/or useful life as surplus for sale at public auction.

DISCUSSION

The equipment and commodities on the attached list have been removed from service and are no longer needed by the City. These items have been used beyond their economical and/or useful life and may be declared as surplus property.

The disposal of surplus equipment and commodities or other property no longer needed by any department of the City is governed by Section 2.20.310 of the Tracy Municipal Code which identifies the method of disposition of surplus property.

These surplus items will be sold at public auction to the highest bidder. Items which are not sold at public auction will be reviewed for value, and if appropriate, sold for scrap value.

STRATEGIC PLAN

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

FISCAL IMPACT

The proceeds from the sale of surplus property will be deposited in the appropriate City fund from which the property was originally purchased. The estimated value of this surplus property is \$25,000.

RECOMMENDATION

That the City Council, by resolution, declares and approves the list of surplus equipment and commodities, and authorizes the sale of said items at public auction to the highest bidder.

Prepared by: Robert Gravelle, Public Works Superintendent

Reviewed by: Don Scholl, Public Works Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

Attachment A: Surplus Vehicle and Equipment List

Attachment A

SURPLUS VEHICLES AND EQUIPMENT 12-6-16

Asset ID	VIN/SERIAL #	Year	Make	Model
2021	3B7KC26Z51M534630	2001	Dodge	2500
2023	3B7KC26Z91M534629	2001	Dodge	2500
2032	3B6KC26Z31M534632	2001	Dodge	2500
2044	78003	2001	Smithco	78-200
2071	1FMZU72E22UC42082	2002	Ford	Explorer
2076	4629	2002	Smithco	42-000C
2079	1FTNF20L12EC58737	2002	Ford	F250
2177	1FMPU16596LA50877	2006	Ford	Expedition
2182	7052801694	2006	Jacobsen	HR-9016
2204	1FMPU14516LB00917	2006	Ford	Expedition
2262	2FAFP71V68X141859	2008	Ford	Crown Victoria
2286	2B3KA43G38H315258	2008	Dodge	Charger
2290	2FAFP71VX8X151813	2008	Ford	Crown Victoria
2297	37971	1962	Taylor Dunn	Cart
2316	2FAHP71V19X116796	2009	Ford	Crown Victoria
2388	6G3NS5U24EL943302	2014	Chevrolet	Caprice
2331	2FABP7BV2BX103131	2011	Ford	Crown Victoria
8909	1GDM7D1F1KV506557	1989	GMC	Kodiak
9709	1FTDF1726VKC52473	1997	Ford	F150
9916	2FAFP73W1XX184994	1999	Ford	Crown Victoria
9007	6202-5	1990	Ingersoll-Rand	DD-23
9706	1FTHF25H6VEB11416	1997	Ford	F250
9805	1FTZF1724WKB16575	1998	Ford	F150
No ID	4463186	N/A	Wisconsin	Trash Pump
Battery tester	N/A	N/A	Associated	6042
Battery tester	N/A	N/A	Powerlink	Ferret 40
Battery tester	09229714	N/A	Christie	CT-500
Battery charger	016202-0207	N/A	Associated	6009 Type B
Floor jack – no value		N/A		
Headlight alignment machine – no value		N/A		

RESOLUTION _____

DECLARING CERTAIN VEHICLES AND EQUIPMENT AS SURPLUS AND APPROVING THEIR SALE

WHEREAS, The City periodically declares equipment and commodities that have been used beyond their economical and/or useful life as surplus property, and

WHEREAS, The disposal of surplus equipment and commodities or other property no longer needed by a department in the City is governed by Section 2.20.310 of the Tracy Municipal Code which identifies the method of disposition of surplus property, and

WHEREAS, The listed surplus items will be sold at public auction to the highest bidder. Items which are not sold at public auction will be reviewed for value, and if appropriate, sold for scrap value, and

WHEREAS, The proceeds from the sale of the surplus property will be deposited in the appropriate City fund from which the property was originally purchased.

NOW, THEREFORE, BE IT RESOLVED, That the City Council declares and approves the list of equipment and commodities attached to the staff report accompanying this resolution as surplus, and authorizes the sale of said items at public auction to the highest bidder and the remaining items to be sold for scrap value, if appropriate.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 6th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM F.E

REQUEST

APPROVE AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND HF&H CONSULTANTS, LLC AND APPROVE A FUNDING ALLOCATION IN THE AMOUNT OF \$34,201 FROM THE SOLID WASTE FUND

EXECUTIVE SUMMARY

Council previously approved appropriations of \$170,862 for a solid waste financial consultant to prepare financial analyses and assist the City in contract negotiations with Tracy Material Recovery and Solid Waste Transfer Inc. (TMRF). HF&H Consultants, LLC (HF&H) was retained to perform those services on behalf of the City due to its expertise within the industry. The Agreement with HF&H was previously extended when TMRF replaced its legal representation and City had a complete turnover in staff negotiating the contract. This amendment will increase the not to exceed amount of the Agreement from \$170,862 to \$205,063, or by \$34,201.

DISCUSSION

Council previously authorized staff to negotiate a new Agreement with TMRF. A new Agreement was not met prior to the end date of the previous term and was extended through December 31, 2016. Negotiations have been prolonged due to special circumstances such as TMRF replacing its legal counsel resulting in significant modifications to the Agreement and also the replacement of the City's key personnel involved in negotiations.

Given the transition of City staff, the City's current negotiating staff re-evaluated the Agreement terms and continued negotiations with TMRF. HF&H's expertise, experience, and consistent presence throughout this process have been necessary to continue and conclude negotiations. This amendment will increase the not to exceed amount of the Agreement to \$205,063.

STRATEGIC PLAN

This item is in accordance with Council Governance Strategy, Goal 2: Ensure continued fiscal sustainability through budgetary and financial stewardship; Objective 3: Enhance Fiscal Transparency and Goal 3: Identify resources to promote communication and civic engagement, enhance City services, and promote organizational productivity.

FISCAL IMPACT

The appropriation will not impact the General Fund. The additional \$34,201 will be allocated from the Solid Waste Fund.

RECOMMENDATION

It is recommended that the City Council approve Amendment No. 4 to the Professional Service Agreement between the City of Tracy and HF&H Consultants, LLC and approve a funding appropriation of \$34,201 from the solid waste fund.

Prepared by: Connie Vieira, Management Analyst I

Reviewed by: Martha Garcia, Interim Finance Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENT

Attachment A – Amendment No. 4 to the Professional Services Agreement between the City of Tracy and HF&H Consultants, LLC

**CITY OF TRACY
AMENDMENT NO. 4 TO THE
PROFESSIONAL SERVICES AGREEMENT FOR MATERIAL RECOVERY
AND SOLID WASTE TRANSFER FINANCIAL ANALYSES AND NEGOTIATION
SERVICES**

This Amendment No. 4 ("Amendment") to the Professional Services Agreement for Material Recovery And Solid Waste Transfer Financial Analyses And Negotiation Services is entered into between the City of Tracy, a municipal corporation ("City"), and HF&H Consultants, LLC, a California Limited Liability Company (hereinafter "Consultant").

RECITALS

- A. The City and Consultant entered into a Professional Services Agreement ("Agreement") for Material Recovery and Solid Waste Transfer Financial Analyses and Negotiation Services which was authorized by the City Council on October 16, 2012, under Resolution No. 2012-212.
- B. Tracy Material Recovery and Solid Waste Transfer Inc. (Tracy MRF) retained new legal counsel whom significantly modified the negotiated draft agreement between the City and Tracy MRF necessitating additional analyses and agreement negotiations. Amendments No. 1 and No. 2 for additional negotiation and analyses services were approved by Council on April 1, 2014, under Resolution No. 2014- 045; and on December 16, 2014 under Resolution No. 2014-205.
- C. The transition of City staff (and new Council) and concerns regarding contract terms negotiated under the former City Manager and former Administrative Services Director, necessitated the City's current negotiating staff to re-evaluate contract issues that are deemed significant. Amendment No. 3 for additional negotiation and analyses services was approved by Council on May 5, 2015, under Resolution No. 2015-061.
- D. Additional transition of City staff and the complexities of the negotiations have extended the overall negotiation process. The City's current negotiating staff desires to finalize the issues and present Council with a new Tracy MRF Agreement. HF&H's expertise, experience, and consistent presence through this process are necessary to conclude negotiations and brief Council.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement and Amendments No. 1, No. 2 and No. 3, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment shall remain in effect.
2. **Terms of Amendment.** Section 1, SCOPE OF SERVICES of the Professional Services Agreement ("Agreement") for Material Recovery and Solid Waste Transfer Financial Analyses and Negotiation Services is hereby amended to include the services described in Attachment "A-4" attached hereto and incorporated herein by reference.

Section 5.1. COMPENSATION of the Agreement is hereby amended to increase the Agreement by \$34,201 for a total of \$205,063.

- 3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
- 4. **Severability.** If any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in effect.
- 5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

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

City of Tracy

HF&H Consultants, LLC

By: Robert Rickman
Title: Mayor

Date: _____

Attest:

By: Nora Pimentel
Title: City Clerk

Date: _____

Approved as to form:

By: Bill Sartor
Title: City Attorney

Date: _____

By: *Robert Rickman*
Title: *Mayor*

Date: *11/29/16*

Fed. Employer ID No. _____

By: *John W. Janly*
Title: *SR V.P.*

Date: *29 Nov 2016*

Schedule 4-A

Scope of Work and Schedule of Values

		R D Hilton	R. Hutchinson	K Erwin	Total	Proposed	Meetings	Work Products
		\$265	\$230	\$100	Hours	Cost		
Task 1 Negotiations with TMRF								
1a	Prepare for and facilitate up to 6 internal City negotiation team meetings and up to 6 negotiation sessions with TMRF representatives and City negotiating team. Agree upon next steps and schedule.		48		48	\$11,040	6 Internal Meetings 6 Negotiation Meetings	
1b	Update working Agreement for Material Acceptance, Processing and Transfer Services based on results of each meeting. Distribute to TRMF representatives and City negotiating team members.		10		10	\$2,300		Updated redline version of the Agreement.
1c	Review and analyse financial and operational data and proposed Agreement language provided by TRMF representatives prior to each negotiation session. Prepare comments and distribute to City negotiating team members.		16		16	\$3,680		Review Comments and analysis.
1d	Prepare proposed Agreement language that represents the position of the City prior to each negotiation session and distribute to City negotiating team members.		10		10	\$2,300		Proposed Agreement language.
1e	Prepare for and facilitate final meeting with TMRF representatives and City negotiating team (7 th meeting) to develop and agree on final changes to Agreement and exhibits.		9		9	\$2,070	1 Internal Meeting Negotiation Meeting	1
1f	Preparation of redline version of final Agreement and exhibits based on 7 th meeting and distribution to TRMF representatives and City negotiation team for comments.	2	4		6	\$1,450		Redline version of the final Agreement.
1g	Preparation of final agreement and exhibits which will be executed by the Company for inclusion in the staff report	1	2	6	9	\$1,325		Final version of the Agreement for execution.
Task 1		3	99	6	108	\$24,165		
Task 2 Council Approval								
2a	Assist in preparing for City Council Meeting including assistance in preparing one draft of a staff report, one draft of a PowerPoint presentation, and research, review and analysis as requested.	2	8	2	10	\$2,570		
2b	Assist in presentation to City Council at regular meeting and responding to questions.		6		6	\$1,380	Council Meeting	
Task 2		2	14	0	16	\$3,950		
Engagement Management								
		4	0	0	4	\$1,060		
Contingency at 15%								
						\$4,376		
Total Costs								
						\$33,551		
Labor		9	113	8	128			
Out-of-Pocket Expenses						\$650		
Total Budget						\$34,201		

RESOLUTION _____

APPROVING AMENDMENT NO. 4 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF TRACY AND HF&H CONSULTANTS, LLC AND APPROVING A FUNDING ALLOCATION OF \$34,201 FROM THE SOLID WASTE FUND

WHEREAS, On October 16, 2012, the City entered into a Professional Services Agreement with HF&H Consultants, LLC to assist in negotiations with Tracy Material Recovery and Solid Waste Transfer Inc. (TMRF), and

WHEREAS, On April 1, 2014, December 16, 2014, and April 21, 2015, the City Council approved Amendments Nos. 1, 2, and 3 to the Professional Services Agreement between the City of Tracy and HF&H Consultants, LLC, and approved funding appropriations from the Solid Waste Fund, and

WHEREAS, HF&H has performed satisfactory services per the terms of the Professional Services Agreement and Amendments Nos. 1, 2, and 3, and

WHEREAS, Continued negotiations on the TMRF Agreement were necessary which extended the process;

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby approve Amendment No. 4 to the Professional Services Agreement between the City of Tracy and HF&H Consultants, LLC, authorizes the Mayor to execute the Amendment, and approves a funding appropriation of \$34,201 from the Solid Waste Fund.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 6th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.F

REQUEST

ACCEPTANCE OF THE CITY HALL PRINT ROOM REMODELING PROJECT CIP 71082, COMPLETED BY D.M. ALEGRE, INC., OF TRACY, CA., AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION AND AUTHORIZATION FOR THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT

EXECUTIVE SUMMARY

The project included architectural, cabinetry, HVAC and electrical modifications to print room in the City Hall.

The contractor has completed the City Hall Print Room Remodeling Project, CIP 71082, in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City Engineer to release the contractor's bonds and retention payment.

DISCUSSION

The City Hall Print Room Remodeling Project is a small phase of a larger project to renovate/remodel City Hall as new staff are added over time.

The project consisted of remodeling the existing Print Room and creating two new offices to accommodate additional staffing. The scope of work included removal of existing walls, cabinets and installation of new walls, doors, HVAC ducts, and electrical lighting.

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

The project was advertised for bids on the City of Tracy's website and builder's exchange on March 21, 2016. On June 21, 2016, the City Manager, in accordance with TMC 2.20.260, executed the agreement with the lowest monetary bidder, D.M. Alegre, Inc., of Tracy, California, in the amount of \$33,557 for the City Hall Print Room Remodeling Project, CIP 71082.

One change order in the amount of \$1,561 was issued for the project to remove and reinstall desk, partitions and install a dedicated electrical service outlet for the copy machine.

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

Estimated budget and project costs are as follows:

A. Construction Contract Amount	\$ 33,557.00
B. Change Orders	\$ 1,561.00
C. Design, Construction Management, Inspection, Testing & Miscellaneous Expenses	\$ 11,950.00
D. Project Management Charges	\$ 11,339.00
Total Project Costs	<u>\$ 58,407.00</u>
Budgeted Amount	\$ 220,000.00

STRATEGIC PLAN

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

FISCAL IMPACT

The City Hall Print Room Remodeling Project is part of the Capital Improvement Project for the remodeling of the existing City Hall Building, CIP 71082, and has budgeted funding in the amount of \$220,000. The remaining funds in the amount of \$161,593 will remain in the CIP and will be used for future remodeling of the existing City Hall Building as additional staff are added over time. There will be no fiscal impact to the General Fund.

RECOMMENDATION

That City Council accept, by resolution, the City Hall Print Room Remodeling Project, CIP 71082, completed by D.M. Alegre, Inc., of Tracy, California, authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder and authorize the City Engineer to release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

RESOLUTION 2016-_____

ACCEPTING THE CITY HALL PRINT ROOM REMODELING PROJECT CIP 71082, COMPLETED BY D.M. ALEGRE, INC., OF TRACY, CA., AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION AND AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT

WHEREAS, The project consisted of remodeling the existing City Hall Print Room and creating two new offices to accommodate additional staffing. The scope of work included removal of existing walls, cabinets and installation of new walls, doors, HVAC ducts, and electrical lighting, and

WHEREAS, The project was advertised for informal bids on the City of Tracy website and builder's exchanges on March 21, 2016, and

WHEREAS, On June 21, 2016, the City Manager, in accordance with TMC 2.20.260, executed the agreement with the lowest monetary bidder, D.M. Alegre, Inc., of Tracy, California, in the amount of \$33,557 for the City Hall Print Room Remodeling Project, CIP 71082, and

WHEREAS, One change order in the amount of \$1,561 was issued, and

WHEREAS, The status of budget and project costs are as follows:

A. Construction Contract Amount	\$ 33,557.00
B. Change Orders	\$ 1,561.00
C. Design, Construction Management, Inspection, Testing & Miscellaneous Expenses	\$ 11,950.00
D. Project Management Charges	\$ 11,339.00
Total Project Costs	<u>\$ 58,407.00</u>
Budgeted Amount	\$ 220,000.00

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

WHEREAS, The City Hall Print Room Remodeling Project is part of the Capital Improvement Project for the remodeling of the existing City Hall Building, CIP 71082, and has budgeted funding in the amount of \$220,000. The remaining funds in the amount of \$161,593 will remain in the CIP and will be used for future remodeling of the existing City Hall Building. There will be no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, That City Council accept, by resolution, the City Hall Print Room Remodeling Project, CIP 71082, completed by D. M. Alegre, Inc., of Tracy, California, authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder and authorize the City Engineer to release the bonds and retention payment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 6th day of December, 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

APPROVE THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1A PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS, APPROVE THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE BOTH FIRST AMENDMENTS

EXECUTIVE SUMMARY

The Developer (Prologis L.P., a Delaware limited partnership) signed an agreement with the City to construct program roadway improvements and recycled water improvements (Phase 1A Program OIA). The Phase 1A Program OIA was approved by City Council on July 7, 2015 by Resolution 2015-103. The Developer also entered into an agreement with the City to build non-program roadway improvements (Phase 1A Non-Program OIA). The Phase 1A Non-Program OIA was approved by City Council on July 21, 2015 by Resolution 2015-119. Certain landscape and irrigation improvements were excluded from these agreements as the Developer needed additional time to resolve several issues pertaining to landscaping improvements. Those issues have been resolved and the improvement plans have been completed. The additional work proposed by the First Amendment to the Phase 1A Program OIA and the First Amendment to the Phase 1A Non-Program OIA is shown on twenty (20) sheets of landscape and irrigation plans titled "Improvement Plan for Prologis International Park of Commerce, Phase 1A Irrigation and Landscaping Plans – Old Schulte Road, Old Road "E", and Hansen Road," prepared by David Babcock & Associates of Lafayette, California, and approved by the City Engineer. This document is available for viewing at the Department of Development Services.

Approval of the First Amendment to the Phase 1A Program OIA and the First Amendment to the Phase 1A Non-Program OIA will allow the Developer to proceed with construction of those certain landscape and irrigation improvements on the aforementioned streets.

DISCUSSION

On May 22, 2014, the Development Services Director approved the Development Review Application D14-0008 for construction of a distribution facility now referred to as the Federal Express Ground Facility (FedEx Project) which includes an industrial building, truck car wash, maintenance and fuel facility, and a gateway entry building totaling to 651,380 square feet of building space, parking, and associated improvements such as landscaping, and storm water treatment facilities. The FedEx Project will be located at the northeast corner of Hansen Road and Old Road "E".

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

The FedEx Project also requires construction of certain offsite roadway improvements, such as the widening of Old Schulte Road and Hansen Road north of Old Schulte Road, construction of Old Road "E", New Road "E", North Road "I", and South Road "I", and installation of traffic signal and intersection improvements on Hansen Road/Road "E", and South Road "I"/Old Schulte Road. These offsite roadway improvements, including the frontage improvements described above, are considered non-program roadway improvements and are not subject to development fee credits.

To guarantee completion of the program and non-program work by the Developer in an orderly manner under the City's inspections and directions, the Developer executed two OIAs (Phase 1A Program OIA and Phase 1A Non-Program OIA) and submitted the required securities to guarantee completion of the previously described improvements. These agreements were approved by City Council during the July 7, 2015 meeting with Resolution 2015-103 and the July 21, 2015 meeting with Resolution 2015-119, respectively. Certain improvements funded by the developer may be eligible for credits and/or reimbursements under the City's Development Impact Fee program.

The Developer requested that certain public parkway and median landscaping improvements be excluded from the OIAs, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation and finalize the improvement plans for the parkway and median irrigation and landscaping improvements. City staff has reviewed Developer's irrigation and landscape plans, specifications, and cost estimates and found them to be complete. Design of the landscaping improvements is consistent with the Amended Cordes Ranch Specific Plan related to landscape design concepts that was approved by the City Council on May 17, 2016, pursuant to Resolution 2016-097. The Developer will sign the First Amendment to the Phase 1A Program OIA and the First Amendment to the Phase 1A Non-Program OIA, and will submit the required improvement security.

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

Environmental Review

The Phase 1A Program OIA and Phase 1A Non-Program OIAs were approved pursuant to the conditions of approval for Development Review Application D14-0008 for the FedEx Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§21000 et seq.). The City determined that the FedEx Project did not require further environmental review

pursuant to CEQA section 15183. Similarly, and pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City has determined, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1A Program OIA and the First Amendment to the Phase 1A Non-Program OIA are consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the FedEx Project that would require subsequent environmental review.

FISCAL IMPACT

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

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolutions, approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Program Roadway and Recycled Water Improvements and the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Non-Program Roadway Improvements for Federal Express Ground Facility, and authorize the Mayor to execute said First Amendments.

Prepared by: Al Gali, Associate Civil Engineer
Criseldo Mina, Senior Civil Engineer

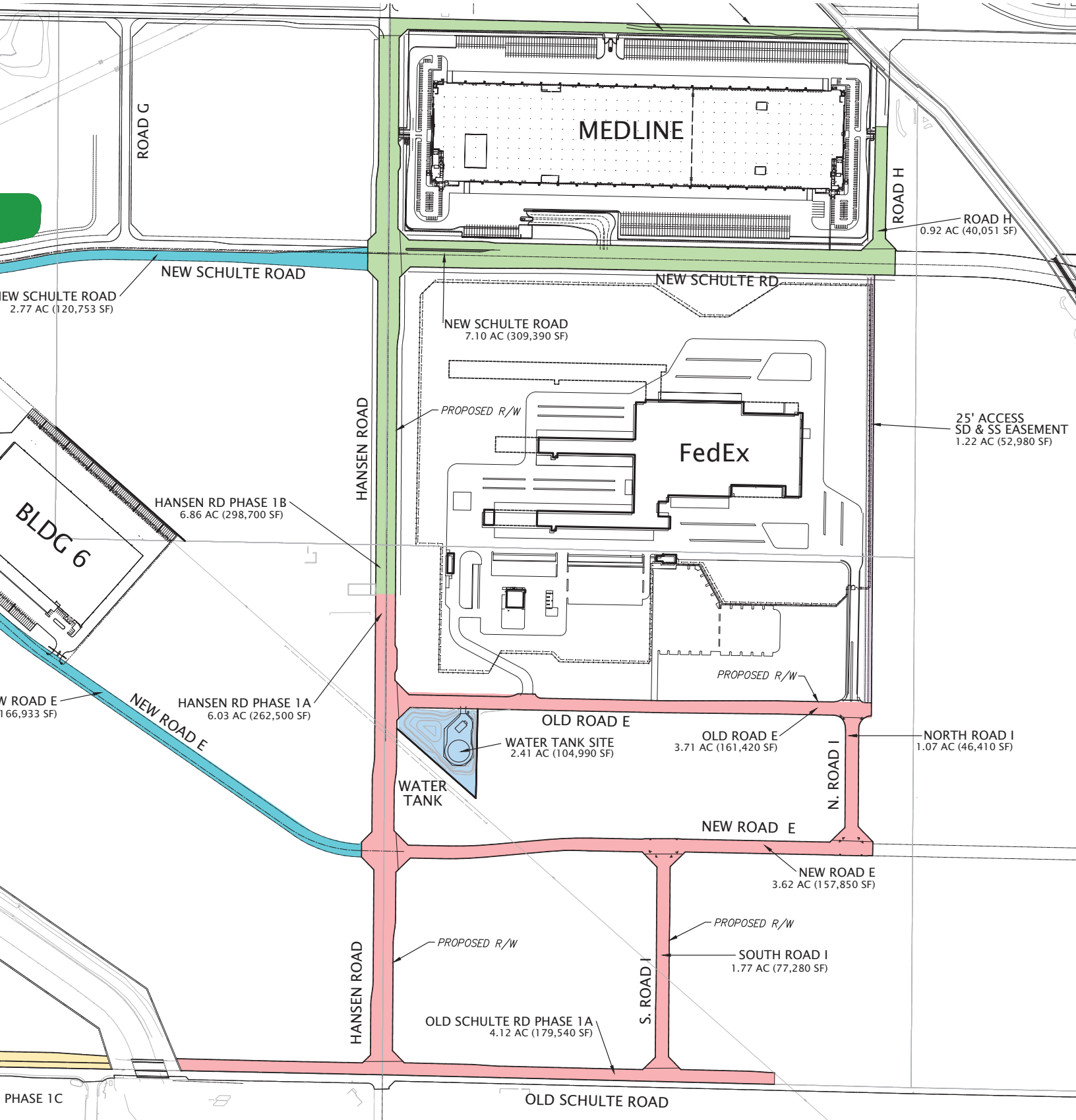
Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

- Attachment A – Location Map
- Attachment B – First Amendment to Offsite Improvement Agreement for the Cordes Ranch - Phase 1A Program Roadway and Recycled Water Improvements
- Attachment C – First Amendment to Offsite Improvement Agreement for the Cordes Ranch - Phase 1A Non-Program Roadway Improvements for the Federal Express Ground Facility
- Attachment D – Landscape Perspectives

CORDES RANCH PHASE 1A - ROADWAY IMPROVEMENTS



LEGEND

PASTEL RED - PHASE 1A

Attachment B

CITY OF TRACY
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT
FOR CORDES RANCH – PHASE 1A PROGRAM ROADWAY AND RECYCLED WATER
IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1A PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY** ("*First Amendment*") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation ("*City*") and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as "*Developer*").

