

**Tuesday, January 15, 2019, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

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

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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS

1. Employee of the Month
2. Proclamation – Anti-Slavery and Human Trafficking Prevention Month 2019
3. Proclamation - 2019 Year of the American Legion and American Legion Auxiliary
4. ValleyLink Update

1. CONSENT CALENDAR

- A. Approval of December 18, 2018, Special Meeting Minutes, Closed Session Minutes and Regular Meeting Minutes
- B. Approve Lease Agreements with Combined Solar Technologies, Inc. and Arnaudo Bros., LLC for Drying Beds Located at the Former-Holly Sugar Property
- C. Accept Subdivision Improvements for Plan “C” – Barcelona Infill, Tract 3803, Constructed by Taylor Morrison of California LLC.
- D. Accept Intersection Improvements at the 11th Street & MacArthur Drive Project, CIP 72069, Federal Project NO. CML-5192(035), Completed by Gradetech, Inc., of San Ramon, California
- E. Adopt Resolution Authorizing the Submittal of an Airport Improvement Program (AIP) Matching Grant Application with the California Department of Transportation and Authorizing the Mayor to Accept an Allocation of Funds and to Execute the Grant Agreement
- F. Approve Resolution Increasing Compensation and Benefits to be Paid to the City Treasurer

2. ITEMS FROM THE AUDIENCE

3. CONDUCT A PUBLIC HEARING AND APPROVE BY RESOLUTION THE LICENSE AGREEMENT BETWEEN THE CITY OF TRACY AND AMERICAN LEGION, JAMES McDERMOTT POST NO. 172, INC., AND APPROVE \$30,000 TO BE ALLOCATED DURING THE 2019-2020 BUDGET AUGMENTATION PROCESS FOR PARKING LOT REPAIR, SLURRY SEAL, AND STRIPING
4. APPROVE THE CITY OF TRACY 2019 REGIONAL