RECITALS

A. On July 7, 2015, pursuant to Resolution 2015-103, the City entered into an Offsite Improvement Agreement for the construction of program roadway improvements on Old Schulte Road and Hansen Road, intersection improvements and traffic signal on Old Schulte Road/ Hansen Road, and Intelligent Transportation System on Old Schulte Road and Hansen Road and associated improvements for the FedEx Ground Facility ("*Phase 1A Program OIA*").

B. The parties now wish to amend the Phase 1A Program OIA to add certain irrigation and landscaping improvements to the Work described in the Phase 1A Program OIA (Additional Work).

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE**. This First Amendment hereby incorporates by reference all terms and conditions set forth in the Phase 1A Program OIA unless specifically modified by this First Amendment. All terms and conditions set forth in the Phase 1A Program OIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENTS TO THE PHASE 1A PROGRAM OIA**. The Work as defined in Recital E and described in the Plans and Specifications and Section 1 of the Phase 1A Program OIA is amended to include the work as shown on the twenty (20) sheets of irrigation and landscaping plans titled "Improvement Plan for Prologis International Park of Commerce, Phase 1A Irrigation and Landscaping Plans – Old Schulte Road, Old Road E, and Hansen Road" prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. In addition to the improvement security required by Section 4 of the Phase 1 Program OIA, Developer shall furnish additional contract security for the Additional Work as follows:
 - 2.1 **Faithful Performance** security in the amount of **\$509,179.00** to secure faithful performance of this First Amendment (until the date when the City Council accepts the Additional Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
 - 2.2 **Labor and Material** security in the amount of **\$509,179.00** to secure payment by Developer to laborers and materialmen (until the date when any and all

CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1A PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY
Page 2 of 3

claims in connection with the Additional Work are required to be made by laborers and materialmen in accordance with applicable laws) pursuant to Government Code Sections 66499.2, 66499.3, 66499.4, and 66499.7(b).

2.3 Warranty security in the amount of **\$50,917.90** to secure faithful performance of this First Amendment (from the date when the City Council accepts the Additional Work as complete until one (1) year thereafter) pursuant to Government Code Section 66499.1, 66499.4, and 66499.9.

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

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

CITY OF TRACY, a municipal corporation

Name: Robert Rickman
Title: MAYOR
Date: _____

Attest:

Name: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

Name: Bill Sartor
Title: CITY ATTORNEY
Date: _____

**CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT
AGREEMENT FOR CORDES RANCH – PHASE 1A PROGRAM ROADWAY AND
RECYCLED WATER IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY
Page 3 of 3**

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

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



Name: Thomas Martin

Title: VICE PRESIDENT

Date: 11-16-16

02-071415cm

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

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

RECITALS

A. On July 21, 2015, pursuant to Resolution 2015-119, the City entered into an Offsite Improvement Agreement for the construction of, among other things, the non-program roadway improvements on Hansen Road, Old Road E, Road E and Road I to serve the FedEx Ground Facility (“*Phase 1A Non-Program OIA*”).

B. The parties now wish to amend the Phase 1A Non-Program OIA to add certain irrigation and landscaping improvements to the Work described in the Phase 1A Non-Program OIA (Additional Work).

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE**. This First Amendment hereby incorporates by reference all terms and conditions set forth in the Phase 1A Non-Program OIA unless specifically modified by this First Amendment. All terms and conditions set forth in the Phase 1A Non-Program OIA not specifically modified by this First Amendment shall remain in full force and effect.

2. **AMENDMENT TO THE PHASE 1A PROGRAM OIA AND PHASE 1A NON-PROGRAM OIA**. The Work as defined in Recital E and described in the Plans and Specifications and Section 1 of the Phase 1A Non-Program OIA is amended to include the work as shown on the twenty (20) sheets of irrigation and landscaping plans titled “Improvement Plan for Prologis International Park of Commerce, Phase 1A Irrigation and Landscaping Plans – Old Schulte Road, Old Road E, and Hansen Road” prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. In addition to the improvement security required by Section 4 of the Phase 1A Non-Program OIA, Developer shall furnish additional contract security for the Additional Work as required by and in accordance with Section 2 of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1A Program Roadway and Recycled Water Improvements for Federal Express Ground Facility.

CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY
Page 2 of 2

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

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

CITY OF TRACY, a municipal corporation

Name: Robert Rickman
Title: MAYOR
Date: _____

Attest:


Name: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

Name: Bill Sartor
Title: CITY ATTORNEY
Date: _____

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

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



Name: Thomas Martin
Title: VICE PRESIDENT
Date: 11-16-16

02-071415cm

Perspective North

Attachment D



DB+A

DAVID BABCOCK + ASSOCIATES
3881 MI. DIABLO BLVD. SUITE 235
LAFAYETTE, CALIFORNIA 94549
1.925.283.5070

PROLOGIS INTERNATIONAL PARK
OF COMMERCE

January 2016

SHEET
1
of 2

Perspective South



DAVID BABCOCK + ASSOCIATES
3581 MT. DIABLO BLVD., SUITE 235
LAFAYETTE, CALIFORNIA 94549
1-925-283-5070

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1A PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS, AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, The Development Services Director approved a Development Review Application (D14-0008) on May 22, 2014 for the construction of an industrial distribution facility known as the Federal Express Ground Facility (FedEx Project) generally located east of Hansen Road and north of Schulte Road, and

WHEREAS, The Development Agreement (Prologis DA) between the City and Prologis, L. P. (Developer) allow the Developer to design and construct infrastructure improvements that are necessary to serve developments within the boundaries of Cordes Ranch area, and

WHEREAS, City Council approved the Offsite Improvement Agreement for Cordes Ranch – Phase 1A Program Roadway and Recycled Water Improvements (Phase 1A Program OIA) on July 7, 2015 pursuant to Resolution 2015-103, and

WHEREAS, At the Developer's request, certain street landscaping improvements were excluded as part of the work described in the Phase 1A Program OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 20 of the approved Phase 1A Program OIA, the City and the Developer can mutually agree to amend the Phase 1A Program OIA, and Developer and City have agreed to modify the Phase 1A Program OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the street landscaping and irrigation improvements, the Developer has executed the First Amendment to the Phase 1A Program OIA and has submitted the required improvement security, and

WHEREAS, The Phase 1A Program OIA was approved pursuant to the conditions of approval for Development Review Application D14-0008 for the FedEx Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§21000 et seq.), and

WHEREAS, The City Council previously determined that the FedEx Project did not require further environmental review pursuant to CEQA section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1A Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the FedEx Project that would require subsequent environmental review, and

WHEREAS, 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 First Amendment to the Phase 1A Program OIA;

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds that the foregoing recitals are true and correct and are thereby incorporated herein.

2. Environmental Review. Pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1A Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the FedEx Project that would require subsequent environmental review.

3. Approval. The City Council approves the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Program Roadway and Recycled Water Improvements, and authorizes the Mayor to execute the First Amendment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 6th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1A NON-PROGRAM ROADWAY IMPROVEMENTS FOR FEDERAL EXPRESS GROUND FACILITY, AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, The Development Services Director approved a Development Review Application (D14-0008) on May 22, 2014 for the construction of an industrial distribution facility known as the Federal Express Ground Facility (FedEx Project) generally located east of Hansen Road and north of Schulte Road, and

WHEREAS, The Development Agreement (Prologis DA) between the City and Prologis, L. P. (Developer) allow the Developer to design and construct infrastructure improvements that are necessary to serve developments within the boundaries of Cordes Ranch area, and

WHEREAS, City Council approved the Offsite Improvement Agreement for Cordes Ranch – Phase 1A Non-Program Roadway Improvements (Phase 1A Non-Program OIA) on July 21, 2015 pursuant to Resolution 2015-119, and

WHEREAS, At the Developer's request, certain street landscaping improvements were excluded as part of the work described in the Phase 1A Non-Program OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 21 of the approved Phase 1A Non-Program OIA, the City and the Developer can mutually agree to amend the Phase 1A Non-Program OIA, and Developer and City have agreed to modify the Phase 1A Non-Program OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the street landscaping and irrigation improvements, the Developer has executed the First Amendment to the Phase 1A Non-Program OIA, and

WHEREAS, The Phase 1A Non-Program OIA was approved pursuant to the conditions of approval for Development Review Application D14-0008 for the FedEx Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§21000 et seq.), and

WHEREAS, The City Council previously determined that the FedEx Project did not require further environmental review pursuant to CEQA section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1A Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the FedEx Project that would require subsequent environmental review, and

WHEREAS, 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 First Amendment to the Phase 1A Non-Program OIA;

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds that the foregoing recitals are true and correct and are thereby incorporated herein.

2. Environmental Review. Pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1A Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the FedEx Project that would require subsequent environmental review.

3. Approval. The City Council approves the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1A Non-Program Roadway Improvements for Federal Express Ground Facility, and authorizes the Mayor to execute the First Amendment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 6th day of December 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

APPROVAL OF THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING, APPROVAL OF THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE BOTH FIRST AMENDMENTS

EXECUTIVE SUMMARY

The Developer (Prologis L.P., a Delaware limited partnership) signed two agreements with the City to construct certain program and non-program improvements in connection with the development of the Medline industrial and office building (the Phase 1B Program OIA and the Phase 1B Non-Program OIA). The Phase 1B Program OIA was approved by City Council on July 21, 2015 by Resolution 2015-131, and the Phase 1B Non-Program OIA was approved by City Council on July 21, 2015 by Resolution 2015-132. Certain landscape and irrigation improvements were excluded from these agreements as the Developer needed additional time to resolve several issues pertaining to landscaping improvements. Those issues have been resolved and the improvement plans have been completed. The additional work proposed by the First Amendment to the Phase 1B Program OIA and the First Amendment to the Phase 1B Non-Program OIA is shown on twenty-one (21) sheets of landscape and irrigation plans titled "Improvement Plan for Prologis International Park of Commerce -- Phase 1B," which were prepared by David Babcock & Associates of Lafayette, California and approved by the City Engineer. This document is available for viewing at the Department of Development Services.

Approval of the First Amendment to the Phase 1B Program OIA and the First Amendment to the Phase 1B Non-Program OIA will allow the Developer to proceed with construction of those certain landscape and irrigation improvements.

DISCUSSION

On October 23, 2014, the Development Services Director approved the Development Review Application D14-0016 for the construction of an industrial distribution facility for Medline which includes a 1,005,480 square foot industrial building, parking, and associated improvements such as landscaping, and storm water treatment facilities (Medline Project). The Medline building will be located at the northeast corner of Hansen Road and New Schulte Road.

The Developer of the Medline Project is required to complete the construction of certain frontage roadway improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H", prior to occupying the building. These frontage roadway improvements include concrete curb, gutter, asphalt concrete pavement, parkway landscaping, driveway, street light, water and sewer mains and laterals, storm drain line and inlets, recycled water line (purple pipe) and irrigation service, fire hydrant, pavement marking and striping, signing and striping, and other improvements.

To guarantee completion of the program and non-program work by the Developer in an orderly manner under the City's inspections and directions, the Developer executed two OIAs (Phase 1B Program OIA and Phase 1B Non-Program OIA) and submitted the required security to guarantee completion of the previously described improvements. These agreements were approved by City Council during the July 21, 2015 meeting with Resolutions 2015-131 and 2015-132, respectively. Certain improvements funded by the Developer may be eligible for credits and/or reimbursements under the City's Development Impact Fee program.

The Developer requested that certain public parkway and median landscaping improvements be excluded from the OIAs, to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation and finalize the improvement plans for the parkway and median irrigation and landscaping improvements. City staff has reviewed Developer's irrigation and landscape plans, specifications, and cost estimates and found them to be complete. Design of the landscaping improvements is consistent with the Amended Cordes Ranch Specific Plan related to landscape design concepts that was approved by the City Council on May 17, 2016, pursuant to Resolution 2016-097. The Developer will sign the First Amendment to the Phase 1B Program OIA and the First Amendment to the Phase 1B Non-Program OIA, and will submit the required improvement security.

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

ENVIRONMENTAL REVIEW

The Phase 1B Program OIA and Phase 1B Non-Program OIA were approved pursuant to the conditions of approval for Development Review Application D14-0016 for the Medline Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§21000 et seq.). The City determined that the Medline Project did not require further environmental review pursuant to CEQA section 15183. Similarly, and pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City has determined, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1B Program OIA and the First Amendment to the Phase 1B Non-Program OIA are also consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Medline Project that would require subsequent environmental review.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. The Developer will pay for the cost of plan checking, engineering, construction, inspection, and processing both First Amendments.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolutions, approve the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1B Program Roadway and Recycled Water Improvements for the Medline Industrial and Office Building and the First Amendment to Offsite Improvement Agreement for Cordes Ranch - Phase 1B Non-Program Roadway Improvements for the Medline Industrial and Office Building, and authorize the Mayor to execute said First Amendments.

Prepared by: Al Gali, Associate Civil Engineer
Criseldo Mina, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

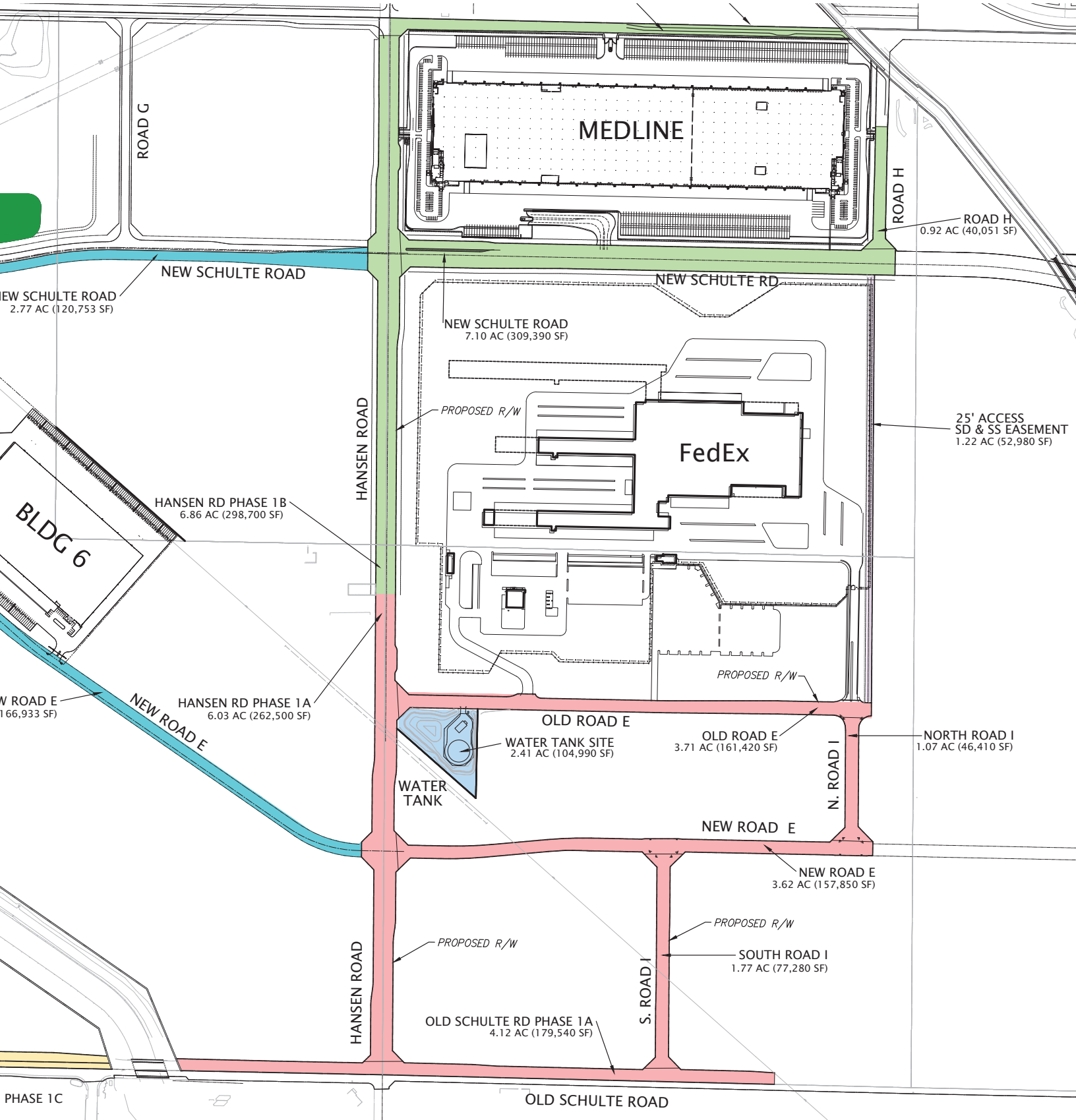
Attachment A – Location Map

Attachment B – First Amendment to Offsite Improvement Agreement for Cordes Ranch - Phase 1B Program Roadway and Recycled Water Improvements for the Medline Industrial and Office Building

Attachment C – First Amendment to Offsite Improvement Agreement for Cordes Ranch - Phase 1B Non-Program Roadway Improvements for the Medline Industrial and Office Building

Attachment D – Landscape Perspectives

CORDES RANCH PHASE 1B - ROADWAY IMPROVEMENTS



LEGEND

PASTEL GREEN - PHASE 1B

**CITY OF TRACY
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT
FOR CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING**

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING** (“**First Amendment**”) is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (“**City**”) and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as “**Developer**”).

RECITALS

- A. On July 21, 2015, pursuant to Resolution 2015-131, the City entered into an Offsite Improvement Agreement for the construction of program roadway and recycled water improvements on Hansen Road and New Schulte Road (now Promontory Parkway) for the Medline Industrial and Office Building (“**Phase 1B Program OIA**”).
- B. The parties now wish to amend the Phase 1B Program OIA to add certain irrigation and landscaping improvements to the Work described in the Phase 1B Program OIA (Additional Work).

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE**. This First Amendment hereby incorporates by reference all terms and conditions set forth in the Phase 1B Program OIA, unless specifically modified by this First Amendment. All terms and conditions set forth in the Phase 1B Program OIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT**. The Work as defined in Recital E and described in the Plans and Specifications and Section 1 of the Phase 1B Program OIA is amended to include the work as shown on the twenty-one (21) sheets of irrigation and landscaping plans (Sheets I-1 through I-11 and L1 through L10) titled “Improvement Plan – Prologis International Park of Commerce – Phase 1B” prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. In addition to the improvement security required by Section 4 of the Phase 1B Program OIA, Developer shall furnish additional contract security for the Additional Work as follows:
 - 2.1 Faithful Performance security in the amount of **\$1,183,116** to secure faithful performance of this First Amendment (until the date when the City Council accepts the Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
 - 2.2 Labor and Material security in the amount of **\$1,183,116** to secure payment by Developer to laborers and materialmen (until the date when any and all claims in connection with the Additional Work are required to be made by laborers and materialmen in accordance with applicable laws) pursuant to Government Code Sections 66499.2, 66499.3, 66499.4, and 66499.7(b).

CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING

Page 2 of 3

2.3 Warranty security in the amount of **\$118,311.60** to secure faithful performance of this First Amendment (from the date when the City Council accepts the Additional Work as complete until one (1) year thereafter) pursuant to Government Code Section 66499.1, 66499.4, and 66499.9.

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

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

CITY OF TRACY, a municipal corporation

By: Robert Rickman
Title: MAYOR
Date: _____

Attest:

By: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

By: Bill Sartor
Title: CITY ATTORNEY
Date: _____

**CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT
AGREEMENT FOR CORDES RANCH – PHASE 1B PROGRAM ROADWAY AND
RECYCLED WATER IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE
BUILDING**

Page 3 of 3

PROLOGIS:

PROLOGIS L.P., a Delaware limited partnership

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



By: Thomas Martin
Title: VICE PRESIDENT/ DEVELOPMENT MANAGER
Date: 11-16-16

04-071415cm

**CITY OF TRACY
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT
FOR CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR
MEDLINE INDUSTRIAL AND OFFICE BUILDING**

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING** (“*First Amendment*”) is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (“*City*”) and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as “*Developer*”).

RECITALS

- A. On July 21, 2015, the City entered an Offsite Improvement Agreement for the construction of non-program roadway improvements and other associated improvements on Hansen Road, Promontory Parkway, Capital Park Drive, and Road “H” for Medline (“**Phase 1B Non-Program OIA**”), pursuant to Resolution 2015-132.
- B. The parties now wish to amend Phase 1B Non-Program OIA to add certain irrigation and landscaping improvements to the Work described in the Phase 1B Non-Program OIA (Additional Work).

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE.** This First Amendment hereby incorporates by reference all terms and conditions set forth in the Phase 1B Non-Program OIA, unless specifically modified by this First Amendment. All terms and conditions set forth in the Phase 1B Non-Program OIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT.** The Work as defined in Recital E and described in the Plans and Specifications and Section 1 of the Phase 1B Non-Program OIA is amended to include the work as shown on the twenty-one (21) sheets of irrigation and landscaping plans Sheets I-1 through I-11 and L1 through L10 titled “Improvement Plan – Prologis International Park of Commerce – Phase 1B” prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. In addition to the improvement security required by Section 4 of the Phase 1B Non-Program OIA, Developer shall furnish additional contract security for the Work as required by and in accordance with Section 2 of the First Amendment to the Offsite Improvement Agreement for Cordes Ranch – Phase 1B Program Roadway and Recycled Water Improvements for Medline Industrial and Office Building.
3. **SIGNATURES.** The individuals executing this First Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this First Amendment on behalf of the respective legal entities of the Developer and the City. This First Amendment shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

**CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT
AGREEMENT FOR CORDES RANCH – PHASE 1B NON-PROGRAM ROADWAY
IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING**

Page 2 of 2

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

CITY OF TRACY, a municipal corporation

Name: Robert Rickman
Title: MAYOR
Date: _____

Attest:


Name: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

Name: Bill Sartor
Title: CITY ATTORNEY
Date: _____

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

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

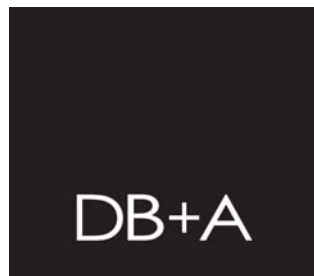


Name: Thomas Martin
Title: VICE PRESIDENT/ DEVELOPMENT MANAGER
Date: 11-16-16

03-071415cm

Perspective North

Attachment D



DAVID BABCOCK + ASSOCIATES
3881 MI. DIABLO BLVD., SUITE 235
LAFAYETTE, CALIFORNIA 94549
1.925.283.5070

Perspective South



DB+A

DAVID BABCOCK + ASSOCIATES
3581 MT. DIABLO BLVD., SUITE 235
LAFAYETTE, CALIFORNIA 94549
1-925-283-5070

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1B PROGRAM ROADWAY AND RECYCLED WATER IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING, AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, The Development Services Director approved a Development Review Application (D14-0016) on October 23, 2014 for the construction of an industrial facility known as the Medline Industrial Building (Medline Project) generally located at the northeast corner of Hansen Road and New Schulte Road, and

WHEREAS, The Development Agreement (Prologis DA) between the City and Prologis, L. P. (Developer) allows the Developer to design and construct infrastructure improvements that are necessary to serve developments within the boundaries of Cordes Ranch area, and

WHEREAS, City Council approved the Offsite Improvement Agreement for Cordes Ranch – Phase 1B Program Roadway and Recycled Water Improvements (Phase 1B Program OIA) on July 21, 2015 pursuant to Resolution 2015-131, and

WHEREAS, At the Developer's request, certain street landscaping improvements were excluded as part of the work described in the Phase 1B Program OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 20 of the approved Phase 1B Program OIA, the City and the Developer can mutually agree to amend the Phase 1B Program OIA, and Developer and City have agreed to modify the Phase 1B Program OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the street landscaping and irrigation improvements, the Developer has executed the First Amendment to the Phase 1B Program OIA and has submitted the required improvement security, and

WHEREAS, The Phase 1B Program OIA was approved pursuant to the conditions of approval for Development Review Application D14-0016 for the Medline Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§21000 et seq.), and

WHEREAS, The City Council previously determined that the Medline Project did not require further environmental review pursuant to CEQA section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1B Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Medline Project that would require subsequent environmental review, and

WHEREAS, 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 First Amendment to the Phase 1B Program OIA;

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds that the foregoing recitals are true and correct and are thereby incorporated herein.

2. Environmental Review. Pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1B Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Medline Project that would require subsequent environmental review.

3. Approval. The City Council approves the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1B Program Roadway and Recycled Water Improvements for Medline Industrial and Office Building, and authorizes the Mayor to execute the First Amendments.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 6th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR CORDES RANCH - PHASE 1B NON-PROGRAM ROADWAY IMPROVEMENTS FOR MEDLINE INDUSTRIAL AND OFFICE BUILDING, AND AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, The Development Services Director approved a Development Review Application (D14-0016) on October 23, 2014 for the construction of an industrial facility known as the Medline Industrial Building (Medline Project) generally located at the northeast corner of Hansen Road and New Schulte Road, and

WHEREAS, The Development Agreement (Prologis DA) between the City and Prologis, L. P. (Developer) allow the Developer to design and construct infrastructure improvements that are necessary to serve developments within the boundaries of the Cordes Ranch area, and

WHEREAS, City Council approved the Offsite Improvement Agreement for Cordes Ranch – Phase 1B Non-Program Roadway Improvements (Phase 1B Non-Program OIA) on July 21, 2015 pursuant to Resolution 2015-132, and

WHEREAS, At the Developer's request, certain street landscaping improvements were excluded as part of the work described in the Phase 1B Non-Program OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 21 of the approved Phase 1B Non-Program OIA, the City and the Developer can mutually agree to amend the Phase 1B Non-Program OIA, and Developer and City have agreed to modify the Phase 1B Non-Program OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the street landscaping and irrigation improvements, the Developer has executed the First Amendment to the Phase 1B Non-Program OIA, and

WHEREAS, The Phase 1B Non-Program OIA was approved pursuant to the conditions of approval for Development Review Application D14-0016 for the Medline Project, environmental impacts for which were analyzed in the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§21000 et seq.), and

WHEREAS, The City Council previously determined that the Medline Project did not require further environmental review pursuant to CEQA section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1B Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Medline Project that would require subsequent environmental review, and

WHEREAS, 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 First Amendment to the Phase 1B Non-Program OIA;

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds that the foregoing recitals are true and correct and are thereby incorporated herein.
2. Environmental Review. Pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the Phase 1B Non-Program OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Medline Project that would require subsequent environmental review.
3. Approval. The City Council approves the First Amendment to the Offsite Improvement Agreement for Cordes Ranch - Phase 1B Non-Program Roadway Improvements for Medline Industrial and Office Building, and authorizes the Mayor to execute the First Amendment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 6th day of December 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

APPROVE THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR THE 2.0 MILLION GALLON CORDES RANCH POTABLE WATER TANK, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE FIRST AMENDMENT

EXECUTIVE SUMMARY

The developer of the International Park of Commerce (IPC), Prologis L.P., a Delaware limited partnership (Developer) is responsible for constructing improvements within the Cordes Ranch industrial development. The Developer signed an agreement with the City to construct certain water tank site improvements, including a two-million gallon potable water tank (2.0 MGD OIA). The agreement was approved by City Council on December 16, 2014 by Resolution 2014-207.

Certain landscape and irrigation improvements were excluded from the 2.0 MGD OIA as the Developer needed additional time to resolve several issues pertaining to landscaping improvements. Those issues have been resolved and the improvement plans have been completed. The additional work proposed by the First Amendment to the 2.0 MGD OIA is shown on seven (7) sheets of landscape and irrigation plans titled "Improvement Plan - Prologis International Park of Commerce - Water Tank, Irrigation Plan - Planting Plans," prepared by David Babcock & Associates of Lafayette, California, and approved by the City Engineer. This document is available for review at the Department of Development Services.

Approval of the First Amendment to the 2.0 MGD OIA will require the Developer to proceed with construction of those certain landscape and irrigation improvements at the water tank site.

DISCUSSION

Since 2014, the Development Services Director has approved at least four Development Review applications for the construction of industrial distribution projects which includes IPC Building 1, IPC Building 6, FedEx, and Medline.

As part of the development review approval, these projects were subject to certain conditions of approval which include, among other things, the construction of offsite waterline improvements, including a two million gallon water tank and all the associated 2.0 MGD water tank site improvements. These improvements were planned to be funded from development impact fees. However, the Developer has opted to construct these improvements, in accordance with their Development Agreement, and is therefore eligible for credits and reimbursements from the City's Development Impact Fee program.

To guarantee completion of the program work by the Developer in an orderly manner under the City's inspections and directions, the Developer executed the 2.0 MGD OIA for a two-million gallon potable water tank and certain other improvements. The Developer submitted the required securities to guarantee completion of the improvement, and the 2.0 MGD OIA was approved by City Council during the December 16, 2014 meeting with Resolution 2014-207.

The Developer requested that certain public parkway and median landscaping improvements be excluded from the 2.0 MGD OIA to allow the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation and finalize the improvement plans for the parkway and median irrigation and landscaping improvements. City staff has reviewed Developer's irrigation and landscape plans, specifications, and cost estimates and found them to be complete. The Developer will sign the First Amendment to the 2.0 MGD OIA. No additional security is required as the City Engineer has reviewed the cost estimates and has determined that the security already provided by Developer is sufficient.

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

ENVIRONMENTAL REVIEW

The 2.0 MGD OIA was approved pursuant to requirements of that certain Development Agreement By and Between the City of Tracy and Prologis, L.P. (DA), which was approved by the City Council on September 3, 2013 in conjunction with the Cordes Ranch Specific Plan and other entitlements (collectively, Project) as well as the associated environmental review performed for the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA)(Pub. Res. Code sections 21000 et seq.). The City Council previously determined that the Project did not require further environmental review pursuant to CEQA section 15183. Pursuant to CEQA Guidelines sections 15168, 15162, and 15184, the City has now determined, on the basis of substantial evidence in light of the whole record, that the First Amendment to the 2.0 MGD OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Project that would require subsequent environmental review.

FISCAL IMPACT

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

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve the First Amendment to Offsite Improvement Agreement for the 2.0 Million Gallon Cordes Ranch Potable Water Tank, and authorize the Mayor to execute the First Amendment.

Prepared by: Al Gali, Associate Civil Engineer
Criseldo Mina, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

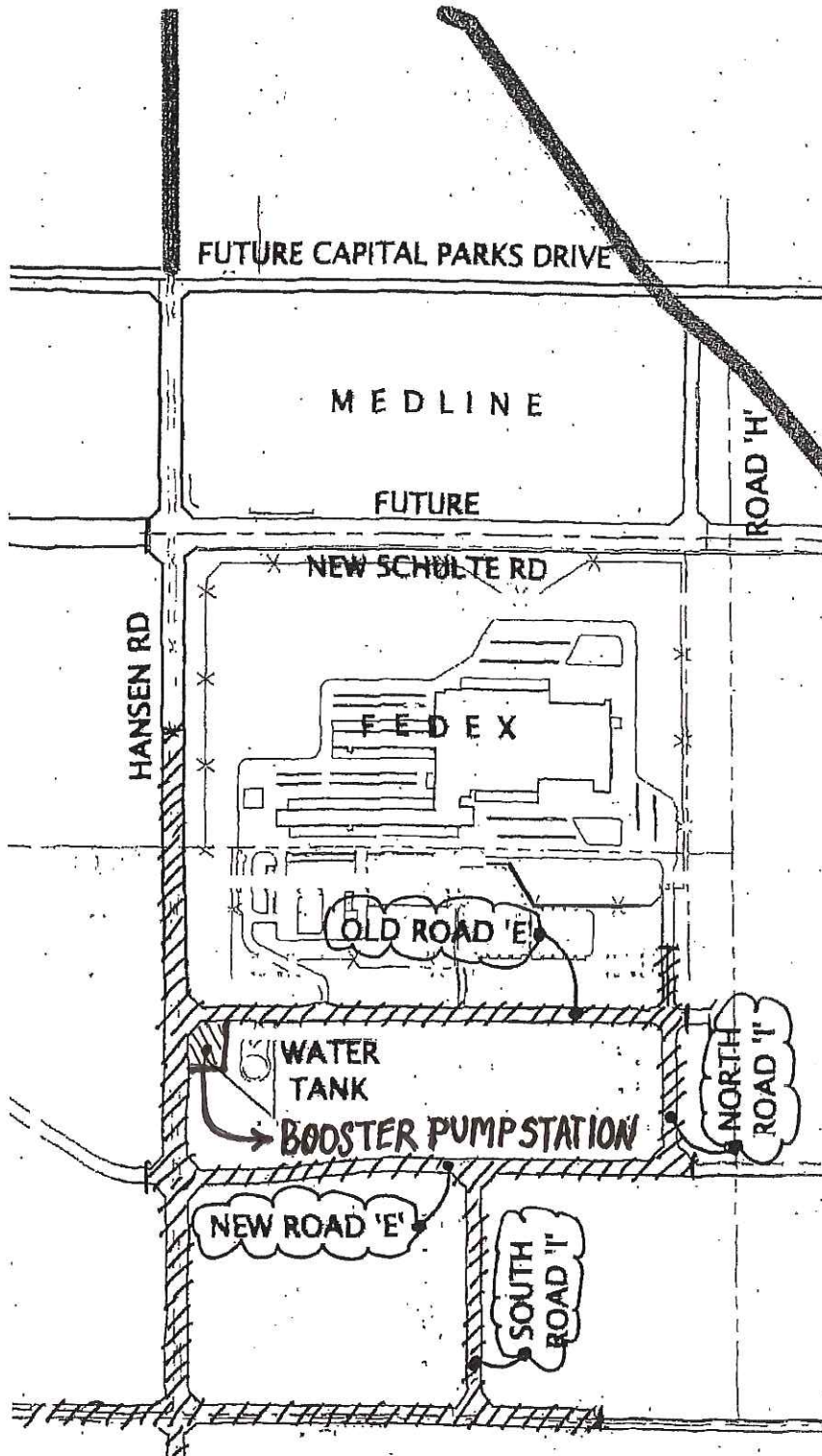
ATTACHMENTS

Attachment A – Location Map

Attachment B – First Amendment to Offsite Improvement Agreement for the Cordes Ranch Program – 6.48 MGD Potable Booster Pump Station, Pressure Reducing Valve, and 2.0 Million Gallon Water Tank Site Improvements

Attachment C – L-4 Water Tank Elevation Sections

CORDES RANCH BOOSTER PUMP STATION



LOCATION MAP

N.T.S.

**CITY OF TRACY
FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT
FOR THE 2.0 MILLION GALLON CORDES RANCH POTABLE WATER TANK**

This **FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR THE 2.0 MILLION GALLON POTABLE WATER TANK** ("*First Amendment*") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation ("*City*") and **PROLOGIS, L. P.**, a Delaware limited partnership (referred to as "*Developer*").

RECITALS

- A. On December 16, 2014, pursuant to Resolution 2014-207, the City entered into an Offsite Improvement Agreement for the installation of a 2.0 Million Gallon Potable Water Tank ("**2.0 MGD OIA**").
- B. The parties now wish to amend the 2.0 MGD OIA to add certain irrigation and landscaping improvements to the Work described in the 2.0 MGD OIA (Additional Work).

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION BY REFERENCE**. This First Amendment hereby incorporates by reference all terms and conditions set forth in the 2.0 MGD OIA, unless specifically modified by this First Amendment. All terms and conditions set forth in the 2.0 MGD OIA not specifically modified by this First Amendment shall remain in full force and effect.
2. **AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT**. The Work as defined in Recital D and described in the Plans and Specifications and Section 1 of the 2.0 MGD OIA is amended to include the work as shown on the seven (7) sheets of irrigation and landscaping plans (Sheets I-1 through I-4 and L-1 through L-3) titled "Improvement Plan – Prologis International Park of Commerce – Water Tank, Irrigation Plan - Planting Plans" prepared by David Babcock & Associates of Lafayette, California, as approved by the City Engineer. The Developer has furnished improvement for this Additional Work under the 2.0 MGD OIA.

(Portion of this Page Intentionally Left Blank)

CITY OF TRACY – FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT FOR THE 2.0 MILLION GALLON POTABLE WATERTANK

Page 2 of 2

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

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

CITY OF TRACY, a municipal corporation

Name: Robert Rickman
Title: MAYOR
Date: _____

Attest:


Name: Nora Pimentel
Title: CITY CLERK
Date: _____

APPROVED AS TO FORM:

Name: Bill Sartor
Title: CITY ATTORNEY
Date: _____

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

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



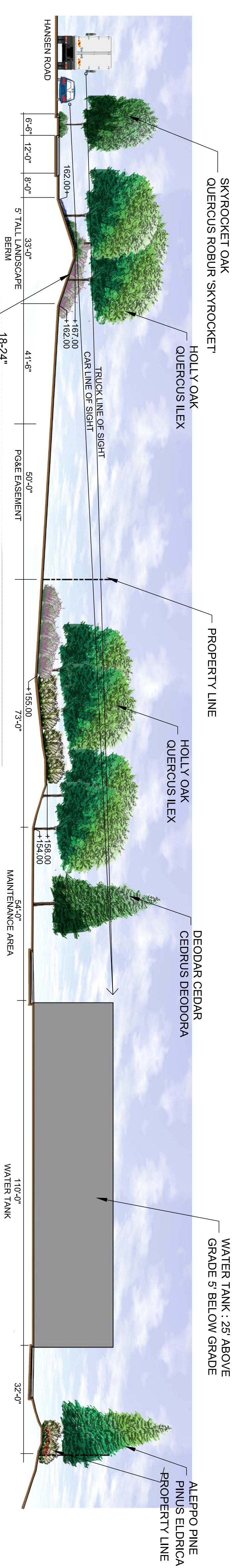
Name: Thomas Martin
Title: VICE PRESIDENT/ DEVELOPMENT MANAGER
Date: 11-15-15

07-071415cm



A ELEVATION AT ROAD E

M/S



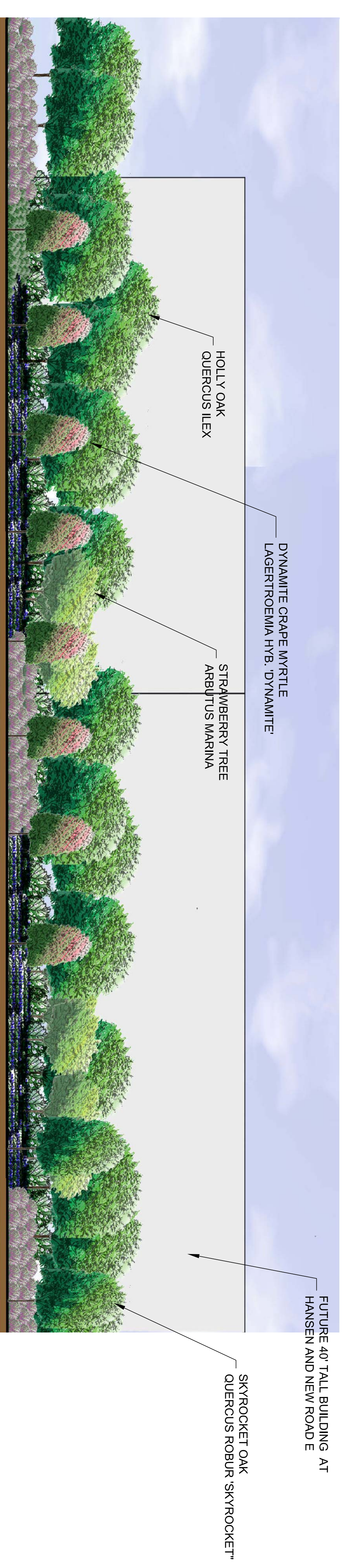
B SECTION AT HANSEN ROAD

SCALE: 1"=30'-0"



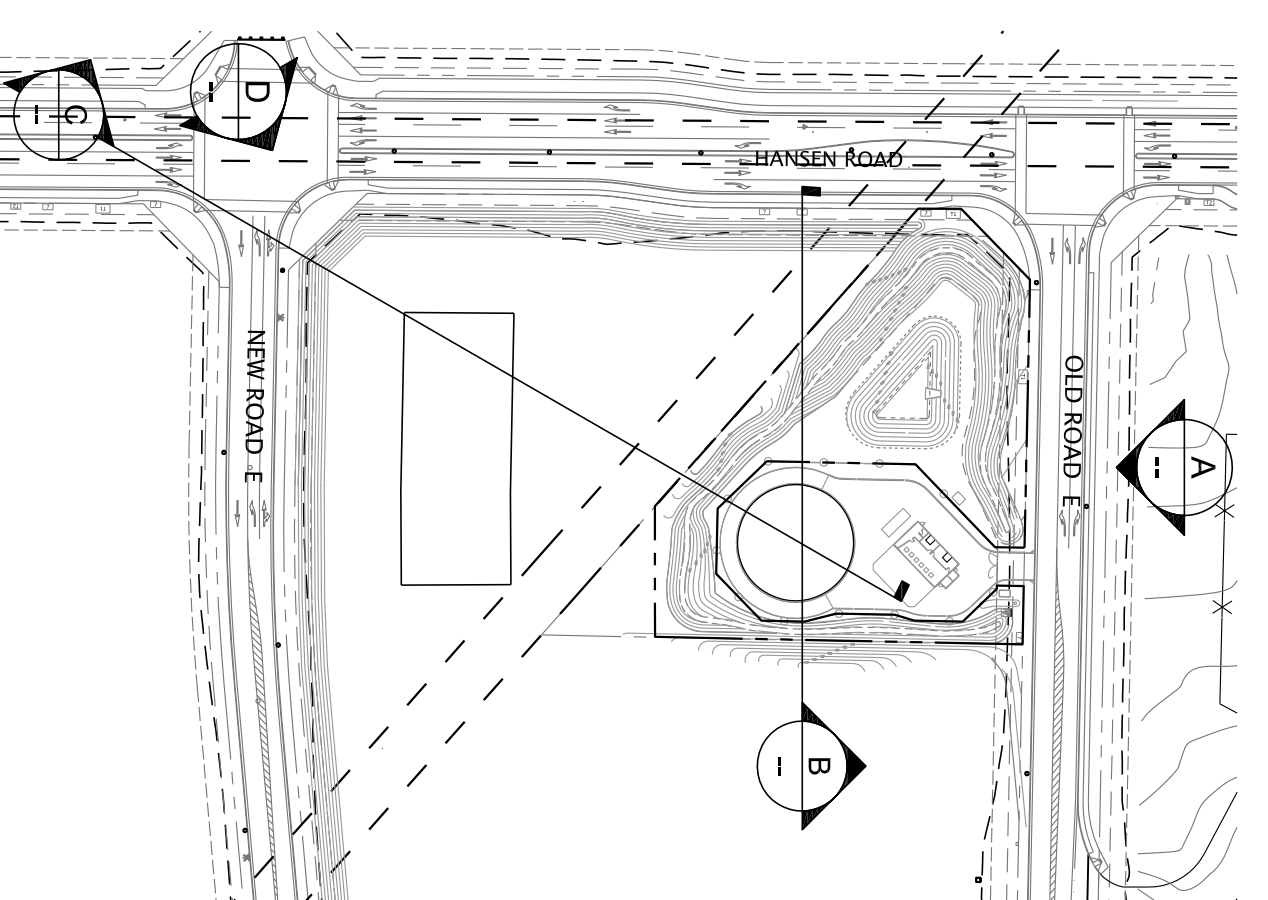
C SECTION AT CORNER OF HANSEN ROAD AND NEW ROAD E

SCALE: 1"=30'-0"



D ELEVATION AT HANSEN ROAD

M/S



KEY MAP

NOTE:
1. TREES SHOWN ARE AT 15 YEARS OF MATURITY

REVISIONS				
SYMBOL	DATE	DESCRIPTION	APPROVED	
	11.07/14	PERMIT SET		

DESIGNED BY
JB

DRAWN BY
ED

CHECKED BY
DB

SCALE
N.T.S.

WATER TANK LANDSCAPE ELEVATION

CITY OF TRACY

APPROVAL OF THESE PLANS DOES NOT RELEASE THE DEVELOPER OF THE RESPONSIBILITY FOR CORRECTION OF MISTAKES, ERRORS, OR OMISSIONS CONTAINED THEREIN. IF DURING THE COURSE OF CONSTRUCTION OF THE IMPROVEMENTS PUBLIC INTEREST REQUIRES MODIFICATIONS OF OR A DEPARTURE FROM THE SPECIFICATIONS AND DETAILS OF THE CITY OF TRACY OR THESE PLANS, THE CITY ENGINEER SHALL HAVE THE AUTHORITY TO REQUIRE SUCH MODIFICATIONS OR DEPARTURE AND TO SPECIFY THE MANNER IN WHICH THE SAME IS TO BE MADE AT NO COST TO THE CITY, APPROVED AS TO DESIGN ONLY BASED ON THE INFORMATION SUBMITTED HEREON. APPROVED FOR THE CITY OF TRACY.

VICTORIA DION CITY ENGINEER DATE:

IMPROVEMENT PLAN PROLOGIS INTERNATIONAL PARK OF COMMERCE
PROLOGIS DEVELOPMENT SERVICES, INC.
TRACY CALIFORNIA

DB+A

DAVID BARCOCK + ASSOCIATES
20000 MARIN AVENUE, SUITE 200
LAFAYETTE, CALIFORNIA 94549
1.925.283.5070

RESOLUTION 2016-_____

APPROVING THE FIRST AMENDMENT TO THE OFFSITE IMPROVEMENT AGREEMENT
FOR THE 2.0 MILLION GALLON CORDES RANCH POTABLE WATER TANK, AND
AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT

WHEREAS, Since 2014, the Development Services Director approved Development Review applications submitted by Prologis, L.P. (Developer) for the construction of four industrial buildings within the International Park of Commerce, and

WHEREAS, These projects were subject to certain conditions of approval, among other things, the construction of offsite waterline improvements, including a two million gallon water tank and all associated water tank site improvements, and

WHEREAS, City Council approved the Offsite Improvement Agreement for the 2.0 Million Gallon Potable Water Tank (2.0 MGD OIA) on December 16, 2014 pursuant to Resolution 2014-207, and

WHEREAS, At the Developer's request, certain irrigation and landscape improvements at the water tank site were excluded as part of the work described in the 2.0 MGD OIA to provide the Developer sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the irrigation and landscaping improvement plans, and

WHEREAS, Pursuant to section 21 of the approved 2.0 MGD OIA, the City and the Developer can mutually agree to modify the 2.0 MGD OIA, and Developer and City have agreed to modify the 2.0 MGD OIA to include the additional landscape and irrigation improvements, and

WHEREAS, To guarantee completion of the Developer's obligations regarding completion of the landscape and irrigation improvements, the Developer has executed the First Amendment to the 2.0 MGD OIA, and

WHEREAS, There will be no fiscal impact to the General Fund. The Developer will pay for the cost of engineering, construction, inspection, and processing the First Amendment to the 2.0 MGD OIA, and

WHEREAS, The 2.0 MGD OIA was approved pursuant to requirements of that certain Development Agreement By and Between the City of Tracy and Prologis, L.P. (DA), which was approved by the City Council on September 3, 2013 in conjunction with the Cordes Ranch Specific Plan and other entitlements (collectively, Project) as well as the associated environmental review performed for the Cordes Ranch Specific Plan EIR (FEIR) (SCH No. 2011122015) prepared in accordance with the California Environmental Quality Act (CEQA) (Pub. Res. Code §§21000 et seq.), and

WHEREAS, The City Council previously determined that the Project did not require further environmental review pursuant to CEQA section 15183; and the City Council has now determined, pursuant to CEQA Guidelines sections 15168, 15162, and 15183 and on the basis of substantial evidence in light of the whole record, that the First Amendment to the 2.0 MGD OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Project that would require subsequent environmental review, and

NOW, THEREFORE BE IT RESOLVED, as follows:

1. Recitals. The City Council finds the foregoing recitals to be true and correct and are thereby incorporated herein.

2. Environmental Review. Pursuant to CEQA Guidelines sections 15168, 15162, and 15183, the City Council finds, on the basis of substantial evidence in light of the whole record, that the First Amendment to the 2.0 MGD OIA is consistent with the policies for which the FEIR was certified, and will not result in substantial changes to the Project that would require subsequent environmental review.

3. Approval. The City Council approves the First Amendment to the 2.0 MGD OIA, and authorizes the Mayor to execute the First Amendment.

* * * * *

The foregoing Resolution 2016-_____ was passed and adopted by the Tracy City Council on the 6th day of December, 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

AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR THE OVERLAY PROJECT, CIP 73140A FEDERAL PROJECT NUMBER STPL-5192(041) AND TRAFFIC LOOP INSTALLATION, CIP 72099 AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE CONTRACT

EXECUTIVE SUMMARY

City staff requests that City Council award a construction contract for the Overlay Project and traffic loops installation at Alden Glen Drive and Eleventh Street.

DISCUSSION

This project is part of the City's annual street improvement program and consists of rubberized asphalt concrete overlay on Grant Line Road (Toste Road to Corral Hollow Road and Lincoln Boulevard to Tracy Boulevard), Eleventh Street (Corral Hollow Road to Alden Glen Drive), and MacArthur Drive (Sixth Street to Mt. Diablo Avenue), including pavement repair, signing, striping, traffic signal loop replacement, wedge grinding and installation of traffic loops at Alden Glen Drive and Eleventh Street.

Street selections were based on life-cycle and cost-benefit analysis using the City's Pavement Management Program and coordinated with the City's Public Works Department Street, Maintenance Division.

Engineering staff prepared the plans and specifications and advertised the project for competitive bids on September 29, and October 6, 2016.

Bids were received and publicly opened at 2:00 p.m. on Thursday, November 3, 2016, with the following results:

<u>Contractor</u>	<u>Base Bid</u>
Knife River Construction, Stockton	\$960,450
Teichert Construction, Roseville	\$1,082,400
George Reed Construction, Modesto	\$1,255,600
Lamon Construction, Yuba City	\$1,293,920

Bid analysis indicates that the lowest monetary bid is responsive and the bidder, Knife River Construction, of Stockton, 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:

Construction Contract	\$960,450
Contingency @ 10%	\$96,045
Total Construction Cost	\$1,056,495
Total Design and Construction Management Cost	\$90,000
Total Project Cost	\$1,146,495

Approximately \$1,241,000 is available in CIP 73140A which includes \$860,000 of Federal Surface Transportation Program Local Grant (STPL) funds.

Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager to approve change orders up to the contingency amount approved by Council. City staff recommends the contingency amount for this project to be \$96,045.00, which is 10% of the construction contract cost.

STRATEGIC PLAN

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

FISCAL IMPACT

The General Fund is not impacted.

RECOMMENDATION

That City Council, by resolution, award a construction contract to Knife River Construction, of Stockton, California, for the Overlay Project, CIP 73140A Federal Project Number STPL-5192(041) and Traffic Loop Installation, CIP 72099 in the amount of \$960,450, authorize the City Manager to approve change orders up to the specified project contingency amount of \$96,045, if needed, and authorize the Mayor to execute the construction contract.

Prepared by: Chris McDermott, Associate Civil Engineer
Zabih Zaca, Senior Civil Engineer

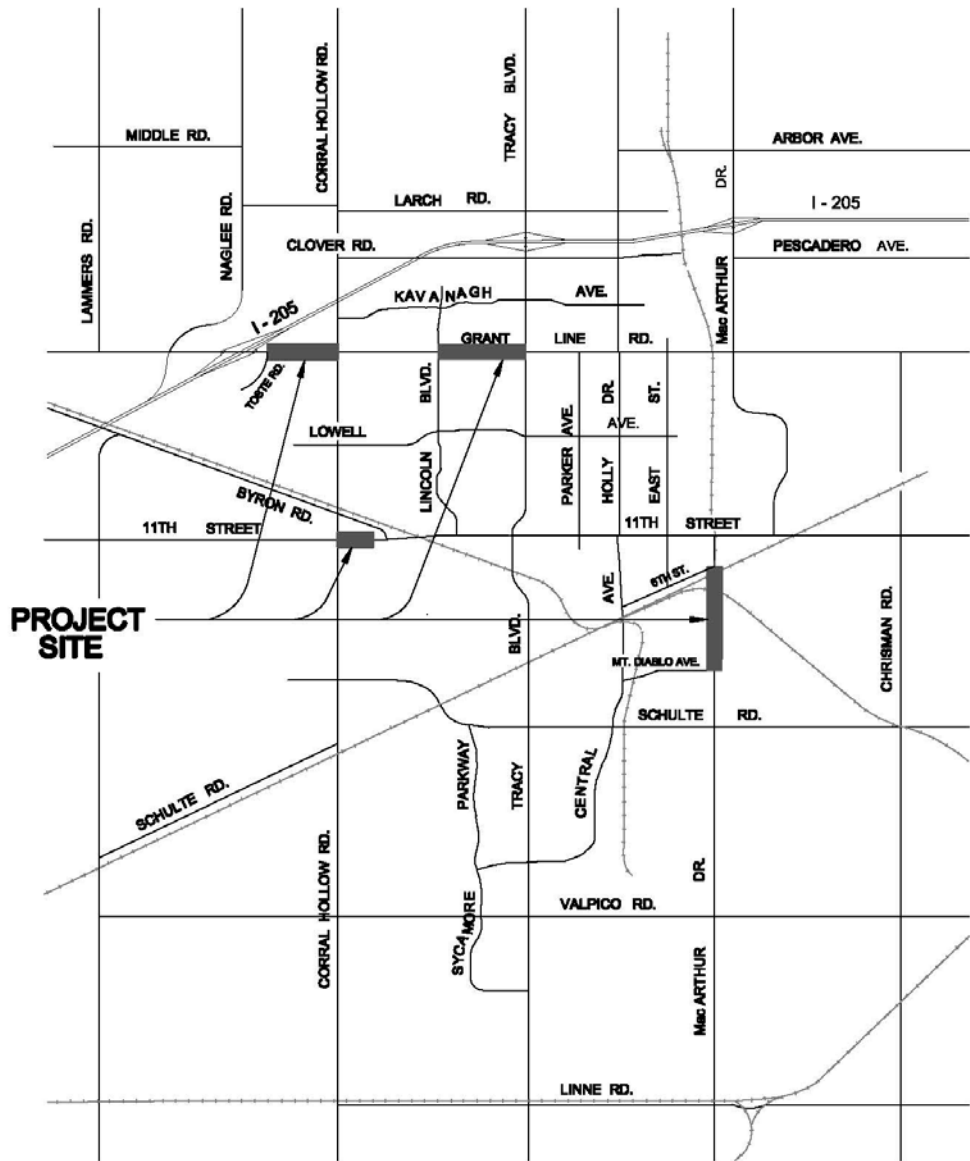
Reviewed by: Robert Armijo, City Engineer/Assistant Director Development Services
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Location Map

Attachment A



LOCATION MAP
(OVERLAY PROJECT) N.T.S.



RESOLUTION 2016-_____

AWARDING A CONSTRUCTION CONTRACT TO KNIFE RIVER CONSTRUCTION, OF STOCKTON, CALIFORNIA, FOR THE OVERLAY PROJECT CIP 73140A, FEDERAL PROJECT No. STPL-5192(041) AND TRAFFIC LOOP INSTALLATION CIP 72099, AUTHORIZING A CONTINGENCY AMOUNT OF \$96,045 AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSTRUCTION CONTRACT

WHEREAS, This project is part of the City's annual street improvement program and consists of rubberized asphalt concrete overlay on Grant Line Road (Toste Road to Corral Hollow Road and Lincoln Boulevard to Tracy Boulevard Eleventh Street (Corral Hollow Road to Alden Glen Drive), and MacArthur Drive (Sixth Street to Mt. Diablo Avenue), including pavement repair, signing, striping, traffic signal loop replacement, wedge grinding and installation of traffic loops at Alden Glen Drive and Eleventh Street, and

WHEREAS, Candidate streets were selected based on recommendations from the City's Pavement Management System, and

WHEREAS, The project was advertised for competitive bids on September 29, and October 6, 2016, bids were received and publicly opened at 2:00 p.m., on November 3, 2016, and

WHEREAS, Knife River Construction is the lowest monetary bidder, bid analysis indicates their bid is responsive and the bidder is responsible, and

WHEREAS, These are approved Capital Improvement Projects, funded by the Gas Tax fund and Federal Surface Transportation Program, and as such, there will be no impact to the General Fund, and

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

WHEREAS, The recommended contingency amount for this project is \$96,045;

NOW, THEREFORE BE IT RESOLVED, That City Council awards a construction contract to Knife River Construction of Stockton, California, for the Overlay Project CIP 73140A Federal Project No. STPL-5192(041) and Traffic Loop Installation CIP 72099, in the amount of \$960,450, authorizes the City Manager to approve change orders for the maximum contingency amount of \$96,045, and authorizes the Mayor to execute the construction contract.

* * * * *

Resolution 2016-_____

Page 2

The foregoing Resolution 2016-_____ was adopted by the Tracy City Council on the 6th day of December 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.K

REQUEST

MINOR AMENDMENT TO THE PLANNED UNIT DEVELOPMENT ZONE FINAL DEVELOPMENT PLAN FOR THE NORTHGATE VILLAGE SHOPPING CENTER (FORMERLY TRACY OUTLET CENTER) TO ALLOW OUTDOOR DINING/SEATING AREAS, LOCATED AT 1005 E. PESCADERO AVENUE – APPLICANT IS MESSIER BENITEZ AND PROPERTY OWNER IS 51 NEWCO LLC – APPLICATION NUMBER D16-0019

EXECUTIVE SUMMARY

This agenda item involves consideration of a minor amendment to the Final Development Plan for the Northgate Village shopping center (formerly Tracy Outlet Center) to allow improvements for outdoor dining/seating areas.

DISCUSSION

On July 20, 1993, the City Council approved the Planned Unit Development (PUD) Zone Final Development Plan (FDP) for the Tracy Outlet Center, located at 1005 E. Pescadero Avenue (Attachment A: Location Map).

Over the past couple of years, the Tracy Outlet Center has changed ownership and been rebranded as the Northgate Village shopping center. Since the rebranding, multiple new businesses have opened at this site, including El Patio Restaurant & Bar, The Venu (a sports bar / restaurant / night club), and Nirvaana Banquet and Event Center. Other new businesses expected to open soon include La Huacana night club and Knight Life (a fencing / indoor archery studio).

Proposed Amendment

In accordance with the Tracy Municipal Code and the I-205 Corridor Specific Plan, the Development Services Director has determined that the request is a minor amendment to the approved Final Development Plan and that the proposed amendment is consistent with the concept and preliminary development plan. The Planning Commission and City Council shall review minor amendments to Final Development Plans.

The applicant is requesting a minor amendment to the FDP to receive approval to build and locate outdoor dining/seating areas throughout the Northgate Village shopping center (Attachment B: Site Plan and Elevations). The proposal includes the following:

- The outdoor dining/seating areas may be located in any of the hardscape areas between the building façade (front entry side of tenant spaces) and the main interior parking area, unless restricted by conditions of approval of a Conditional Use Permit.
- The outdoor dining/seating areas may include such items as perimeter fencing, tables, chairs, umbrellas, and shade structures compatible with the outdoor dining/seating area shown in the attached FDP amendment (Attachment B: Site Plan

and Elevations) and the building architecture/design of the Northgate Village shopping center.

Environmental Document

The project is categorically exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15303, which pertains to the construction of small structures.

Planning Commission Discussion

The Planning Commission considered this project on October 26, 2016 and recommended that the City Council approve the project. The Commission requested that the Final Development Plan state that outdoor dining/seating areas may be restricted by conditions of approval of a Conditional Use Permit.

STRATEGIC PLAN

This agenda item supports the City's Economic Development Strategy goal to attract new restaurants.

FISCAL IMPACT

There is no fiscal impact from this agenda item.

RECOMMENDATION

Staff and the Planning Commission recommend that the City Council approve a minor amendment to the Planned Unit Development Zone Final Development Plan for the Northgate Village shopping center (formerly Tracy Outlet Center) to allow outdoor dining/seating areas, located at 1005 E. Pescadero Avenue, Application Number D16-0019, subject to the conditions and based on the findings contained in the City Council Resolution dated December 6, 2016.

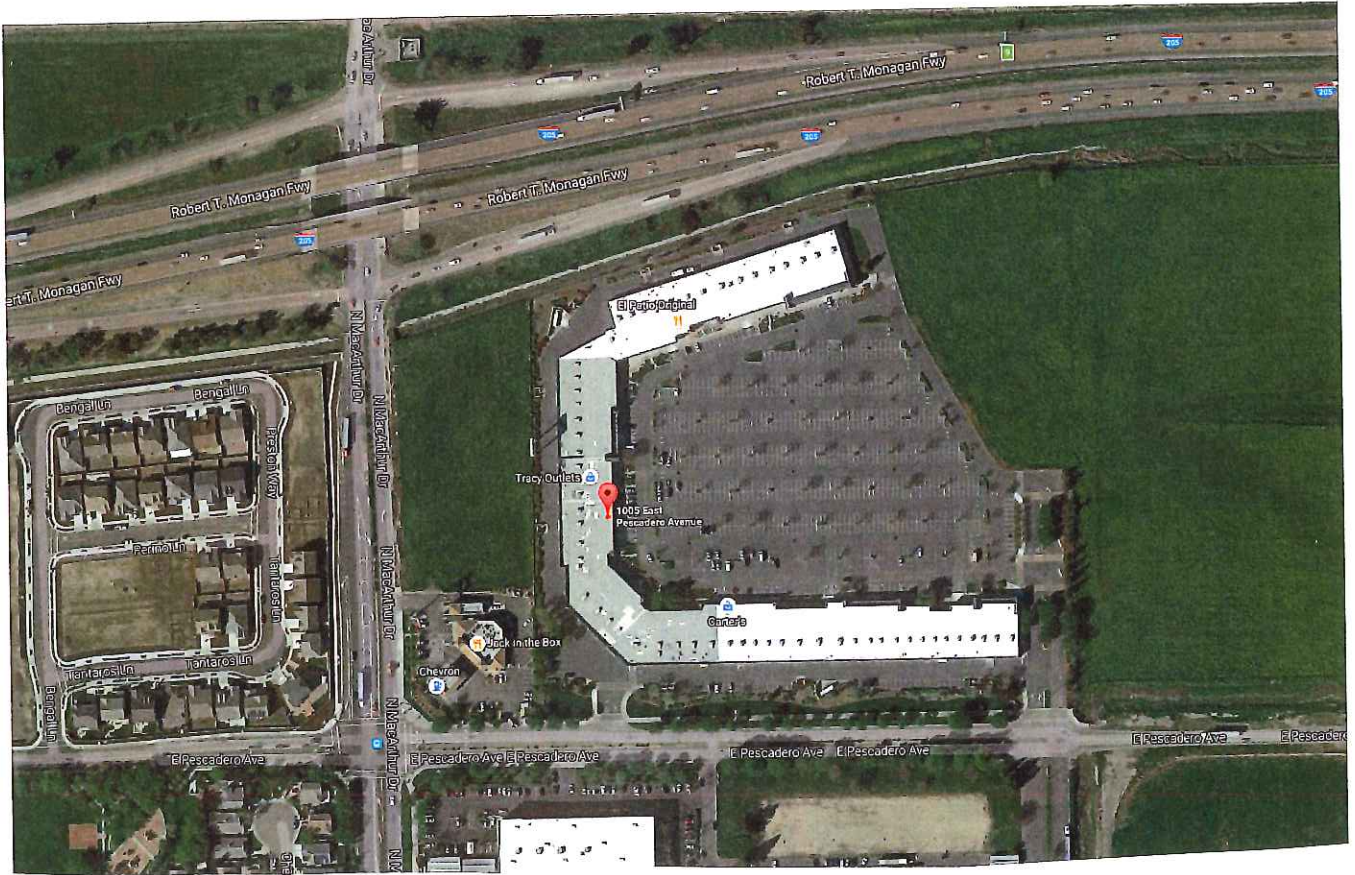
Prepared by: Scott Claar, Senior Planner

Reviewed by: Bill Dean, Assistant Development Services Director
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Location Map
Attachment B – Site Plan and Elevations (oversized)



RESOLUTION 2016-_____

APPROVING A MINOR AMENDMENT TO THE PLANNED UNIT DEVELOPMENT (PUD) ZONE FINAL DEVELOPMENT PLAN FOR THE NORTHGATE VILLAGE SHOPPING CENTER (FORMERLY TRACY OUTLET CENTER) TO CONSTRUCT IMPROVEMENTS FOR OUTDOOR DINING/SEATING AREAS, LOCATED AT 1005 E. PESCADERO AVENUE, ASSESSOR'S PARCEL NUMBER 213-060-40, APPLICATION NUMBER D16-0019

WHEREAS, On July 20, 1993, the City Council approved the Planned Unit Development (PUD) Zone Final Development Plan (FDP) for the Tracy Outlet Center, located at 1005 E. Pescadero Avenue, and

WHEREAS, The Tracy Outlet Center has changed ownership and been rebranded as the Northgate Village shopping center, and

WHEREAS, On July 12, 2016, an application was submitted for a minor amendment to the PUD Zone FDP for the Northgate Village shopping center, and

WHEREAS, The minor amendment to the FDP would allow outdoor dining/seating areas throughout the Northgate Village shopping center, and

WHEREAS, The minor amendment to the FDP would include the following:

- The outdoor dining/seating areas may be located in any of the hardscape areas between the building façade (front entry side of tenant spaces) and the main interior parking area, unless restricted by conditions of approval of a Conditional Use Permit; and
- The outdoor dining/seating areas may include such items as perimeter fencing, tables, chairs, umbrellas, and shade structures compatible with the outdoor dining/seating area shown in the FDP amendment (Attachment B of City Council Staff Report dated December 6, 2016) and the building architecture/design of the Northgate Village shopping center, and

WHEREAS, The project is consistent with the I-205 Corridor Specific Plan, and

WHEREAS, The project design is compatible with the building architecture and design of the Northgate Village shopping center, and

WHEREAS, The Planning Commission considered the project in a public meeting on October 26, 2016 and recommended that the City Council approve the project, and

WHEREAS, The City Council considered the project in a public meeting on December 6, 2016;

NOW, THEREFORE BE IT RESOLVED, That the City Council hereby approves the minor amendment to the Planned Unit Development Zone Final Development Plan for the Northgate Village shopping center (formerly Tracy Outlet Center) to construct improvements for outdoor dining/seating areas, located at 1005 E. Pescadero Avenue, Assessor's Parcel Number 213-060-

40, Application Number D16-0019, subject to the conditions as stated in Exhibit "1" attached and made part hereof and based on the following findings:

1. The establishment, maintenance, and operation of the proposed use and associated structures are compatible with the land use, design, and operational characteristics of the neighboring properties. The project will not, under the circumstances of the particular case or as conditioned, be injurious or detrimental to the health, safety, or general welfare of persons or property in the vicinity of the proposed use and the associated structures, or to the general welfare of the City because the project is consistent with the land use, design, and other elements of the I-205 Corridor Specific Plan, the City of Tracy General Plan, and applicable requirements of Chapter 10.08 of the Tracy Municipal Code.
2. The project will not adversely affect or impair the benefits of occupancy, most appropriate development, property value stability, or the desirability of property in the vicinity because the architectural elements of the project, as designed and conditioned, are compatible with the building materials, colors, architecture, and design of the Northgate Village shopping center.
3. The project is consistent with the City of Tracy General Plan and the I-205 Corridor Specific Plan in that the proposal is for outdoor dining areas at a location designated Commercial by the General Plan and General Commercial by the I-205 Corridor Specific Plan, which permit eating and/or drinking establishments.
4. The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15303, which pertains to the construction of small structures. Therefore, no further environmental assessment is necessary.

The foregoing Resolution 2016-_____ was adopted by the City Council on the 6th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

**Conditions of Approval for Minor Amendment to the Planned Unit
Development Zone
Final Development Plan for Northgate Village Shopping Center
(formerly Tracy Outlet Center)
1005 E. Pescadero Avenue
Application Number D16-0019
December 6, 2016**

These Conditions of Approval shall apply to the minor amendment to the Planned Unit Development (PUD) Zone Final Development Plan (FDP) for the Northgate Village Shopping Center (formerly Tracy Outlet Center) to allow outdoor dining/seating areas, located at 1005 E. Pescadero Avenue, Assessor's Parcel Number 213-060-40, Application Number D16-0019 (hereinafter "Project").

A. Definitions.

The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "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.
3. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, the Development Services Director, or the City Engineer, to perform the duties set forth herein.
4. "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.
5. "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 I-205 Corridor Specific Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
6. "Conditions of Approval" means these conditions of approval applicable to the minor amendment to the PUD Zone Final Development Plan for the Northgate Village Shopping Center (formerly Tracy Outlet Center) to construct improvements for outdoor dining/seating areas, located at 1005 E. Pescadero Avenue, Assessor's Parcel Number 213-060-40, Application Number D16-0019.

7. “Project” means the minor amendment to the PUD zone Final Development Plan for the Northgate Village Shopping Center (formerly Tracy Outlet Center) to construct improvements for outdoor dining/seating areas, located at 1005 E. Pescadero Avenue, Assessor’s Parcel Number 213-060-40, Application Number D16-0019.
8. “Property” means the property applicable to the minor amendment to the PUD Zone Final Development Plan for the Northgate Village Shopping Center (formerly Tracy Outlet Center) to construct improvements for outdoor dining/seating areas, located at 1005 E. Pescadero Avenue, Assessor’s Parcel Number 213-060-40, Application Number D16-0019.

B. Planning Division Conditions of Approval

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project boundaries, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., “CEQA”), and the Guidelines for the California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., “CEQA Guidelines”).
2. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City Regulations.
3. 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 that are within the purview of the Mitigation Fee Act [Government Code section 66000 et seq.] (“Exactions”) and imposed on this Project by these Conditions of Approval) shall commence on the date of the conditional approval of this Project. If the Developer fails to file a protest of the Exactions 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 of the Exactions. The terms of this paragraph shall not affect any other deadlines or statutes of limitations set forth in the Mitigation Fee Act or other applicable law, or constitute a waiver of any affirmative defenses available to the City.
4. The Project shall be developed in substantial compliance with the site plan and elevations received by the Development Services Department on November 14, 2016 and the description of the minor amendment to the FDP in the resolution, to the satisfaction of the Development Services Director.

5. There shall be no exterior amplification of sound, noise, or music. All audio projections shall comply with Noise Control requirements contained in Article 9, Section 4.12 of the Tracy Municipal Code.
6. There shall be no exterior visual projections, including, but not limited to, televisions and screens.

C. Building Safety and Fire Prevention Division Conditions of Approval

1. Prior to building permit issuance, the Project shall comply with all requirements of the California State Building Code and Fire Code, to the satisfaction of the Chief Building / Fire Code Official.
2. Prior to building permit issuance, the plans shall demonstrate that gates swing in the direction of egress travel, to the satisfaction of the Chief Building / Fire Code Official.
3. Prior to building permit issuance, applicant shall demonstrate that all gates comply with required landings, smooth surface within 10 inches of the finished ground surface, door and gate opening force, clear width requirement of 32 inches minimum and panic hardware, to the satisfaction of the Chief Building / Fire Code Official.

AGENDA ITEM 1.L

REQUEST

REJECTION OF ALL SEVEN BIDS RECEIVED FOR THE LARCH ROAD WATER MAIN REPLACEMENT BETWEEN CORRAL HOLLOW ROAD AND TRACY BLVD, CIP 75117, 75122, 75127, AND DIRECT STAFF TO INCLUDE THIS PROJECT FOR CONSIDERATION IN THE FISCAL YEAR 2017-18 BUDGET

EXECUTIVE SUMMARY

City staff recommends rejection of all bids for the Larch Road Water Main Replacement due to insufficient funds in the Water Enterprise Fund (as a result from drought-related revenue shortfalls).

DISCUSSION

The City owns and operates approximately one mile of water main serving 60 residences, churches and the Holiday Inn Express Suites on Larch Road between Corral Hollow Road and Tracy Boulevard. Due to corrosive soil in this location, the original uncoated and unwrapped 12-inch diameter ductile iron main, installed in 1986, needs to be replaced; the replacement ductile iron main will be protected with zinc/bituminous coatings and wrapped in a polyethylene sleeve.

Engineering staff prepared the plans and specifications and advertised the project for competitive bids on June 23, and 30, 2016.

Bids were received and publicly opened at 2:00 p.m. on Tuesday July 19, 2016, with the following results:

Contractor	Base Bid
Knife River Construction, Stockton	\$873,500
Teichert Construction, Roseville	\$982,890
Rolfe Construction, Atwater	\$1,052,121
Mozingo Construction, Oakdale	\$1,067,240
D.A. Wood Construction, Empire	\$1,100,326
Preston Pipelines, Milpitas	\$1,122,760
California Trenchless, Hayward	\$1,152,680

Due to drought-related revenue shortfalls in the Water Enterprise Fund, the water line replacement Capital Improvement Project (CIP) funds intended for this project are no longer available and this Capital Replacement will be deferred. Staff recommends that a CIP in the amount of \$1,150,000 be established for this project in next year's budget. This revenue shortfall was discussed in agenda item 1.G. that went before Council on November 15, 2016.

STRATEGIC PLAN

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

FISCAL IMPACT

The General Fund is not impacted.

RECOMMENDATION

That City Council, by resolution, reject all bids for the Larch Road Water Main Replacement between Corral Hollow Road and Tracy Boulevard CIP 75117, 75122, 75127 and direct staff to include this project for consideration in next year's budget.

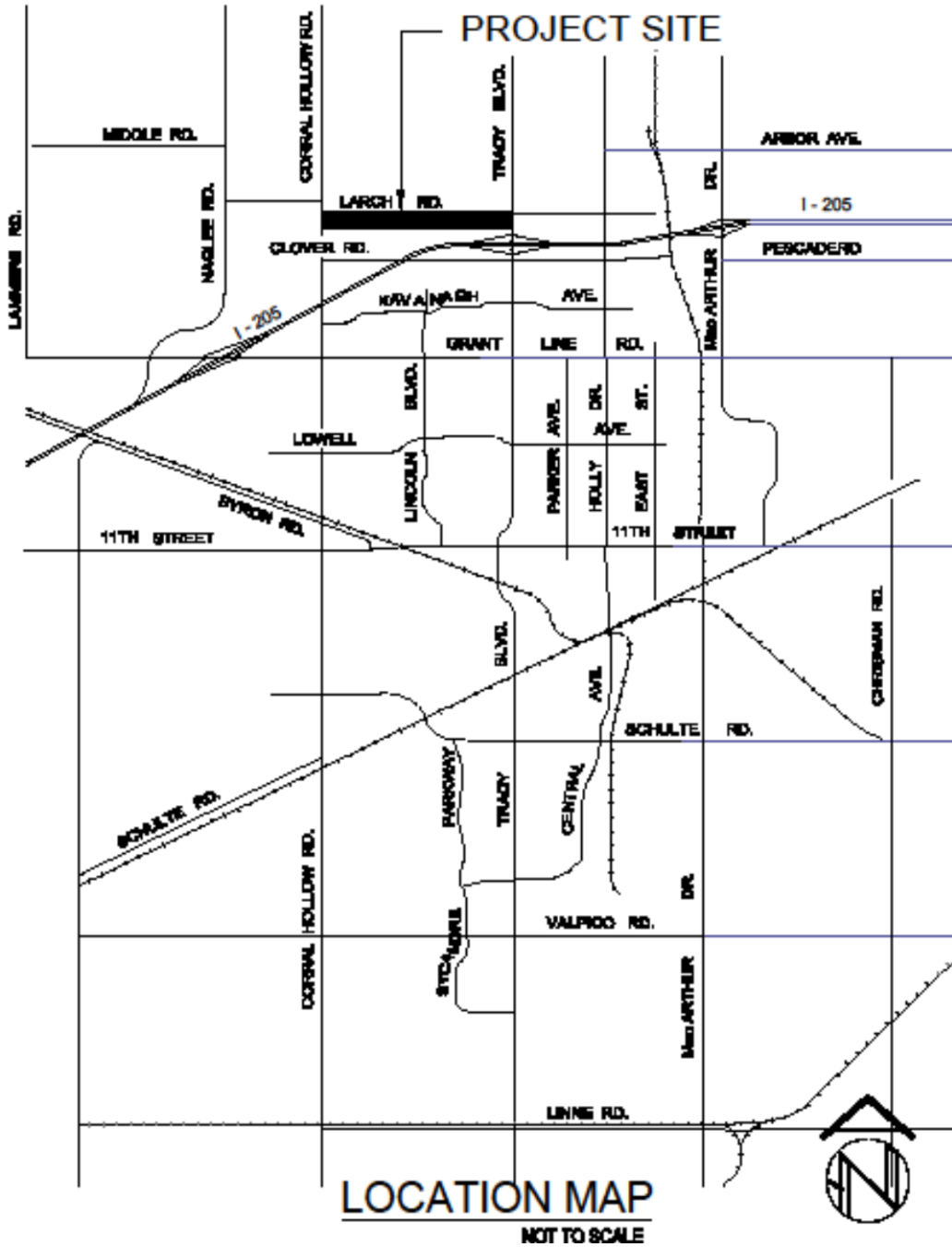
Prepared by: Binh Nguyen, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer/Assistant Director Development Services
Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENT

Attachment A – Location Map



RESOLUTION 2016-_____

REJECTING BIDS FOR THE LARCH ROAD WATERLINE REPLACEMENT (CORRAL HOLLOW ROAD TO TRACY BOULEVARD) CIP 75117, 75122, 75127, AND DIRECTING STAFF TO INCLUDE THIS PROJECT FOR CONSIDERATION IN THE FY 2017-18 BUDGET

WHEREAS, Approximately one mile of water main in Larch Road between Corral Hollow Road and Tracy Boulevard is extensively corroded requiring significant maintenance, and

WHEREAS, The project includes replacement of the water main and services, and

WHEREAS, The project was advertised for competitive bids on June 23, and 30, 2016, and seven bids were received and publicly opened on Tuesday, July 19, 2016, and

WHEREAS, It is recommended that the bids be rejected due to insufficient funds resulting from drought-related revenue shortfalls in the Enterprise Water Fund that finance this water pipeline replacement Capital Improvement Project (CIP), and

WHEREAS, It is also recommended that a CIP for the Larch Road Water Main Replacement between Corral Hollow Road and Tracy Boulevard be included for consideration in the FY 2017-18 budget;

NOW, THEREFORE BE IT RESOLVED, That City Council rejects all bids for the Larch Road Water Main Replacement between Corral Hollow Road and Tracy Boulevard, CIP 75117, 75122, 75127, and directs staff to include this project for consideration in the FY 2017-18 budget.

* * * * *

The foregoing Resolution 2016-_____ was adopted by the Tracy City Council on the 6th day of December 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.M

REQUEST

FIND THAT IT IS IN THE BEST INTEREST OF THE CITY TO FOREGO THE FORMAL REQUEST FOR APPROVAL PROCESS AND APPROVE A MASTER PROFESSIONAL SERVICES AGREEMENT WITH JARVIS, FAY, DOPORTO, AND GIBSON, LLP FOR LEGAL SERVICES RELATED TO LAND DEVELOPMENT APPLICATIONS AND ENVIRONMENTAL ANALYSIS (CEQA) SERVICES FOR A NOT TO EXCEED AMOUNT OF \$350,000 PER YEAR FOR A THREE YEAR TERM; AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT; AND AUTHORIZE THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE TASK ORDERS UNDER THE AGREEMENT

EXECUTIVE SUMMARY

This agenda item, with City Council approval, would authorize the City to contract with Jarvis, Fay, Doport, and Gibson, LLP (Jarvis) for legal services related to the processing of land development applications, the review of environmental analyses and legal assistance including the drafting of various agreements on a variety of upcoming development projects, provided the legal services are fully funded through cost recovery agreements with project applicants.

DISCUSSION

Development Services Department staff is working with various developers on a large number of entitlement applications, most of which include the need for environmental analyses, as well as other legal assistance. Some examples include on-going development in Cordes Ranch, and several residential subdivision projects, many of which require General Plan and/or Zoning amendments. In consideration of the number of development applications and the complexity of the land development and entitlement work, including their necessary environmental studies, staff is tasked with timely document drafting and review. Those documents include project CEQA analyses, Conditions of Approval, resolutions with findings, staff reports, Specific Plans, zoning districts, Planned Unit Developments (and amendments to these documents), development agreements, subdivision improvement agreements, offsite improvement agreements, park improvement agreements, Community Facilities District formation materials and documents, and other development project-related documents.

The Jarvis, Fay, Doport, and Gibson, LLP law firm has extensive knowledge of the City of Tracy's development processes and has been performing similar work for the City with excellent results for the last several years. As such, staff and the City Attorney's Office believes that it is in the best interest of the City to continue its contractual relationship with the firm without conducting the formal Request for Proposal process, as allowed under Tracy Municipal Code section 2.20.140(b)(6). The total professional services agreement term would be for three years, consistent with other professional services agreements funded through cost recovery agreements, and the amount would be not to exceed \$350,000 per year for a three year term. Similar to other professional

services agreements related to development, the proposed services would be completely funded by project applicants under cost recovery agreements.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no impact to the General Fund. The funding for this contract will be through Cost Recovery Agreements executed with each developer to cover the costs of staff time and legal assistance related to each project.

RECOMMENDATION

Staff recommends that the City Council find it is in the best interest of the City to forego the formal request for proposals process and approve the Master Professional Services Agreement with Jarvis, Fay, Doporto, and Gibson, LLP for a not to exceed amount of \$350,000 per year for a three year term; authorize the Mayor to execute the Agreement; and authorize the Development Services Director to execute task orders under the Agreement.

Prepared by: Bill Dean, Assistant Development Services Director

Reviewed by: Andrew Malik, Development Services Director
Martha Garcia, Interim Administrative Services Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A — Master Professional Services Agreement with Jarvis, Fay, Doporto, and Gibson, LLP with billing rates included

City of Tracy
MASTER PROFESSIONAL SERVICES AGREEMENT
SPECIAL COUNSEL SERVICES FOR LAND USE MATTERS SUBJECT TO COST
RECOVERY AGREEMENTS

This Master Professional Services Agreement (Agreement) is entered into between the City of Tracy, a municipal corporation (City), and Jarvis, Fay, Doporto & Gibson, LLP, a California Limited Liability Partnership (Consultant).

Recitals

- A.** City is in need of professional special counsel services to advise and represent City in matters relating to land use, zoning, subdivisions, environmental review, and other matters arising in connection with the development of land by private property owners in and around the City; and
- B.** Consultant has the appropriate qualifications and experience to provide such special counsel services; and
- C.** Consultant currently provides such services to City under multiple agreements, each one relating to a specific land use or development application, and in each case the applicant is required to reimburse the City for the costs of the special counsel services pursuant to a 'cost recovery agreement' between the applicant and City.

Now therefore, the parties mutually agree as follows:

- 1. Scope of Services.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. Consultant's specific scope of services shall be more particularly described in individual Task Orders subject to the written approval of the CITY and Consultant. The terms of this Agreement shall be incorporated by reference into each Task Order. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Daniel P. Doporto, Partner. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any personnel listed in Exhibit "A," nor shall Consultant use any sub-contractors or sub-consultants, without City's prior written consent.
- 2. Time of Performance.** This Agreement shall take effect on first date upon which it is fully executed by City and Consultant, as shown by their signatures on page 5 (the "Effective Date"), and shall be in effect through December 31, 2019.

Time is of the essence in the performance of services under this Agreement. 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.

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 and Not to Exceed the amount set forth in each individual Task Order. Consultant's total fees for this Agreement are not to exceed Three Hundred Fifty Thousand Dollars (\$350,000) per year (the "Not To Exceed Amount") for each year of this Agreement. Consultant's billing rates shall cover all costs

and expenses for Consultant's performance of this Agreement, except as set forth in Exhibit "B." 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 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 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.

5.2 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.

5.3 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.

5.4 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.

5.5 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.

5.6 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 sub-consultants) 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. City may terminate this Agreement by giving ten days written notice to Consultant. Consultant may terminate this Agreement at any time with the City's consent or for if any circumstance occurs or exists in which the ethical rules of the legal profession mandate or permit termination, including situations where a conflict of interest arises. 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 termination date.

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
333 Civic Center Plaza
Tracy, CA 95376

Attn: Bill Sartor, City Attorney

To Consultant:

Jarvis, Fay, Doporto & Gibson, LLP
492 Ninth Street, Suite 310
Oakland, CA 94607

Attn: Daniel P. Doporto, Partner

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 Form 700. This agreement does not require or permit Consultant or any of Consultant's personnel to make a governmental decision for the City, as specified in 2 Cal. Code of Regs. § 18700.3(a). Accordingly, Consultant and all of Consultant's personnel are not required to file a Form 700 in connection with the special counsel services provided under this Agreement.

9.10 Business License. Not later than ten days following the Effective Date of this Agreement, Consultant shall obtain a City of Tracy Business License.

9.11 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 that are funded through Cost Recovery 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: Robert Rickman
Title: Mayor



By: Daniel P. Doporto
Title: Partner

Date: _____

Date: 11-28-16

Attest:

Federal Employer Tax ID No. 20-0652630

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

Consultant shall provide special counsel legal services to advise and represent City in matters relating to land use, zoning, subdivisions, environmental review, and other matters arising in connection with the development of land by private property owners in and around the City, at the direction of and in a supporting role to the City Attorney. Consultant's services under this Agreement shall be limited to providing such special counsel legal services relating to specific land use and development applications submitted to the City, and for which the City and the applicant have executed a 'cost recovery agreement' providing for the applicant to reimburse the City for the costs of Consultant's services under this Agreement. For purposes of this Agreement, each such application is referred to as a "Project" and, at City's discretion, City and Consultant shall enter into separate Task Orders under this Agreement for each Project.

Exhibit B Compensation

1. Consultant Fees and Charges:

Consultant's fees shall be charged on a time and materials basis and shall not exceed Three Hundred Fifty Thousand Dollars (\$350,000.00) per year for each year of this Agreement.

Consultant may incur out-of-pocket expenses from outside vendors relating to the special counsel services described herein, which expenses will be charged to City and described on monthly invoices, as applicable. Consultant will advance payment for such expenses on City's behalf for items costing less than \$1,000, but will refer items costing more than \$1,000 directly to the City for payment. Consultant shall not charge the City for in-house copies or faxes or other Consultant overhead.

2. Hourly Rates:

Senior Partners	\$365
Partners / Of Counsel	\$310
Associates	\$250
Paralegals	\$125

3. Consultant's Authorized Representative: Daniel P. Doporto (Senior Partner)

Consultant's Authorized Personnel:

- Rick Jarvis (Senior Partner)
- Ben Fay (Senior Partner)
- Clare Gibson (Senior Partner)
- Michael Rodriguez (Senior Partner)
- Alexandra Barnhill (Partner)
- Christine Crawl (Associate)
- Gabriel McWhirter (Associate)
- Jennifer Dent (Paralegal)
- Chelsea Torres (Paralegal)

RESOLUTION 2016-_____

FINDING IT IS IN THE BEST INTEREST OF THE CITY TO FOREGO THE FORMAL REQUEST FOR PROPOSAL PROCESS AND APPROVING A MASTER PROFESSIONAL SERVICE AGREEMENT WITH JARVIS, FAY, DOPORTO, AND GIBSON, LLP, FOR LEGAL SERVICES FOR VARIOUS DEVELOPMENT PROJECTS; AUTHORIZING THE DEVELOPMENT SERVICES DIRECTOR TO EXECUTE TASK ORDERS UNDER THE AGREEMENT, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, Staff is processing various applications that require environmental analyses, the completion and review of the appropriate entitlement documents, and legal assistance, and

WHEREAS, The project applicants expect timely completion of the required environmental documentation and entitlements, and

WHEREAS, The Jarvis, Fay, Doporto, and Gibson, LLP law firm has extensive knowledge of the City of Tracy's development processes and has been performing similar work for the City with excellent results for the last several years;

WHEREAS, City staff and the City Attorney's Office believes that it is in the best interest of the City to continue its contractual relationship with the firm without conducting the formal Request for Proposal process, as allowed under Tracy Municipal Code section 2.20.140(b)(6).

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves the Master Professional Services Agreement with Jarvis, Fay, Doporto, and Gibson, LLP in the amount not to exceed \$350,000 per year for a three year term; authorizes the Mayor to execute the Agreement; and authorizes the Development Services Director to execute task orders under the Agreement.

The foregoing Resolution 2016-_____ was adopted by the City Council on the 6th day of December, 2016, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.N

REQUEST

ADOPT A RESOLUTION APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN TROY BROWN AND THE CITY OF TRACY RELATING TO COMPENSATION AND BENEFITS AND AUTHORIZING AN APPROPRIATION OF \$13,597 FROM THE GENERAL FUND FOR FISCAL YEAR 2016-17

EXECUTIVE SUMMARY

The Employment Agreement between Troy Brown and the City of Tracy provides for an annual performance evaluation and salary review. A performance evaluation and salary review have been completed by Council and a ten percent (10%) salary increase is being proposed. Additionally, this contract amendment also makes changes to certain other Compensation and Benefits provisions contained in the Employment Agreement.

DISCUSSION

In August 2014, the City of Tracy entered into an Employment Agreement with Troy Brown to serve as City Manager. The Agreement contains a provision for evaluations and salary review. Council has completed an evaluation and salary review process for Mr. Brown and wishes to increase his salary by 10%. The attached Amendment to the Employment Agreement will change the City Manager's annual salary from \$205,000 to \$225,500, effective January 1, 2017.

Additionally, the Amendment will eliminate a provision in the Agreement which provides for cost of living adjustments (COLAs) that are tied to the Department Heads Compensation and Benefit Plan. This change will be retroactive to July 1, 2016 which pre-dates any such COLAs that the Department Heads received and thus will make Mr. Brown ineligible for such an increase to his salary. Although the language exists in Mr. Brown's contract allowing for such increases, for transparency purposes, Mr. Brown declined to accept the cost of living increases when the City Council approved them for Department Heads in mid-July of this year. This change will codify Mr. Brown's decision and remove the provision for any past and future COLA increases.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1b: Affirm organizational values.

FISCAL IMPACT

The fiscal impact to the General Fund of this Amendment is estimated at \$27,193 annually for Fiscal Year 2016/17, \$13,597 is being requested to be appropriated to cover the cost of the Amendment. Future year costs will be incorporated into the appropriate departmental operational budgets.

RECOMMENDATION

Staff recommends that City Council adopt a resolution approving an amendment to the employment agreement with Troy Brown to amend the contract provisions as attached to this staff report and described above, and authorize an appropriation of \$13,597 from the General Fund for Fiscal Year 2016-17.

Prepared by: Midori Lichtwardt, Human Resources Director

Reviewed by: Bill Sartor, City Attorney

Approved by: Bill Sartor, City Attorney

Attachment: Exhibit 1 - Amendment to Employment Agreement Between Troy Brown and the City of Tracy

AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
TROY BROWN AND THE CITY OF TRACY

This Amendment (“Amendment”) to the Employment Agreement between Troy Brown and the City of Tracy is made and entered into by and between Troy Brown and the City of Tracy, a municipal corporation.

RECITALS

WHEREAS, the City of Tracy (“CITY”) approved an Employment Agreement (“Agreement”) by Resolution No. 2014-132 with Troy Brown (“EMPLOYEE”) on August 19, 2014 to serve as its City Manager, and

WHEREAS, EMPLOYEE and CITY (collectively, “Parties”) have agreed to amend certain compensation and benefit provisions contained in the Agreement.

WHEREAS, EMPLOYEE and CITY have agreed to remove provisions in the Agreement, contained in Subsection B of Section 3, that provided for cost of living (COLA) base salary increases and to instead have all salary increases be based on merit pursuant to Subsection C of Section 3 of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants set forth below, the Parties agree as follows:

AGREEMENT

1. Amendment to Subsection A of Section 3. Effective January 1, 2017, Subsection A “Base Salary” of Section 3 “Compensation and Benefits” of the Agreement is hereby amended to read, in its entirety, as follows:

“The CITY agrees to pay EMPLOYEE an annual base salary of \$225,000, payable in accordance with a pre-determined schedule applicable to all CITY employees.”

2. Amendment to Subsection B of Section 3. Retroactively effective as of July 1, 2016, Subsection B “COLAs” of Section 3 “Compensation and Benefits” is hereby deleted in its entirety and the remaining Subsections of Section 3 are renumbered accordingly.

3. Amendment to Existing Subsection C of Section 3. The word “also” is hereby deleted from existing Subsection C of Section 3 (which is renumbered by Section 2 of this Amendment to be Subsection B of Section 3).

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

5. Representation by Counsel. EMPLOYEE and CITY acknowledge that they each did,


or had the opportunity to, consult with legal counsel of their respective choices with respect to the subject matter of this Amendment prior to signing it.

6. Applicable Law. This Amendment is signed and delivered in the State of California and the rights and obligations of the parties under this Agreement shall be construed and enforced in accordance with the laws of the State of California.
7. Waiver. No waiver by any party of any breach of any term or provision of this Amendment shall be construed to be, nor shall be, a waiver of any preceding, concurrent or succeeding breach of the same or any other term or provision of this Amendment.
8. Interpretation. This Amendment is deemed to have been drafted jointly by the parties to this Amendment. Any uncertainty or ambiguity shall not be construed for or against any party based upon attribution of drafting to any party.
9. Severability. If any provision of this Amendment is held unconstitutional, invalid or unenforceable, that invalidity shall not affect any other provisions which could be given effect without the invalid provision.
10. Counterparts. This Amendment may be executed in several counterparts, and shall be admissible in counterparts. All executed copies are duplicate originals and are equally admissible in evidence.

City of Tracy

Troy Brown

Robert Rickman, Mayor



Date: _____

Date: 12/2/16

Attest:

By: Nora Pimental
Title: City Clerk

Date: _____

Approved as to Form:

By: Bill Sartor
Title: City Attorney

RESOLUTION 2016 - _____

APPROVING AN AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN TROY BROWN AND THE CITY OF TRACY RELATING TO THE COMPENSATION AND BENEFITS PROVISIONS AND AUTHORIZING AN APPROPRIATION OF \$13,597 FROM THE GENERAL FUND FOR FISCAL YEAR 2016-17

WHEREAS, The City approved an Employment Agreement (Agreement) with Troy Brown on August 19, 2014 to hire Troy Brown as its City Manager, and

WHEREAS, The parties now wish to amend the Agreement to increase the City Manager's salary by 10%, effective January 1, 2017, and

WHEREAS, The parties also wish to delete Subsection B of Section 3 of the Agreement, regarding automatic cost of living adjustments, such deletion to be retroactively effective as of July 1, 2016;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the amendment to the Employment Agreement between Troy Brown and the City of Tracy attached to the staff report accompanying this agenda item, authorizes the Mayor to execute the amendment, and approves an appropriation of \$13,597 from the General Fund.

The foregoing Resolution 2016 - _____ was adopted by the Tracy City Council on the 6th day of December, 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 THE PROPOSED ANNEXATION OF THE VENTANA PROJECT INTO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AS ZONE NO. 43; DECLARE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT AND APPROVE CERTAIN RELATED ACTIONS; CONFIRM THE ANNEXATION OF THE PROJECT INTO THE DISTRICT AS ZONE NO. 43; AND ORDER THE LEVY AND COLLECTION OF ASSESSMENTS FOR FISCAL YEAR 2017/2018

EXECUTIVE SUMMARY

To conclude the Tracy Consolidated Landscape Maintenance District (TCLMD) annexation of the Ventana Project initiated at the October 18, 2016 City Council meeting, a public hearing will be held to receive public comment after which the property owner's ballot will be opened and results declared. If the ballot indicates that there is no protest, Council will be asked to approve certain required actions including approval of the final Engineer's Report, the levy and collection of annual assessments, confirming the annexation and assessment diagram, and ordering the levy and collection of assessments for Fiscal Year 2017/2018.

DISCUSSION

As normally required by the Development Review "Conditions of Approval", the property owner is usually required to form a landscape maintenance district and/or annex into TCLMD to ensure the maintenance of public landscape improvements installed in the public right-of-way. In this case, there was an administrative error and the project was not required to form an LMD or annex into an existing LMD.

However, Tri Pointe Homes (Applicant) has maintained a positive relationship with City staff throughout this process and realizes that a mistake was made and is willing to assist in mitigating any issues. As the only owner affected by an annexation into the TCLMD, the Applicant has requested that the City annex their development into TCLMD pursuant to the "Landscaping and Lighting Act of 1972" (California Streets and Highway Code Sections 22500-22679).

The City Council, on October 18, 2016, initiated proceedings for the annexation of territory and for the levy and collection of annual assessments, provided preliminary approval of the Engineer's Report, declared its intention to annex territory to the TCLMD, to levy and collect an annual assessment, and to conduct a public hearing regarding the annexation to TCLMD and the levy of assessments. Subsequently, the owner protest ballot was mailed to the Owner for completion and is to be returned to the City Clerk no later than the closing of the Public Hearing regarding this matter on December 6th at which time the results will be declared.

If the ballot does not protest annexation, the Council will be asked to approve the levy and collection of annual assessments, to confirm the annexation, and to order the levy and collection of assessments for Fiscal Year 2017/2018. The City's Assessment Engineer, Willdan Financial Services, will then incorporate Annexation of Zone No. 43 with the levy of annual assessments and assessment diagram pertaining to the annual Engineer's Report prepared in connection with the Consolidated District for Fiscal Year 2017/2018.

The newly annexed territory will then be added to the County Tax Roll in time for the Fiscal Year 2017/2018 assessment to commence. Maintenance costs of this area for the remainder of Fiscal Year 2016/2017 are estimated to be minimal (less than \$4,000) as the improvements are not anticipated to be accepted by the City until the spring of 2017. Staff is recommending absorbing this expense within the existing General Fund street landscaping maintenance budget.

If the ballot results in a protest and the area is not annexed into the TCLMD, the cost for ongoing maintenance of this area will fall under the General Fund. The estimated impact to the General Fund is a one-time cost of \$8,500 for the annexation proceedings and an on-going cost of \$24,118 annually, in perpetuity, for the maintenance of the public landscaping within this project if the annexation is unsuccessful.

STRATEGIC PLAN:

This agenda item supports the Organizational Effectiveness Strategic Plan and specifically implements the following goal and objectives:

Goal 3: Preserve and maintain existing community assets

Objective 3a: To fund maintenance and replacement of community amenities

FISCAL IMPACT

There will be no new impact to the General Fund by TCLMD Annexation 2016-1. The property owner will bear the costs of annexation proceedings and future assessments. The maximum assessment rate per equivalent dwelling unit (EDU) will be \$220.34 per year (Ventana Project has 105 EDUs). If the ballot does not pass, the estimated impact to the General Fund is a one-time cost of \$8,500 for the annexation proceedings and an on-going cost of \$24,118 annually, in perpetuity, for the maintenance of the public landscaping within this project.

RECOMMENDATION

At the conclusion of the Public Hearing, it is recommended that the City Council, by resolution, (1) declare the results of the property owner protest ballot proceeding conducted for the levy of assessments for the annexation of the Ventana Project into the TCLMD as Zone No. 43, commencing in Fiscal Year 2017/2018 and approve certain

Agenda Item 3
December 6, 2016
Page 3

related actions; and (2) confirm the annexation of the Project into the TCLMD as Zone No. 43, and order the levy and collection of assessments for Fiscal Year 2017/2018.

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

Reviewed by: Don Scholl, Public Works Director
Martha Garcia, Interim Finance Director
Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – Tracy Consolidated Landscape Maintenance District Engineer’s Report



Think Inside the Triangle

City of Tracy

Tracy Consolidated Landscape Maintenance District

Engineer's Report

ANNEXATION OF TERRITORY;
AND
ESTABLISHMENT OF ZONE No. 43

FISCAL YEAR 2017/2018

Intent Meeting: October 18, 2016
Public Hearing: December 6, 2016

27368 Via Industria
Suite 200
Temecula, CA 92590
T 951.587.3500 | 800.755.6864
F 951.587.3510

www.willdan.com/financial



Engineer's Report Affidavit

Tracy Consolidated Landscape Maintenance District

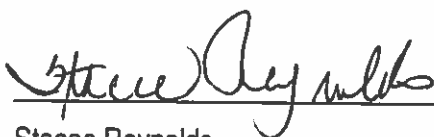
**Annexation of Territory; and
Establishment of Zone No. 43
for Fiscal Year 2017/2018**

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

As part of the Resolution of Intention packet presented for the consideration of the Tracy City Council, this Report and the enclosed budgets, diagrams, and descriptions outline the proposed annexation of territory into the Tracy Consolidated Landscape Maintenance District and the resulting establishment of Zone No. 43 and assessments related thereto commencing in Fiscal Year 2017/2018. Reference is hereby made to the San Joaquin County Assessor's Maps for a detailed description of the lines and dimensions of parcels within the annexation of territory and subject to the proposed assessments. The undersigned respectfully submits the enclosed Report as directed by the City Council of the City of Tracy.

Dated this 23rd day of 9, 2016.

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

By: 
Stacey Reynolds
Senior Project Manager

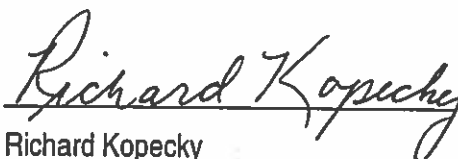
By: 
Richard Kopecky
R. C. E. # 16742



TABLE OF CONTENTS

INTRODUCTION	1
BALLOT PROCEEDINGS	2
PART I — PLANS AND SPECIFICATIONS	5
DISTRICT OVERVIEW	5
<i>Description of Zone 43, Annexation Territory</i>	5
IMPROVEMENTS AND SERVICES	5
<i>Overall District Improvements and Services</i>	5
<i>Annexation Territory Zone Specific Improvements and Services</i>	8
<i>Annexation Territory Shared Improvements and Services</i>	8
PART II — METHOD OF APPORTIONMENT	9
BENEFIT ANALYSIS	9
<i>Legislative Authority</i>	9
<i>Proposition 218 Provisions</i>	9
<i>Special Benefit</i>	10
<i>Park Benefit</i>	10
<i>General Benefit</i>	10
ASSESSMENT METHODOLOGY	11
<i>Equivalent Dwelling Units by Land Use</i>	11
PART III — ESTIMATE OF COSTS	14
CALCULATION OF ASSESSMENTS	14
ZONE No. 43 ANNEXED TERRITORY BUDGET	15
ANNUAL INFLATIONARY ADJUSTMENT (ASSESSMENT RANGE FORMULA)	16
PART IV — ANNEXATION TERRITORY DIAGRAM	17
PART V — ASSESSMENT ROLL	19

INTRODUCTION

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

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

In addition, the 1972 Act further allows various areas to be annexed into an existing district zone of benefit ("Zone"), when the territory in the annexation receives substantially the same proportional special benefits from the improvements provided as other properties in the Zone or established as a separate Zone if the proportional special benefits from the improvements provided are different. The costs associated with the installation, maintenance, and servicing of the improvements may be assessed to those properties, which are benefited by the installation, maintenance, and servicing of such improvements. Currently, the District is comprised of forty (40) special benefit zones including Zones 01 through 37, and 40 through 42. (Zone 38 and Zone 39 designations have been previously reserved for budgeting purposes to track special funds associated with the District and do not represent any specific parcels or Zone boundaries).

By resolution, the City Council has ordered the preparation of this Engineer's Report ("Report") in connection with the proceedings for the annexation of approximately 21.82 acres of territory west of S. MacArthur Drive into the District for Fiscal Year 2017/2018 and consists of all lots and parcels of land within the planned residential development identified as Tract 3290 (Ventana), which incorporates one hundred five (105) single-family residential parcels and one (1) future street segment parcel, and referred to hereafter as the:

"Annexation Territory"

This Annexation Territory consists of all lots and parcels of land within the planned residential development commonly referred to as the Tract 3290 (Ventana). As part of this residential unit development new landscape improvements within the public right-of-ways are being installed and the special benefit costs associated with the ongoing annual maintenance of these landscape improvements are to be levied and collected through the District. Therefore, the Annexation Territory is also being established as a new local landscape Zone within the District for Fiscal Year 2017/2018 to be designated as:

"Zone No. 43"

The parcels within the Annexation Territory, being Zone No. 43 of the District, will benefit from the ongoing maintenance, operation, and servicing of the landscape improvements within the public right-of-ways to be installed in connection with the development of the Tract 3290 (Ventana), as well as the shared special benefit and cost of an existing neighborhood park adjacent to the Zone and shared by properties in Zone No. 20. In addition, the parcels within Annexation Territory will receive Special Benefit from street tree maintenance and will be proportionately assessed for the maintenance costs associated with the Streetscape

Revitalization & Rehabilitation and Arterial Street Tree Maintenance programs that have been implemented within the District for the long-term repairs, rehabilitation and replacement of such improvements.

This Report has been prepared pursuant to the provisions of the California Constitution and in accordance with Article 4 (commencing with Section 22565) of Chapter 1 of the 1972 Act and shall serve as the detailed engineer's report regarding the annexation of this designated Annexation Territory, Tract 3290 (Ventana), into the Tracy Consolidated Landscape Maintenance District and the proposed assessments to be levied on the properties therein for Fiscal Year 2017/2018 as Zone 43 (Annexation Territory) for the special benefits the properties will receive from the ongoing maintenance and servicing of the landscaping improvements associated with and/or resulting from the development of properties within the Annexation Territory.

The City Council proposes to annex the Annexation Territory, including each lot, parcel, and subdivision of land therein into the District and to levy and collect annual special benefit assessments on the County tax rolls commencing in Fiscal Year 2017/2018 to provide ongoing funding for the direct expenditures, incidental expenses, and fund balances that are necessary to service and maintain the landscape improvements associated with the development of property within the Annexation Territory. The improvements described in this Report are based on the improvement plans and specifications developed in connection with the development plans for Tract 3290 (Ventana), and by reference these improvements plans and specifications are made part of this Report. The estimated budget provided herein is based on the improvements to be maintained and the City's estimate of services to be provided. The resulting annual assessments are calculated utilizing a method of apportionment that reflects the proportional Special Benefit to each parcel within the Annexation Territory and this Method of Apportionment is consistent with the Method of Apportionment previously established for the District and are made pursuant to the 1972 Act and the provisions of the California Constitution.

The word "parcel," for the purposes of this Report, refers to an individual property assigned its own Assessor's Parcel Number (APN) by the San Joaquin County Assessor's Office. The San Joaquin County Auditor/Controller uses Assessor's Parcel Numbers and specific Fund Numbers to identify properties to be assessed on the tax roll for the special benefit assessments.

BALLOT PROCEEDINGS

As part of this annexation proceeding, pursuant to the provisions of Article XIID, Section 4 of the California Constitution, the City shall conduct a property owner protest ballot proceeding (referred to as "Ballot Proceeding") for the proposed levy of new assessments as described in this Report. In conjunction with this Ballot Proceeding, the City Council will conduct a noticed public hearing to consider public testimonies, comments and written protests regarding the levy of the proposed new assessments. Upon conclusion of the public hearing, property owner protest ballots received will be opened and tabulated to determine whether majority protest exists:

"A majority protest exists if, upon the conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. In tabulating the ballots, the ballots shall be weighted according to the proportional financial obligation of the affected property."

After completion of the ballot tabulation, the City Council will confirm the results of the balloting. If majority protest exists the proposed new assessments, further proceedings to implement the proposed new assessments and the annexation of the Annexation Territory shall be abandoned at this time.

If tabulation of the ballots indicates that majority protest does not exist for the proposed assessment and the assessment range formula presented and described herein, the City Council may by Resolution approve this Report (as submitted or amended), order the annexation of the Annexation Territory to the District, approve the assessment diagram and confirm the assessments. The Annexation Territory assessments as approved, may be levied and collected on the County tax rolls commencing in Fiscal Year 2017/2018 and such assessments together with the assessments for other properties in the District, shall be incorporated into the Annual Engineer's Report for the District and approved during the annual assessment approval process for Fiscal Year 2017/2018.

Each subsequent fiscal year, an Engineer's Report for the District including the Annexation Territory shall be prepared and presented to the City Council to address any proposed changes to the improvements, budget and assessments for that fiscal year. The City Council shall hold a noticed public hearing regarding these matters prior to approving and ordering the levy of such assessments.

This Report consists of five (5) parts:

Part I — Plans and Specifications:

Contains a general description of the District, Zone No. 43 (Annexation Territory) and identifies the improvements and services associated with the Zone 43 that provide special benefits to the parcels therein. The specific plans for the landscape improvements are on file in the City of Tracy Public Works Office.

Part II — Method of Apportionment

Outlines the special and general benefits associated with the improvements to be provided by the District for the Annexation Territory and the basis on which the estimated costs to provide such improvements have been apportioned to each parcel of land within Zone No. 43 (Annexation Territory), in proportion to the estimated special benefits to be received within the newly annexed territory of the District.

Part III — Estimate of Costs

Identifies the estimated annual funding costs (Budget) required for the annual maintenance, servicing, and operation of landscape improvements and specifically the costs associated with the improvements determined to be of special benefit to parcels within the Zone No. 43 (Annexation Territory). This budget identifies an estimate of anticipated ongoing annual expenses to service, maintain, and operate landscape improvements and related facilities that provide a special benefit to parcels within the Annexation Territory including, but not limited to, annual maintenance and service expenses, utility costs, long term replacement and rehabilitation funding, and related incidental expenses authorized by the 1972 Act to establish an initial maximum assessment to be approved by the property owner(s) of record within the Annexation Territory. This section also identifies and outlines an Assessment Range Formula (inflationary adjust) that provides for an annual adjustment to the maximum assessment rate that establishes limits on future assessments, but also provides for reasonable cost adjustments due to inflation.

Part IV — Annexation Territory Diagram

A Diagram showing the boundaries of Zone 43 (Annexation Territory) including the entire territory of land being annexed to the District that will receive special benefits from the improvements described herein. Parcel identification, the lines and dimensions of each lot, parcel and subdivision of land within the Annexation

Territory is inclusive of the parcels as shown on the San Joaquin County Assessor's Parcel Maps as they existed at the time this Report was prepared and shall include all subsequent subdivisions, lot-line adjustments, or parcel changes therein. Reference is hereby made to the San Joaquin County Assessor's maps for a detailed description of the lines and dimensions of each lot and parcel of land within the Annexation Territory.

Part V — Assessment Roll

Identifies the maximum assessment to be levied on each benefited lot or parcel of land within the Annexation Territory as part of these proceedings. The Maximum Assessment amount for each parcel is based on the parcel's calculated proportional special benefit as outlined in Part II — Method of Apportionment and assessment rate ("Assessment per EDU") established in Part III — Estimate of Costs. These assessment amounts represent the Maximum Assessments as of Fiscal Year 2016/2017 (maximum assessment will increase by Consumer Price Index allowable inflator in Fiscal Year 2017/2018) to be presented to the property owner(s) of record in the protest ballot proceedings required pursuant to the provisions of the California Constitution.

PART I — PLANS AND SPECIFICATIONS

DISTRICT OVERVIEW

The territory within the District and assessments levied and collected therein provide for the continued maintenance, servicing, administration, and operation of specific landscaped areas and associated appurtenances for each of forty (40) existing Zones, which comprise of Zones 01 through 37 and, 40 through 42. Each parcel within the District is assigned to each Zone that funds landscape maintenance services that specially benefit the parcel.

Description of Zone 43, Annexation Territory

Zone 43 is comprised of approximately 21.82 acres of territory located west of S. MacArthur Drive, adjacent to and south of the existing properties that comprise Zone No. 20 of the District. This Annexation Territory consists of all lots and parcels of land within the planned residential development identified as Tract 3290 (Ventana), which incorporates one hundred five (105) single-family residential parcels and one (1) future street segment parcel. The parcels within the Annexation Territory are identified by the San Joaquin County Assessor's Office as Assessor Parcel Numbers 246-350-01 through 246-350-49 and 246-360-01 through 246-360-57 (Parcel 246-350-49 being the future street segment parcel).

IMPROVEMENTS AND SERVICES

Overall District Improvements and Services

The landscape improvements maintained in each Zone of the District are considered local landscaping improvements that were installed in connection with the development of the parcels comprising each respective Zone or existing improvements that are shared by two or more Zones, and are considered to be an integral part of the subdivisions and developments for which they were installed, creating an aesthetically pleasing enhancement to the parcels served by the landscaping. In most cases, the landscaping improvements were a condition of development of the parcels in the Zone, or would otherwise be required for the development of those parcels. Improvements for each Zone are either located within the subdivision, adjacent to the subdivision, or along the entry path to the residential subdivisions and/or non-residential developments within each Zone. As such, each assessable parcel identified as being within each Zone (including subsequent annexations to an existing Zone) share in both the cost and the benefits of the improvements and services provided for that Zone. The costs and expenses associated with the improvements in each Zone are equitably spread among all benefiting parcels within that Zone and only parcels that receive special benefit from the improvements are assessed in proportion to the special benefits received. The funds collected from the assessments are dispersed and used in each Zone for the maintenance and operation of the improvements that provided special benefits to the parcels within each respective Zone.

As authorized pursuant to the 1972 Act, these local landscape improvements may include, but are not limited to: ground cover, turf, shrubs, plants, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, monuments or other ornamental structures, recreational equipment or other park facilities, hardscape surfaces or features such as pavers, cobble stone, stamped concrete, sidewalks, edging strips, mulch, and decomposed granite, and any associated appurtenances located within medians, parkways, dedicated easements, channel-ways, parks or open space areas within each Zone. The maintenance, servicing, and operation of these improvements may include, but is not limited to all labor,

materials, equipment, utilities, and incidental expenses including administrative expenses and reserve funding necessary or required to keep the improvements in a healthy, vigorous, and satisfactory condition or is necessary or convenient for the operation of the District and maintenance of the improvements. The continued annual maintenance of these improvements are budgeted and reviewed each fiscal year and fully or partially funded through the annual assessments. The proportional annual cost of maintaining the improvements in each Zone that are determined to be of general benefit shall be funded by other sources and not included as part of the annual assessments.

In addition to the regular maintenance of the landscape improvements associated with each Zone, the budgets and maintenance costs for each Zone may also include the collection of funds for long-term maintenance programs referred to as:

- Tree Maintenance Programs (Arterial and Parkway Street Tree Maintenance);
- Streetscape Revitalization and Rehabilitation Program; and,
- Park Rehabilitation and Renovation Program.

The City developed these programs to fund periodic and programmed maintenance, renovation, rehabilitation, replacement and revitalization of the district improvements. The total amount to provide these programs for each Zone (where the services apply) are typically greater than can be conveniently raised from a single annual assessment and the estimated costs of these programs are collected in installments as part of each Zone's annual assessments. The associated program costs and the corresponding collection of funds for these activities are proportionately spread to each parcel within the District based on special benefits received from the services to be rendered within their Zone over an extended period.

Tree Maintenance Programs

The Tree Maintenance program may include both routine and emergency maintenance for the District Street Trees. In the Zones assessed for this program the following may apply:

- Parkway Street-tree maintenance, targets the trees associated with individual properties within the District installed by the City or developer that are located in the public right-of-way or City easement which the District is responsible for maintaining. This program addresses two specific maintenance issues:
 - Regular trimming and pruning of the street-trees. This program is designed to trim and prune all street-trees within the applicable Zones on a five-year rotation or as needed to ensure the health and growth of the trees.
 - Removal and replacement of the street-trees. The program provides for the removal and replacement of damaged or diseased trees as needed, or removal of trees whose growth has or will potentially cause damage to existing structures such as fences or sidewalks. This program may also include the replacement or repair of surrounding improvements as needed.

- Arterial-tree maintenance, targets the trees associated with the parkways and medians on the arterial streets adjacent to or surrounding the Zones. Similar to the parkway street-tree program, this program addresses two specific maintenance issues:
 - Regular trimming and pruning of the arterial-trees, which includes trimming and pruning of the arterial-trees as needed to ensure the health and growth of the trees.
 - Removal and replacement of the arterial-trees, including the removal or replacement of damaged or diseased trees as needed, or removal of trees whose growth has or will potentially cause damage to existing landscape improvements, sidewalks or curbs. This program may include the replacement or repair of surrounding improvements as needed.

Assessments for the Tree Maintenance program shall be collected from only those parcels and Zones identified as receiving special benefit from each of the specific services provided. Each parcel within the District that benefits from tree maintenance services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with tree maintenance.

Streetscape Revitalization and Rehabilitation Program

The Streetscape Revitalization and Rehabilitation program includes, but is not limited to the following and may include routine or emergency maintenance.

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

Assessments for the Streetscape Revitalization and Rehabilitation Program shall be collected from only those parcels and Zones identified as receiving special benefit from parkway and median landscaped areas. Each parcel within the District that benefits from the streetscape revitalization and rehabilitation services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with the program, which is planned every ten years. This program is designed to ensure the long-term maintenance of all streetscape landscaping within the District.

Park Rehabilitation and Renovation Program

Clearly, there are specific costs associated the annual and regular maintenance of park improvements and facilities which are included in the annual maintenance expenses of those Zones that benefit from the parks associated with the Zone. However, the cost of periodically repairing, replacing and upgrading the landscaping and facilities within these parks cannot be reasonably collected in a single annual assessment. Therefore, the City has established a long-term park rehabilitation and renovation program that includes the design repair and reconstruction of parks within the District. The program anticipates revitalization design in the 13th year of a park's life, with the revitalization occurring in the 15th year.

Assessments for the Park Rehabilitation and Renovation Program shall be collected from only those parcels and Zones identified as receiving special benefit from park improvements. Each parcel within the District that benefits from the park rehabilitation and renovation services is assessed on an annual installment basis to

meet its proportional share of the cost and expenses associated with the program, which is planned every fifteen years.

Annexation Territory Zone Specific Improvements and Services

The Annexation Territory (Zone No. 43 of the District) will provide funding to ensure the ongoing maintenance, servicing, and operation of the landscape improvements established and installed in connection with the development of parcels in Tract 3290 (Ventana). More specifically these streetscape improvements are identified as:

- Approximately 11,360 square feet of improvement area located on the west side of S. MacArthur Drive from the northern boundary of Tract 3290 (Ventana), which is adjacent to the northern lot line of parcel 246-360-43 (that point also being the existing southern boundary of Zone No. 20 and the southern lot line of parcel 246-310-01), south to Ventana Avenue. As identified in the landscape plans for Tract 3290 (Ventana), this improvement area may include, but is not limited to the following:
 - Approximately 3,700 square feet of pedestrian sidewalk;
 - Approximately 2,010 square feet of turf;
 - Approximately 5,650 square feet of shrubs, plants and groundcover; and
 - Approximately twenty-seven (27) trees including Weeping Bottle Brush, Crape Myrtle, and Sweet Gum.

- Additionally, there are approximately one hundred thirty-four (134) local street trees.

Annexation Territory Shared Improvements and Services

The Annexation Territory shares improvements and services with existing Zone 20 for Abbott Park. The improvements and amenities of the park are described as:

- Abbott Park located on Stalsburg Drive, south of Debord Dive. This 0.54-acre park site (23,540 square feet) includes approximately 13,250 square feet of turf area, 2,990 square feet of shrubs and trees, and 7,300 square feet of hardscape surfaces as well as a shade structure, playground equipment, drinking fountain, picnic table, benches, trash receptacles, and signage. (The Park is a shared maintenance cost with Zone 20);
- Tree Maintenance Program (Arterial and Parkway Tree Maintenance
- Streetscape Revitalization Program; and
- Park Rehabilitation and Renovation Program

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

PART II — METHOD OF APPORTIONMENT

BENEFIT ANALYSIS

Legislative Authority

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

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

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

Section 22574 provides for zones as follows:

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

Proposition 218 Provisions

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

Article XIID Section 2d defines District as follows:

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

Article XIID Section 2i defines Special Benefit as follows:

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

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

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

The formulas used for calculating assessments and the designation of zones within the District reflect the composition of parcels and the improvements and activities to be provided, and have been designed to fairly apportion the cost of providing those improvements based on a determination of the proportional special benefits to each parcel, consistent with the requirements of the 1972 Act and the provisions of Proposition 218 and Article XIII D of the California Constitution.

Special Benefit

The ongoing maintenance of local public landscaped areas within the District provides aesthetic benefits to the properties within each respective Zone and provides a more pleasant environment to walk, drive, live, and work. The primary function of these landscape improvements and related amenities is to serve as an aesthetically pleasing enhancement and green space for the benefit of the immediately surrounding developments for which the improvements were constructed and installed. These improvements are an integral part of the physical environment associated with the development of the parcels, and if the improvements are not properly maintained, it is these parcels that would be aesthetically burdened.

Park Benefit

Abbott Park was constructed at the time Zone No. 20 was established in the Consolidated Landscape Maintenance District. The park although constructed as part of the development requirements for Zone No. 20 this park was designed and constructed to serve as a local park amenity for both the properties in Zone No. 20 and the future development of the surrounding residential developments which include Zone No. 43. Ultimately at build-out, the parcels within the Annexation Territory, Zone No. 43 will collectively and proportionately receive special benefit from Abbott Park.

General Benefit

In reviewing the location and extent of the specific landscaped areas and improvements to be funded by the newly annexed territory Zone No. 43 and the proximity and relationship to properties to be assessed, it is evident that the additional improvements to be installed are local improvements that are in connection with the development of properties in the Annexation Territory and although the improvements include amenities available or visible to the public at large, the construction and installation of these improvements are necessary for the development of property within the newly annexed territory and were not required nor necessarily desired by any properties or developments that currently exist inside or outside the boundaries of the Annexation Territory. It is also evident that the maintenance these improvements and the level of maintenance provided only has a direct and particular impact on these properties (special benefit) and such maintenance beyond that which is required to ensure the safety and protection of the general public and property in general, has no identifiable benefit to the public at large or properties in general.

Recognizing that in the absence of a special funding zone, the City only has a general obligation to maintain areas within the public right-of-ways at a level of service that provides for public safety and avoids negative impacts on adjacent roadways and vehicles traveling on those roadways (“baseline service”). However, this baseline service level would typically be limited to occasional weed abatement (once or twice a year) and as-needed tree trimming, and results in a far less visually pleasing environment than is created with the enhanced levels of services associated with the landscape maintenance to be provided in Zone No. 43 (Annexation Territory). Conservatively, the cost to provide this baseline level of service is estimated to be less than \$0.02 per square foot for the streetscape areas based on the approximately 7,660 square feet of perimeter landscaped area and 23,522.40 square feet for Abbott Park which is a proportionately shared with other residential zones in the proximity of the Park, totaling 31,182.40 square feet. The baseline cost to maintain the newly annexed territory Zone No. 43, is estimated to be no more than \$330.00 per year. Since the baseline services, unlike the enhanced aesthetic services, provide substantial benefits to the general public and to properties in general, the cost of providing this baseline service is treated as a general benefit cost associated with the landscape maintenance services.

ASSESSMENT METHODOLOGY

The benefit formula used to determine the assessment obligation for any parcel should be based upon both the improvements and the parcels that benefit from those specific improvements.

The assessment methodology for the District and the Zones therein, assigns each parcel a number of EDUs (Equivalent Dwelling Units) based each property's specific development status, type of development (land use), and size of the property, as compared to other properties that benefit from the improvements. One EDU is defined as the special benefit allocable to a single family home (basic EDU unit). In each case, a parcel is only allocated EDUs if the landscaping serving the Zone has been accepted by the City or will be accepted by the City during the upcoming fiscal year. Because the maintenance of the improvements includes this developments proportional cost and benefit from the existing Streetscape Revitalization & Rehabilitation and Arterial Street Tree Maintenance programs of the District, the use of the established EDU assessment formulas applied in the District is appropriate and will ensure that this development is proportionately assessed for the shared maintenance programs.

Every parcel within the District is assigned a land use classification based on available parcel information obtained from the County Assessor's Office and City records. The following is a summary of the EDU allocation and calculation of the proportional special benefit used in the District and shall be applied to the Annexation Territory:

Equivalent Dwelling Units by Land Use

Single-Family Residential Subdivided Lot — This land use is defined as a fully subdivided residential home site with or without a structure. This land use is assessed 1.00 EDU per lot or parcel. This is the base value that all other land use types are compared and weighted against (i.e. Equivalent Dwelling Unit EDU).

Planned-Residential Subdivision — This land use is defined as any property not fully subdivided, but has a specific number of proposed residential lots to be developed on the parcel (approved tract map). This land use type is assessed at 1.00 EDU per planned (proposed) residential lot.

Vacant, Undeveloped Private Property — This land use is defined as vacant property (undeveloped) that is not considered a fully subdivided residential lot, planned residential subdivision, or partially developed non-

residential property. This land use is assessed at 4.00 EDU per acre. Parcels less than 0.25 acres are assigned a minimum of 1.00 EDU. (In Zones 10, 11, 36 and 37 this land use is assessed at 5.0 EDU per acre with parcels less than 0.20 acres, being assigned a minimum of 1.00 EDU).

Developed Non-Residential — This land use is defined as property developed for non-residential use, including, but not limited to commercial and industrial properties, offices, churches and not-for-profit institutions and private schools. This land use type is assessed at 5.00 EDU per gross acre. Parcels less than 0.20 acres are assigned a minimum of 1.00 EDU.

Developed Multiple Residential Units — This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property. This land use is assessed 1.00 EDU per unit for properties that the number of units can be identified. For properties that the number of units has not been identified on the secured roll or verified by the City, the property is assessed as Developed Non-Residential property at 5.00 EDU per gross acre, but a minimum of 1.00 EDU.

Undeveloped Public Property — This land use identifies properties that are exempt and are assigned 0.00 EDU. This land use classification may include, but is not limited to lots or parcels identified as:

- Public streets and other roadways (typically not assigned an APN by the County);
- Dedicated public easements such as utility right-of-ways, detention basins, channel ways, greenbelts, parkways, parks and open space areas;
- Also included in this land use classification is privately owned property that cannot be developed or is associated with other assessable properties such as common areas, sliver parcels and bifurcated lots or properties that have little or no land value;

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

Government owned properties commonly identified as non-taxable properties by the County Assessor's Office are not exempt from assessment unless:

- The property has restricted development or limited land use potential and the improvements clearly provide no benefit to the property; or
- The property provides additional or substantially similar improvements being provided by the District (such is the case with parks, open space areas and common areas).

Developed Public Property — This land use is defined as developed property owned by a public agency such as City buildings or facilities owned by the utility companies. This land use type is assessed at 0.30 EDU per gross acre.

Developed Regional Commercial — This land use is defined as property that has been designated for regional commercial development (i.e. Shopping mall). This land use type is assessed at 0.36 EDU per gross acre.

Restricted/Special Land Use — This land use classification identifies properties that benefit from the improvements, but cannot be reasonably categorized by one of the other land use designations. This land use classification may include, but is not limited to:

- Developed Non-Residential properties that only a small portion of the parcel has been developed;
- Properties identified as planned residential subdivisions, but currently has development restrictions; or
- Vacant properties with development limitations or development plans that identify large portions of the property as open space areas, parklands or similar exempt land uses.

The following table summarizes the preceding EDU factors for each property type in the District:

Property Type	Factor	Basis
Single-Family Residential Subdivided Lot	1.00	Parcel
Planned-Residential Subdivision	1.00	Planned Lot
Vacant, Undeveloped Private Property ²	4.00	Acre
Vacant, Undeveloped Private Property (Zones 10,11, 36 and 37 ²)	5.00	Acre
Developed, Commercial/Industrial Property	5.00	Acre
Developed Multiple Residential Units	1.00	Unit
Undeveloped, Public Property ¹	0.00	Acre
Developed, Public ⁴	0.30	Acre
Developed, Regional Commercial ³	0.36	Acre

Notes

1. *It has been determined that undeveloped public properties generally do not benefit from the improvements and services provided by the District and are not assessed. These types of properties generally include easements, detention basins, parks or properties that have little or no development potential and therefore receive no special benefits from the District improvements.*
2. *The Undeveloped Private property factor for Zones, 10, 11, 36 and 37 (5.00 EDU/Acre) reflects the more intense use of property within these Zones when the properties are developed as compared to property development in other Zones of the District, which are assigned a weighting factor of 4.00 EDU/Acre. It is important to note that the factors shown above are used to apportion the assessment within each specific Zone, not across the entire District and therefore this distinction is an appropriate reflection of these parcel's benefit compared to other property types within the respective Zones.*
3. *Regional Commercial properties have been assigned a reduced benefit because of their size and their more distant proximity to the District improvements. Additionally, due to the nature and hours of use, the benefit received by such properties from the improvements and services is substantially less than other developed properties. The factor shown was originally established based on a calculation of the proportionate cost of service, average floor area ratios, and hours of use.*
4. *Developed Public properties typically receive comparatively less benefit from the improvements and services provided by the District, since the use and enhancement of these properties has little direct benefit from aesthetics of the local environment. The factor shown was originally established based on typical proportionate cost of service and hours of use for this land use type.*

PART III — ESTIMATE OF COSTS

CALCULATION OF ASSESSMENTS

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

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

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

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

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

- "Fund Balance Transfer/Reduction", represents the amount of available Fund Balance being applied to pay a portion of the Special Benefit Costs for the fiscal year.
- "Gas Tax Support", represents proceeds allocated to the City per Proposition K, Special Transportation Tax that can be utilized for maintenance expenses in zones where the City maintains the arterial, median and right-of-way landscaping.
- "Additional City Funding", represents additional funding support (City contribution) to the Zone above that which has already been identified general benefit. This funding may be from various sources available to the City including the City General Fund.

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

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

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

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

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

ZONE No. 43 ANNEXED TERRITORY BUDGET

The following budget outlines the estimated cost to maintain the improvements for the annexed territory Zone No. 43 establishing the initial Maximum Assessment per EDU.

Revenues	Estimated Budget Annexed Zone 43
Special Assessments	\$23,135
Zone Reserves	-
Gas Tax Support	356
General Fund Support	330
Drainage Fund Support	-
Green Waste Fund Support	297
Total Revenue	\$24,118
Expenses	
Personnel	\$5,483
Grounds Maintenance Contract	1,143
Tree Maintenance Contract	7,406
Utilities, Water & Sewer	1,372
Utilities, Gas & Electric	110
Utilities, Waste	129
Supplies	517
Radio/Computer/Controllers	146
Equipment/Vehicles	306
Training/Licenses	14
LMD Administration	303
Internal Service Charges	324
Indirect Costs	384
IF Reimbursements	180
Sub-Total	\$17,816
Cyclical Maintenance Reserve	
Streetscape Revitalization & Rehabilitation	\$1,019
Tree Maintenance	1,771
Park Rehabilitation & Renovation	3,512
Long-term Cyclical Maintenance	\$6,302
Capital Improvement Projects	
Total Expenses	\$24,118
Reserve Fund/City Fund Support	\$983
Levy Information	
Special Assessment to Levy	\$23,135
Total Parcels Levied	105
Total EDUs Levied	105.00
Total EDUs	105.00
Levy Per EDU	\$220.33
Max Rate Per EDU FY1617	\$220.34
Assessment Reserves for Cyclical Maintenance and CIPS:	
June 30, 2016 Estimated Balance	-
FY16/17 Utilized Reserves	-
June 30, 2017 Estimated Balance	-

Max Rate Per EDU will increase for FY1718 by the Consumer Price Index. Consumer Price Index information can be found on the following page.

ANNUAL INFLATIONARY ADJUSTMENT (ASSESSMENT RANGE FORMULA)

It is recognized that the cost of maintaining the improvements increases slightly every year as a result of inflation.

New or increased assessments require certain noticing, meeting, and balloting requirements. However, Government Code Section 54954.6(a) provides that a “new or increased assessment” does not include “an assessment which does not exceed an assessment formula or range of assessments...previously adopted by the agency or approved by the voters in the area where the assessment is imposed.” This definition of an increased assessment was later confirmed by Senate Bill 919 (The Implementing Legislation for Proposition 218).

The District assessments include a formula for increasing assessments for each future fiscal year to offset increases in costs due to inflation. This assessment adjustment formula complies with the above-referenced Government Code section and was approved by the City Council and the original District property owners:

The maximum assessment amount allowed for each fiscal year shall be increased in an amount equal to the lesser of: (1) three percent (3.0%), or (2) the annual percentage increase of the Local Consumer Price Index (CPI) for “All Urban Consumers” for the San Francisco-Oakland-San Jose Area.

Each fiscal year, the City shall identify the percentage difference between the CPI for June and the CPI for the previous June (or similar time period). This percentage difference shall then establish the range of increased assessments allowed based on CPI. Should the Bureau of Labor Statistics revise such index or discontinue the preparation of such index, the City shall use the revised index or comparable system as approved by the City Council for determining fluctuations in the cost of living.

In the event that the City Council determines that an inflation adjustment is not required for a given fiscal year or a given Zone, the City Council may authorize the assessment without applying the adjustment formula to the amount levied. If the budget and assessments for a given Zone require an increase greater than the adjustment set forth in the formula, then the proposed increase would be subject to approval by the Zone’s property owners. Each fiscal year, the maximum assessment rate shall increase at the maximum amount allowable regardless if the increase is levied to the parcels within the Zone.

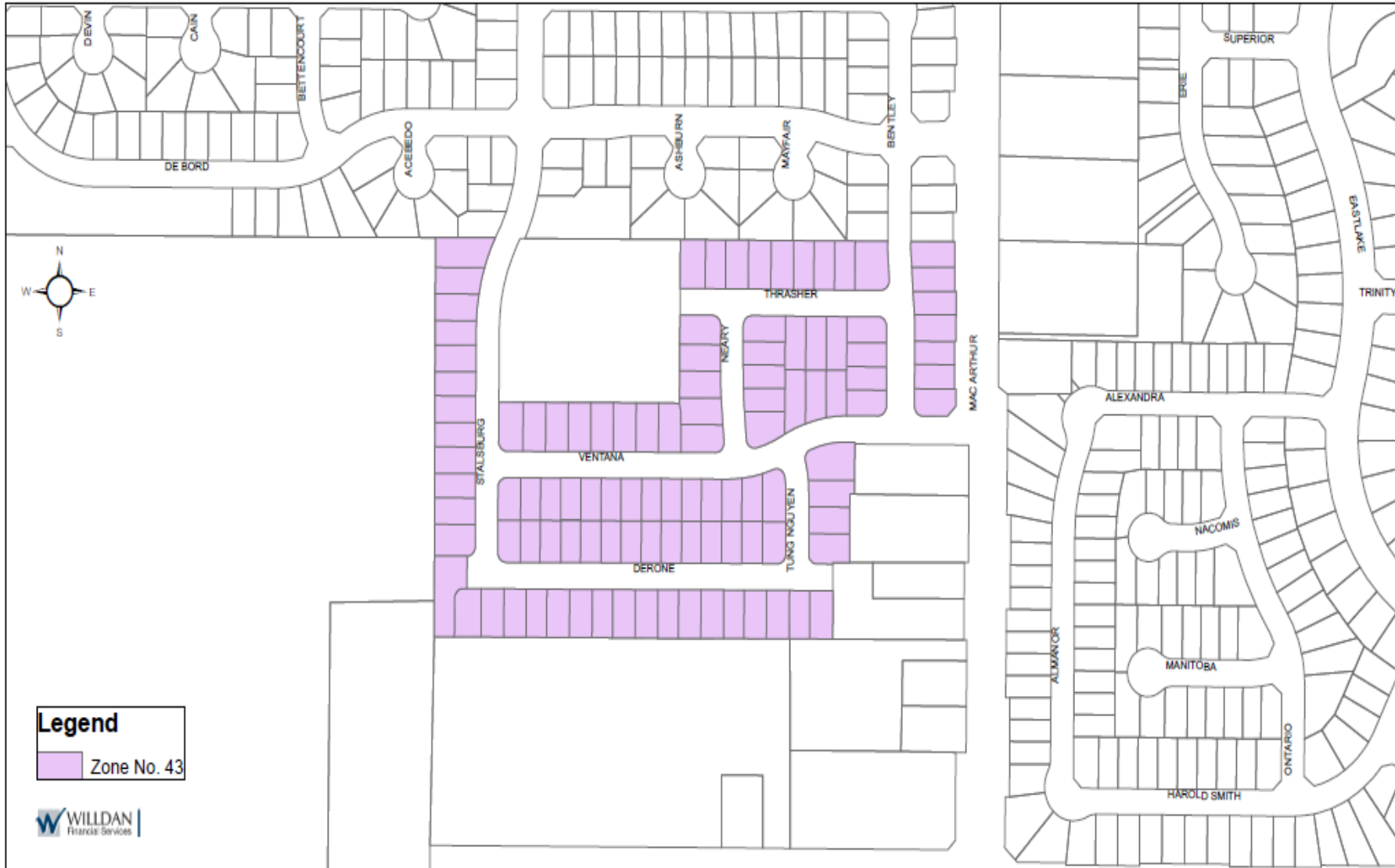
PART IV — ANNEXATION TERRITORY DIAGRAM

The Annexation Territory Zone No. 43 consists of the lots, parcels and subdivision of land within the planned residential development commonly referred to as Tract 3290 (Ventana), which encompasses an area of land totaling approximately 21.82 acres located on the west side of S. MacArthur Drive and incorporates one hundred five (105) single-family residential parcels and one (1) future street segment parcel.

The following Annexation Territory Diagram incorporates each of the lots and parcels of land within Tract 3290 (Ventana) and constitutes all parcels within Zone 43 being annexed into the District for Fiscal Year 2017/2018, as the same existed at the time this Report was prepared.

The parcels of land within the Annexation Territory Zone No. 43 is inclusive of all located on Pages 35 and 36, Book 246 of the San Joaquin County Assessor's Parcel Maps, and by reference these Assessor's Parcel Maps are made part of this Report. The maximum assessment rate, assessment range formula and the proposed assessment amounts for the Annexation Territory as described herein, shall be presented to the property owner(s) of record for approval or protest in accordance with the provisions of the California Constitution.

**ASSESSMENT DIAGRAM FOR ANNEXATION AREA
TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT (ZONE NO. 43)
CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA**



PART V — ASSESSMENT ROLL

Parcel identification for each lot or parcel within Zone 43 being annexed into the District is based on available parcel maps and property data from the San Joaquin County Assessor's Office, as they existed at the time this Report was prepared and the City Council adopted the Resolution of Intention. A listing of the lots and parcels to be assessed within the Annexation Territory along with the assessment amounts is provided herein.

If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate described in this Report as approved by the City Council.

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

Assessor's Parcel Number	Designated Land Use	EDU	Proposed Maximum Assessment
246-350-01-0000	Residential	1	\$220.34
246-350-02-0000	Residential	1	220.34
246-350-03-0000	Residential	1	220.34
246-350-04-0000	Residential	1	220.34
246-350-05-0000	Residential	1	220.34
246-350-06-0000	Residential	1	220.34
246-350-07-0000	Residential	1	220.34
246-350-08-0000	Residential	1	220.34
246-350-09-0000	Residential	1	220.34
246-350-10-0000	Residential	1	220.34
246-350-11-0000	Residential	1	220.34
246-350-12-0000	Residential	1	220.34
246-350-13-0000	Residential	1	220.34
246-350-14-0000	Residential	1	220.34
246-350-15-0000	Residential	1	220.34
246-350-16-0000	Residential	1	220.34
246-350-17-0000	Residential	1	220.34
246-350-18-0000	Residential	1	220.34
246-350-19-0000	Residential	1	220.34
246-350-20-0000	Residential	1	220.34
246-350-21-0000	Residential	1	220.34
246-350-22-0000	Residential	1	220.34
246-350-23-0000	Residential	1	220.34
246-350-24-0000	Residential	1	220.34
246-350-25-0000	Residential	1	220.34
246-350-26-0000	Residential	1	220.34
246-350-27-0000	Residential	1	220.34
246-350-28-0000	Residential	1	220.34
246-350-29-0000	Residential	1	220.34
246-350-30-0000	Residential	1	220.34
246-350-31-0000	Residential	1	220.34
246-350-32-0000	Residential	1	220.34
246-350-33-0000	Residential	1	220.34
246-350-34-0000	Residential	1	220.34
246-350-35-0000	Residential	1	220.34
246-350-36-0000	Residential	1	220.34
246-350-37-0000	Residential	1	220.34
246-350-38-0000	Residential	1	220.34
246-350-39-0000	Residential	1	220.34
246-350-40-0000	Residential	1	220.34
246-350-41-0000	Residential	1	220.34

Assessor's Parcel Number	Designated Land Use	EDU	Proposed Maximum Assessment
246-350-42-0000	Residential	1	220.34
246-350-43-0000	Residential	1	220.34
246-350-44-0000	Residential	1	220.34
246-350-45-0000	Residential	1	220.34
246-350-46-0000	Residential	1	220.34
246-350-47-0000	Residential	1	220.34
246-350-48-0000	Residential	1	220.34
246-350-49-0000	Public (City of Tracy)	0	0
246-360-01-0000	Residential	1	220.34
246-360-02-0000	Residential	1	220.34
246-360-03-0000	Residential	1	220.34
246-360-04-0000	Residential	1	220.34
246-360-05-0000	Residential	1	220.34
246-360-06-0000	Residential	1	220.34
246-360-07-0000	Residential	1	220.34
246-360-08-0000	Residential	1	220.34
246-360-09-0000	Residential	1	220.34
246-360-10-0000	Residential	1	220.34
246-360-11-0000	Residential	1	220.34
246-360-12-0000	Residential	1	220.34
246-360-13-0000	Residential	1	220.34
246-360-14-0000	Residential	1	220.34
246-360-15-0000	Residential	1	220.34
246-360-16-0000	Residential	1	220.34
246-360-17-0000	Residential	1	220.34
246-360-18-0000	Residential	1	220.34
246-360-19-0000	Residential	1	220.34
246-360-20-0000	Residential	1	220.34
246-360-21-0000	Residential	1	220.34
246-360-22-0000	Residential	1	220.34
246-360-23-0000	Residential	1	220.34
246-360-24-0000	Residential	1	220.34
246-360-25-0000	Residential	1	220.34
246-360-26-0000	Residential	1	220.34
246-360-27-0000	Residential	1	220.34
246-360-28-0000	Residential	1	220.34
246-360-29-0000	Residential	1	220.34
246-360-30-0000	Residential	1	220.34
246-360-31-0000	Residential	1	220.34
246-360-32-0000	Residential	1	220.34
246-360-33-0000	Residential	1	220.34

Assessor's Parcel Number	Designated Land Use	EDU	Proposed Maximum Assessment
246-360-34-0000	Residential	1	220.34
246-360-35-0000	Residential	1	220.34
246-360-36-0000	Residential	1	220.34
246-360-37-0000	Residential	1	220.34
246-360-38-0000	Residential	1	220.34
246-360-39-0000	Residential	1	220.34
246-360-40-0000	Residential	1	220.34
246-360-41-0000	Residential	1	220.34
246-360-42-0000	Residential	1	220.34
246-360-43-0000	Residential	1	220.34
246-360-44-0000	Residential	1	220.34
246-360-45-0000	Residential	1	220.34
246-360-46-0000	Residential	1	220.34
246-360-47-0000	Residential	1	220.34
246-360-48-0000	Residential	1	220.34
246-360-49-0000	Residential	1	220.34
246-360-50-0000	Residential	1	220.34
246-360-51-0000	Residential	1	220.34
246-360-52-0000	Residential	1	220.34
246-360-53-0000	Residential	1	220.34
246-360-54-0000	Residential	1	220.34
246-360-55-0000	Residential	1	220.34
246-360-56-0000	Residential	1	220.34
246-360-57-0000	Residential	1	220.34
Max Zone Total		105	\$23,135.70

RESOLUTION _____

DECLARING THE RESULTS OF THE PROPERTY OWNER PROTEST BALLOT PROCEEDING CONDUCTED FOR THE LEVY OF ASSESSMENTS RELATED TO THE ANNEXATION OF TERRITORY (TRACT 3290, VENTANA) TO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT AS ZONE NO. 43, COMMENCING IN FISCAL YEAR 2017/2018 AND APPROVING CERTAIN RELATED ACTIONS

WHEREAS, the City Council called and duly held a property owner protest proceeding for the annexation of Tract 3290 (Ventana) located on west side of S. MacArthur Drive (hereinafter referred to as the "Annexation Territory") into the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "District") as Zone No. 43, pursuant to the provisions of the Landscaping and Lighting Act of 1972 being Part 2, Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act"), and the California Constitution Article XIID (hereinafter referred to as the "Constitution"), for the purpose of presenting to the qualified property owners within the Annexation Territory the proposed annual levy of assessments for the improvements connected therewith. Said annual assessments, commencing in fiscal year 2017/2018, as presented to the affected property owners of record in this ballot proceeding including the maximum assessment rate and annual inflationary adjustment, would fund the costs and expenses related to the operation, maintenance and servicing of the landscape improvements and appurtenant facilities related thereto that provide special benefits to properties within the Annexation Territory, and

WHEREAS, the landowner(s) of record within the Annexation Territory as of the close of the Public Hearing held on December 6, 2016 did cast their ballots, weighted by the proportional financial obligation of each ballot, the results of which are illustrated below:

Total Ballots Cast	Yes Total	No Total
\$ _____	\$ _____	\$ _____

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

1. Recitals: The above recitals are true and correct.
2. Proceedings: The protest proceedings for the Annexation Territory assessments were conducted pursuant to the provisions of the Constitution with ballots presented to the affected property owner(s) for receipt by the City Clerk prior to the conclusion of the Public Hearing on December 6, 2016, with each ballot weighted according to the proportional financial obligation of the affected property.
3. Canvass of Ballots: The tabulation and canvass of the property owner protest ballots was conducted by the City Clerk or their designee, with all valid protest ballots returned by the

affected property owners being counted, the results of which as shown herein, have been presented to the City Council and are hereby confirmed.

- 4. Official Declaration of Results: The City Clerk is hereby directed to enter this Resolution into the minutes of the City Council, which shall constitute the official declaration of the result of such property owner protest proceeding.
- 5. Certification: This Resolution shall become effective immediately upon its adoption and the City Clerk shall certify the adoption of this Resolution.

The foregoing Resolution _____ was adopted by the City Council of the City of Tracy on the 6th day of December, 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

RESOLUTION _____

CONFIRMING THE ANNEXATION OF TERRITORY (TRACT 3290, VENTANA)
INTO THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT
AS ZONE NO. 43

WHEREAS, the City Council has by previous Resolutions initiated proceedings and declared its intention for the annexation of territory identified as Tract 3290 (Ventana) located on west side of S. MacArthur Drive (hereinafter referred to as the "Annexation Territory"), into the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "District") and establishing the Annexation Territory as Zone No. 43 of the District, pursuant to the provisions of the Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the California Streets and Highways Code (hereinafter referred to as the "Act") to pay the costs and expenses for the ongoing maintenance, operation and servicing of the landscape improvements and appurtenant facilities related thereto, and,

WHEREAS, the Assessment Engineer of Work has prepared an analysis of the improvements and costs in connection with the Annexation Territory and the levy of annual assessments connected therewith and has determined that the estimated maximum annual special benefit expenses (amount balloted) to fully maintain the improvements in the Annexation Territory for fiscal year 2017/2018 would be \$23,135.70 plus annual inflator. This cost being apportioned to the parcel(s) therein according to the method of apportionment established for the District results in a maximum assessment rate of \$220.34 per Equivalent Benefit Unit plus the annual inflationary adjustment based on the lesser of 3% or the annual percentage change in the Consumer Price Index (CPI) for "All Urban Consumers" for the San Francisco-Oakland-San Jose Area, as adopt and applied to the other District assessments, and

WHEREAS, it is estimated that the improvements to be installed and constructed within the Annexation Territory will be accepted and maintained by the City as part of the District for the entire fiscal year 2017/2018, and

WHEREAS, the Assessment Engineer of Work shall incorporate said Annexation Territory along with the levy of annual assessments and Assessment Diagram connected therewith into the annual Engineer's Report prepared in connection with the District for fiscal year 2017/2018, and said report is incorporated herein by reference and shall be filed with the City Clerk pursuant to Section 22623 of the Act, and

WHEREAS, the City Council desires to levy and collect assessments against parcels of land within the Annexation Territory for the fiscal year commencing July 1, 2017 and ending June 30, 2018 (fiscal year 2017/2018), to pay the costs and expenses of the ongoing operation, maintenance, and servicing of improvements determined to be of special benefit to the properties and the development of properties within the Annexation Territory, and all appurtenant facilities related thereto, and

WHEREAS, the City Council has conducted a property owner protest ballot proceeding for the Annexation Territory assessments proposed to be levied commencing fiscal year 2017/2018 as described herein, and majority protest of the assessments did not exist pursuant

to the provisions of the California Constitution Article XIII D (hereinafter referred to as the "Constitution").

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

1. Recitals: The above recitals are true and correct.
2. Protest Determination: Following notice duly given, the City Council has held a full and fair Public Hearing regarding the Annexation Territory, the levy and collection of assessments, and by Resolution approved the proposed assessments prepared in connection therewith; and has considered all oral and written statements, protests and communications made or filed by interested persons. The City Council in accordance with the provisions of the Constitution has determined that majority protest does not exist for the annexation of properties identified as the Annexation Territory or the assessments so presented.
3. Findings: Based upon its review of the facts presented, the City Council hereby finds and determines that:
 - 3a) The land within the Annexation Territory will receive special benefit from the operation, maintenance and servicing of improvements to be provided by the City as part of the District.
 - 3b) The Annexation Territory includes all of the lands receiving such special benefit.
 - 3c) The net amount to be assessed upon the lands within the Annexation Territory has been apportioned by a formula and method which fairly distributes the net amount among all eligible parcels in proportion to the special benefit to be received by each parcel from the improvements and services to be provided commencing with fiscal year 2017/2018.
4. Improvements: The City Council hereby orders the proposed improvements to be made. Said improvements include but are not limited to the maintenance, operation and incidental expenses related to the landscaped areas within the public right-of-ways or easements associated with the parcels of land within the Annexation Territory that may include, but are not limited to: street trees; turf; ground cover and shrubs; irrigation and electrical systems; monuments; hardscape improvements; and all necessary appurtenances and services connected with the public right-of-ways, public easements and facilities designated and to be maintained by the City in connection with the special benefit received by parcels of land within the Annexation Territory. The cost of providing such improvements generally include, but are not limited to all materials, equipment, utilities, labor and incidental expenses including administrative expenses for the regular annual maintenance as authorized by the Act. Detailed maps and descriptions of the location and extent of the specific improvements to be maintained for the Annexation Territory are on file with the Public Works Department of the City of Tracy and by reference these plans and specifications are made part of this Resolution and the Engineer's Report prepared in connection with these proceedings.
5. Collection of Assessments: The County Auditor of San Joaquin County shall enter on the County Assessment Roll opposite each parcel of land the amount of levy so described in

the Engineer’s Report for the Annexation Territory as Zone No. 43 of the District, and such levies shall be submitted to the County Auditor along with the other assessments for the District, and collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.

- 6. Deposit of Funds: The City Treasurer shall deposit all money representing assessments collected by the County for the Annexation Territory (Zone 43 of the District) to the credit of a fund for Zone 43 of the District, and such money shall be expended only for the maintenance, operation and servicing of the improvements as described in the Engineers Report and generally described in Section 4 of this Resolution.

- 7. Annexation Approval: The adoption of this Resolution constitutes the annexation of Tract 3290 (Ventana) located on west side of S. MacArthur Drive (the Annexation Territory) as Zone 43 of the District, the boundaries of which shall be contained in the Assessment Diagram for the District; the establishment of the maximum assessment rate and assessment range formula connected therewith; and the assessments for the fiscal year commencing July 1, 2017 and ending June 30, 2018, based on the results of the protest ballots received from the property owners of record as part of the majority protest ballot proceeding conducted for said assessments. The City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the City Council’s approval of the annexation of properties with the Annexation Territory; the adoption and confirmation of the Assessment Diagram; and the establishment of the maximum assessment rates, assessment range formula and the assessments for fiscal year 2017/2018.

The foregoing Resolution _____ was adopted by the City Council of the City of Tracy on the 6th day of December, 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

**ADOPT A RESOLUTION DECLARING THE RESULTS OF THE NOVEMBER 8, 2016,
CITY OF TRACY GENERAL MUNICIPAL ELECTION**

EXECUTIVE SUMMARY

A General Municipal Election was held on November 8, 2016. The San Joaquin County Registrar of Voters Office is in the process of certifying the results. The results of the election, and other matters as provided by law, need to be adopted by resolution. The certified results and a resolution will be presented at the meeting.

DISCUSSION

A General Municipal Election was held in the City on Tuesday, November 8, 2016. Pursuant to Resolution 2016-105 (Attachment A), adopted by Council on June 7, 2016 and Resolution 2016-156 (Attachment B), adopted by Council on July 19, 2016, the Registrar of Voters for San Joaquin County has canvassed the returns of the election and is in the process of certifying the results per Elections Code section 10264:

- The names of the persons voted for at the election for Mayor were Robert Rickman and Michael Maciel.
- The names of the persons voted for at the election for Member of the City Council were Rhodesia Ransom, Anne Marie Fuller, Mary Mitracos, Amer Hammudi and Nancy Young.
- The name of the person voted for at the election for City Treasurer was Raymond McCray.

The only measure voted upon at the election was as follows:

Measure V - To provide funding for City services/facilities, including: police (patrol, 911, command, gang/narcotics enforcement, crime investigations, other police services); fire protection, emergency, and other fire services; support services; street, median, and park repair/maintenance; senior/youth services; planning and business retention/attraction; building facilities (such as parks/sports fields); other general services; shall the City of Tracy enact a 1/2¢ sales tax for 20 years, providing \$7 million dollars annually, with citizens' oversight, and all funds spent locally? – Yes/No

The number of precincts and the number of votes given in the City to each of the persons named above for the respective offices for which the persons were candidates, and Measure V will be included in the certified results.

FISCAL IMPACT

The actual cost of the election is unknown at this time. Based on past practice, the County will provide a full accounting and invoice to the City by January 2017 and the City of Tracy will reimburse the County for its services. The City budgeted \$110,000 in the FY 2016/17 budget per the San Joaquin County Registrar of Voters estimated cost of \$110,000, with no measures; however, because of measure V, it is likely that an additional appropriation of approximately \$15,000 may be requested in January, 2017.

RECOMMENDATION

That the City Council, pursuant to the Elections Code, adopt a resolution reciting the facts of the General Municipal Election held on November 8, 2016, declaring the results and other matters as provided by law.

Prepared by: Nora Pimentel, City Clerk

Reviewed by: Ed Lovell, Acting Assistant to the City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A – Tracy City Council Resolution 2016-105

Attachment B – Tracy City Council Resolution 2016-156

RESOLUTION 2016-105

REQUESTING THE BOARD OF SUPERVISORS OF SAN JOAQUIN COUNTY CONSOLIDATE THE CITY OF TRACY'S GENERAL MUNICIPAL ELECTION TO BE HELD WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON NOVEMBER 8, 2016

WHEREAS, The City Council of the City of Tracy called a General Municipal Election to be held on November 8, 2016, for the purpose of the election of a Mayor for the full term of two years commencing December 2016 and expiring November 2018; two members of the City Council for the full term of four years commencing December 2016 and expiring November 2020; and a City Treasurer for the full term of four years commencing December 2016 and expiring November 2020, and

WHEREAS, It is desirable that the General Municipal Election be consolidated with the Statewide General Election to be held on the same date and that within the City the precincts, polling places and election officers of the two elections be the same, and that the County Elections Department of the County of San Joaquin canvass the returns of the General Municipal Election, and that the election be held in all respects as if it were only one election.

NOW, THEREFORE, the City Council of the City of Tracy, California, does resolve, declare, determine, and order as follows:

Section 1: Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of San Joaquin is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday November 8, 2016, for the purpose of the election of a Mayor for the full term of two years commencing December 2016 and expiring November 2018; two members of the City Council for the full term of four years commencing December 2016 and expiring November 2020; a City Treasurer for the full term of four years commencing December 2016 and expiring November 2020.

Section 2: The County Elections Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

Section 3: The Board of Supervisors is requested to issue instructions to the County Elections Department to take any and all steps necessary for holding of the consolidated election.

Section 4: The City of Tracy recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.


Section 5: The City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of San Joaquin.

Section 6: That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

* * * * *

The foregoing Resolution 2016-105 was passed and adopted by the Tracy City Council on the 7th day June 2016 by the following vote:

AYES: COUNCIL MEMBERS: MITRACOS, VARGAS, YOUNG, RICKMAN, MACIEL
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK

RESOLUTION 2016-156

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRACY CALLING FOR A MUNICIPAL ELECTION TO SUBMIT TO THE VOTERS A LOCAL BALLOT MEASURE ADOPTING A ONE-HALF CENT TRANSACTIONS AND USE (SALES) TAX TO PROVIDE FUNDING FOR LOCAL CITY SERVICES; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AND SETTING DATES FOR ARGUMENTS ON THE MEASURE

WHEREAS, Pursuant to Resolution No. 2016-104, the City Council ordered a Municipal Election to be held on Tuesday, November 8, 2016 for the election of certain officers as required by State law relating to general law cities, and

WHEREAS, Without additional revenue, unallocated fund reserves are necessary to balance its fiscal budget this year and each subsequent year, quickly depleting reserves, significantly affecting its ability to provide the level of services residents desire and limits its ability to respond to resident needs, and

WHEREAS, Polling results show that a majority of Tracy residents have identified maintaining city streets, parks, 9-1-1 emergency and medical response times, attracting, training, and retaining qualified firefighters and police officers, maintaining youth after school programs and facilities for children and teens, as well as maintaining Tracy's senior center and senior support services as top priorities, and

WHEREAS, Money from this measure is legally required to be spent locally on City of Tracy needs only and cannot be taken by the State, and

WHEREAS, A twenty-year, temporary revenue measure would assist the City in maintaining current levels of services, and

WHEREAS, The measure includes the establishment of a Resident Oversight Committee by no later than March 1, 2017, and

WHEREAS, the City Council deems it advisable to submit to the voters a ballot measure to approve a one-half cent transactions and use (sales) tax to fund all Tracy city services, including police; fire and emergency services; roadway, parks and sports field maintenance; youth, teen and senior services; infrastructure, support services; other general services, and

WHEREAS, On June 7, 2016, and pursuant to California Election Code sections 10400 *et seq.*, City Council passed Resolution 2016-105, requesting the Board of Supervisors of the County of San Joaquin, State of California, order the consolidation of the election in the City of Tracy with the statewide general election to be held on November 8, 2016, and

WHEREAS, Section 9282 of the Elections Code of the State of California authorizes the City Council by majority vote to adopt provisions to provide for the filing of arguments for city measures submitted at municipal elections;

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

1. Call for Election. The City Council hereby calls a municipal election on

Tuesday, November 8, 2016 for the purpose of submitting to the voters a ballot measure to approve a one-half cent transactions and use (sales) tax to fund all Tracy city services, including police; fire and emergency services; roadways, parks, and sports field maintenance; youth, teen and senior services; support services; and other general services. A majority vote is required for the passage of the ballot measure.

2. Form of Measure. The full text of the proposed ordinance / measure to be submitted to the voters is attached as Exhibit “A” to this resolution. The exact form of the ballot label to be voted on is as follows:

To provide funding for City services/facilities, including: police (patrol, 911, command, gang/narcotics enforcement, crime investigations, other police services); fire protection, emergency, and other fire services; support services; street, median, and park repair/maintenance; senior/youth services; planning and business retention/attraction; building facilities (such as parks/sports fields); other general services; shall the <u>City of Tracy</u> enact a 1/2¢ sales tax for 20 years, providing <u>\$7 million dollars</u> annually, with citizens' oversight, and all funds spent locally?	YES
	NO

The measure shall be designated on the ballot by a letter printed on the left margin of the square containing the description of the measure, as provided in California Election Code section 13116.

3. Transmission to the City Attorney. The City Clerk is directed, pursuant to Elections Code section 9280, to transmit a copy of the measure to the City Attorney for the purpose of preparing an impartial analysis of the measure.

4. Full Text of the Measure. The full text of the “Ordinance of the City of Tracy Imposing a Transactions and Use Tax to be Administered by the State Board of Equalization,” which would replace Chapter 6.28 to Title 6 of the Tracy Municipal Code with a new Chapter 6.28 enacting a one-half cent Transactions and Use (Sales) Tax for twenty years to provide funding for local city services is available at no cost from the City Clerk’s Office at 333 Civic Center Plaza, Tracy, California or on the City’s website: www.ci.tracy.ca.us. A statement about how to obtain the full text of the Ordinance will be included in the Voter Information Pamphlet below the Impartial Analysis.

5. Deadline for Submittal of Arguments. Pursuant to Section 9282 of the Elections Code of the State of California the deadline for submitting arguments not to exceed 300 words for and against the measure to the City Clerk for transmittal to the Registrar of Voters is hereby set for August 2, 2016 at 5:00 pm. The provisions of this Section shall apply only to the election to be held on November 8, 2016 and shall then be repealed.

6. Conduct of the Election. The consolidated election shall be held and conducted, election officers appointed, voting precincts designated, ballots printed, polls opened and closed, ballots counted and returned, returns canvassed, results declared, certificates of election issued, and all other proceedings incidental to and connected with the


election shall be regulated and done by the County Clerk in accordance with the provisions of law regulating a regularly scheduled election. The Board of Supervisors is hereby requested to issue all officers of the County charged with duties pertaining to the November 8, 2016 election instructions to take any and all steps necessary for the holding of such consolidated election. (California Elections Code 10418.)

7. Costs. The City will reimburse the County for the actual cost incurred in conducting the City's municipal election upon receipt of a bill stating the amount due as determined by the Election Official as indicated in Tracy City Council Resolution 2016-105.

8. Filing with County. The City Clerk is directed to file with the Board of Supervisors and the County Clerk of San Joaquin County certified copies of this resolution.

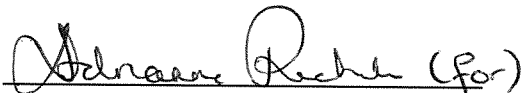
The foregoing Resolution 2016-156 was adopted by the Tracy City Council on the 19th day of July, 2016, by the following vote:

AYES: COUNCIL MEMBERS: MITRACOS, VARGAS, YOUNG, MACIEL
NOES: COUNCIL MEMBERS: RICKMAN
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE



MAYOR

ATTEST:



CITY CLERK

RESOLUTION 2016-

RECITING THE FACT OF THE GENERAL MUNICIPAL ELECTION HELD IN THE CITY OF TRACY ON NOVEMBER 8, 2016, DECLARING THE RESULTS OF THE ELECTION AND SUCH OTHER MATTERS AS PROVIDED BY LAW

WHEREAS, a General Municipal Election was held and conducted in the City of Tracy, California, on Tuesday, November 8, 2016, as required by law; and

WHEREAS, Notice of the election was given in time, form, and manner as provided by law; that voting precincts were properly established; that election officers were appointed and that in all respects the election was held and conducted and the votes were cast, received and canvassed and the returns made and declared in time, form and manner as required by the provisions of the Elections Code of the State of California for the holding of elections in general law cities; and

WHEREAS, Pursuant to Tracy City Council Resolution 2016-105 adopted June 7, 2016, the San Joaquin County Registrar of Voters canvassed the returns of the election and has certified the results to this City Council per Elections Code section 10264. The results are received, and attached and made a part hereof.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Tracy that it does declare, determine, and order as follows:

Section 1: That the names of the persons voted for at the election were as follows:

For Mayor: Robert Rickman and Michael Maciel

For Member of the City Council: Rhodesia Ransom, Anne Marie Fuller, Mary Mitracos, Amer Hammudi, and Nancy Young

For City Treasurer: Raymond McCray

Section 2: That the Measure voted upon at the election was as follows:

Measure V - To provide funding for City services/facilities, including: police (patrol, 911, command, gang/narcotics enforcement, crime investigations, other police services); fire protection, emergency, and other fire services; support services; street, median, and park repair/maintenance; senior/youth services; planning and business retention/attraction; building facilities (such as parks/sports fields); other general services; shall the City of Tracy enact a 1/2¢ sales tax for 20 years, providing \$7 million dollars annually, with citizens' oversight, and all funds spent locally? – Yes/No

Section 3: That the number of votes given at each precinct and the number of votes given in the City to each of the persons named above for the respective offices for which the persons were candidates and Measure V were as listed in the Certificate of Results (attached).

Section 4: The City Council does declare and determine that: Robert Rickman was elected as Mayor for the full term of two years; that Rhodesia Ransom was elected as Member of the City Council for the full term of four years and Nancy Young was re-elected as Member of the City Council to serve a second term of four years; Raymond McCray was re-elected as City Treasurer for a four year term and Measure V was passed.

Section 5: The City Clerk shall enter on the records of the Tracy City Council, a statement of the result of the election showing (1) the whole number of ballots cast in the City; (2) the names of the persons voted for; (3) for which office each person was voted for; (4) the number of votes given at each precinct to each person; and (5) the total number of votes given to each person.

Section 6: That the City Clerk shall immediately make and deliver to each of the persons so elected a Certificate of Elections signed by the City Clerk and authenticated; that the City Clerk shall also administer the Oath of Office prescribed in the Constitution of the State of California and shall have them subscribe to it and file it in the office of the City Clerk. Each and all of the persons so elected shall then be inducted into the respective office to which they have been elected.

* * * * *

The foregoing Resolution 2016- was passed and adopted by the Tracy City Council on the 6th day of December 2016, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 7

REQUEST

DETERMINE WHETHER TO FILL CITY COUNCIL VACANCY BY SPECIAL ELECTION OR BY APPOINTMENT, AND, IF BY APPOINTMENT, DETERMINE THE DETAILS OF THE PROCESS TO BE USED

EXECUTIVE SUMMARY

Staff is recommending that the City Council determine whether to fill the City Council vacancy by appointment or by special election, and, if by appointment, determine the details of the process to be used.

DISCUSSION

A vacancy will be created on the City Council due to the election of Council Member Rickman to the Mayor's seat. Council Member Rickman was elected to a four-year term in 2014.

Government Code section 36512 (b) states "...the council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy." The person appointed or elected to fill the vacancy would serve the remainder of Council Member Rickman's unexpired term, meaning they would hold office until December 2018. (Government Code § 36512(b)(1) and (b)(2)(B).)

A. Special Election

If the Council chooses to proceed by way of special election, the Council must call for a special election to be held on the "next regularly established election date", however the election cannot be held less than 114 days from the call of the special election. (Government Code § 36512(b).)

Pursuant to Elections Code section 1000, the "established election dates" for 2017 are: March 7th (the first Tuesday after the first Monday in March), June 6th (the first Tuesday after the first Monday in June), and November 7th. However, because March 7th would be less than 114 days from the date the special election was called (December 6, 2016), the special election could not be held until June 6, 2017. This means that during the interim period, the City Council would be operating with only four members.

An additional factor to consider is the cost of a special election. The Registrar of Voters Office for San Joaquin County has estimated the cost of a special election at approximately \$9.42 per registered voter. Because the City has approximately 39,829 registered voters the estimated cost of a special election would be close to \$375,000 if conducted by the County.

Elections Code section 4004 allows small cities, meaning those with a population of 100,000 or less, and certain public agencies to conduct an all-mail ballot election to fill a vacancy in their governing bodies if certain conditions are met. The conditions are as follows: (1) the election must be to fill a vacancy; (2) the governing body authorizes the all-mail election via resolution; (3) the election is held on a date other than the date of a statewide primary or general election; and (4) the election is not consolidated with any other election. The conditions allow the vote-by-mail special election to be held sooner than June 6, 2017. The County Registrar of Voters estimates the cost of conducting an all vote-by-mail election for the City to be approximately \$298,000.

The City also obtained a quote from Martin & Chapman, an elections vendor, on the cost of having them conduct a mail-only election and a polling place election on behalf of the City. Martin & Chapman estimates that it would cost approximately \$111,000 to conduct a mail-only election and \$144,400 for a polling place election.

B. Appointment

In lieu of calling a special election, the Council may choose to fill the vacancy by appointment. At the October 21, 2014 regular City Council meeting, the City Council adopted a formal policy for filling Council vacancies via Resolution 2014-180 (Attachment A).

A benefit of appointing a successor to fill the vacancy is that the new Council Member would take office immediately, and the Council would have a full complement of five members to carry out its work. In the past, five City Council vacancies, one City Treasurer vacancy, and one City Clerk vacancy have all been filled by appointment.

If the Council chooses to proceed by way of appointment, the recently adopted City Council Policy on Filling City Council Vacancies would apply.

1. Schedule

The Policy provides that at the earliest possible time after a vacancy occurs, the City Council shall adopt a time schedule:

1. Setting a time and date by which any qualified person interested in being appointed shall submit an application;
2. Setting a time and date by which questions for the applicants may be submitted by the public; and
3. Setting a date or dates on which applicants will be interviewed by the City Council at a public meeting.

Staff suggests the following time schedule:

- December 7, 2016 – Application period opens. Prospective applicants may pick up application packets from the City Clerk's Office, 333 Civic Center Plaza. Staff will also advertise the recruitment in the Tracy Press, which will appear on December 9th. Application packets will be available from the library and also

posted on the City's website. Potential candidate questions from members of the public can also be submitted for consideration by the City Council.

- December 12, 2016 – Deadline by which questions for the applicants by the public must be submitted to the City Clerk's Office.
- December 19, 2016 – Application period closes. Completed application packets must be received by the City Clerk's office no later than noon.
- January 3, 2017 – Interviews will be conducted at a special meeting to be held prior to the regular council meeting. Following the individual interviews which will be conducted in open session, balloting by the Council will take place. The candidate receiving the majority vote shall be appointed to the Council and will be sworn in.

2. Application Form

The Policy provides that the application of a person interested in being appointed to the City Council shall provide information regarding the applicant's background, qualifications and why he or she wishes to be appointed. In addition to completing an application any person applying for the vacancy shall be required to file with the City Clerk the following additional documents:

1. A Nomination Form containing valid signatures of at least 20 registered voters of the City of Tracy. The fact that a voter has signed nomination papers for more than one applicant shall not invalidate the signature; and
2. A completed Statement of Economic Interests (Form 700) provided by the Fair Political Practices Commission.

A draft application form is attached (Attachment B).

3. Questions

The Policy provides that the City Council, by motion, may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to either answer all such questions at the interviews or provide written responses to all such questions prior to the interviews. Proposed advance questions may be suggested by individual City Council Members or may be drafted by an ad hoc committee of the City Council appointed by the Mayor for that purpose.

For past vacancies, the City Council chose to form an ad hoc committee to draft questions to be verbally answered at the interview and present the draft questions for final approval of the City Council as a whole. If the City Council chooses to form a committee, the committee could present draft questions to the City Council for approval at its meeting on December 20, 2016. A sample list of the questions used during the 2014 appointment process is attached (Attachment C).

STRATEGIC PLAN

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

FISCAL IMPACT

The cost to fill the vacancy by appointment would be minimal and would include staff time and some resources. If the City Council decides that a special election is appropriate, the estimated cost for the County Registrar of Voters to conduct the election is \$375,000, in addition to staff time to coordinate the election with the Registrar of Voters office. The cost would be approximately \$144,400 if conducted by an elections vendor.

If the City Council decides that a special election via an all-mail ballot is appropriate, the cost would be approximately \$298,000 if conducted by the Registrar of Voters office or \$111,000 if conducted by an elections vendor.

RECOMMENDATION

That the City Council determine whether to fill the City Council vacancy by special election or by appointment, and, if by appointment, determine the details of the process to be used.

Prepared by: Nora Pimentel, City Clerk
Leticia Ramirez, Deputy City Attorney

Reviewed by: Ed Lovell, Assistant to the City Manager

Approved by: Troy Brown, City Manager

Attachments:

- A. City Council Policy on Filling City Council Vacancies
- B. Draft Application Form
- C. List of Questions from 2014 Appointment Process

CITY COUNCIL POLICY ON FILLING CITY COUNCIL VACANCIES

I BACKGROUND

The process for filling City Council vacancies (other than for an elective Mayor) is set forth in Government Code section 36512(b), which provides that:

If a vacancy occurs in an elective office provided for in this chapter, the City Council shall, within 60 days from the commencement of the vacancy, either fill the vacancy by appointment or call a special election to fill the vacancy. The special election shall be held on the next regularly established election date not less than 114 days from the call of the special election. A person appointed or elected to fill a vacancy holds office for the unexpired term of the former incumbent.

State law does not prescribe any procedure for selection of appointees. Therefore, the City Council may choose any selection method it desires.

II. POLICY

The following procedures will be used by the City Council to fill a City Council vacancy if the City Council chooses to fill such a vacancy by appointment rather than by special election:

A. Schedule

At the earliest possible time after a vacancy occurs, the City Council shall adopt a time schedule:

1. Setting a time and date by which any qualified person interested in being appointed shall submit an application;
2. Setting a time and date by which questions for the applicants may be submitted by the public; and
3. Setting a date or dates on which applicants will be interviewed by the City Council at a public meeting.

B. Applications

The application of a person interested in being appointed to the City Council shall state background, qualifications and why he or she wishes to be appointed. In addition to completing an application any person applying for the vacancy shall be required to file with the City Clerk the following additional documents:

1. A Nomination Form containing valid signatures of at least 20 registered voters of the City of Tracy. The fact that a voter has signed nomination papers for more than one applicant shall not invalidate the signature; and
2. A completed Statement of Economic Interests (Form 700) provided by the Fair Political Practices Commission.

C. Disclosure of Applications

Following the deadline set by the City Council for the submittal of applications, copies of all applications and the names of the applicants shall be filed in the City Clerk's office and made public. No information shall be disclosed prior to the close of the application deadline.

D. Questions from the Public

Questions for or concerning applicants may be submitted in writing by the public to the City Clerk. Following the deadline set by the City Council for the submittal of questions, all such questions shall be forwarded to City Council Members, who may use them in the applicant interviews.

E. Advance Questions for Applicants

The City Council, by motion, may choose to present questions in advance of the interviews to the applicants and may choose to require applicants to either answer all such questions at the interviews or provide written responses to all such questions prior to the interviews. Proposed advance questions may be suggested by individual City Council Members or may be drafted by an ad hoc committee of the City Council appointed by the Mayor for that purpose.

F. City Council Interviews

Applicant interviews shall be conducted in a public meeting, which may be televised and recorded. The order of interviews will be based on a random drawing. At the time and date set for applicant interviews, each applicant shall be interviewed separately and shall be given the opportunity to make a brief statement concerning his or her qualifications and to answer any question previously submitted to the applicant by the City Council. Thereafter, each City Council Member may question each applicant on any subject he or she feels is relevant to that applicant's qualifications to sit on the City Council. Based on the time available and the number of candidates, the City Council, by majority vote, may require a time limit on interviews, limit the number of questions to be asked, and limit the time to receive answers from each applicant.

G. Voting Procedure

The person to fill the City Council vacancy shall be selected from all applicants by the following process of elimination:

1. If one or two applicants exist:
 - a. each City Council Member shall vote for one applicant; and
 - b. the applicant who receives a majority vote shall be appointed to fill the vacancy.

2. If three or more applicants exist:
 - a. each City Council Member shall vote for two applicants; and
 - b. all applicants receiving the least number of votes (including no votes) shall be eliminated; and
 - c. subsequent votes shall be taken with each City Council Member voting for two applicants until one or two applicants remain; and
 - d. each City Council Member shall then vote for one applicant and the applicant who receives a majority vote shall be appointed to fill the vacancy.
3. If no applicant receives a majority vote, the City Council may adopt such other procedures to fill the vacancy as it deems appropriate.
4. Notwithstanding the voting procedure described above, at any time during the appointment process, the City Council in its discretion may abandon the process and call a special election to fill the vacancy.
5. If no applicant receives a majority vote within 60 days of the commencement of the vacancy, the City Council shall call a special election to fill the vacancy.

H. Appointment by the City Council

The appointment to fill the vacancy shall be made by resolution of the City Council.

City of Tracy

City Council Application

Please answer all questions and place N/A in those areas that do not apply. Please return your signed application to the City Clerk's office by **Noon on Monday, December 19, 2016**. Should you have any questions please feel free to contact the City Clerk's Office at 209-831-6105.

Position Applying for: **City Council Member**

Name: _____
Last First M.I.

Telephone: _____
Daytime Evening

Address _____
Street Zip

Email Address (Optional) _____

Do you reside within the Tracy City Limits Yes No
Are you registered to vote at the above address? Yes No

If NO, explain why _____

Please provide proof of residency at the above address (**copy of utility bill, voter registration card, etc.**)

Are you employed by the City of Tracy? _____ If so in what capacity? _____

Do you have relatives or members of your household who are employed by the City of Tracy or are currently serving on the City Council or other Commission? _____

How many meetings have you attended of the City Council for which you are now applying?

Why did you attend the meeting(s) (i.e. personal interest, specific issue being addressed, etc.)

List current occupation and related employment history: _____

List related educational background: _____

Describe your involvement in community activities, volunteer and civic organizations: _____

Why does a position on the City Council interest you? _____

What would be your personal approach as a Council Member in recommending policy, working with the other members of the Council, working with staff, etc.? _____

- I have attached proof of residency
- I have attached optional additional materials (such as a resume, etc.)
- Form 700
- Nomination Paper

Signature _____ Date _____

Candidate Interview Questions from 2014

1. Why would you like to be appointed to serve on the City Council?
2. What expertise or experience do you bring to the Council?
3. What are your accomplishments in providing community service to the residents of Tracy?
4. How would you promote transparency and accountability as a member of the City Council?
5. What do you consider to be the top three most significant issues in our City right now?
6. What do you think should be changed in City government?
7. What is your understanding of Measure A?
8. What is your understanding of Development Agreements?
9. What role does public safety play in the quality of life in Tracy?
10. When Measure E Expires, what should be done if annual expenses continue to exceed revenues?
11. In regards to Capital Improvement Projects, how would you establish your priorities?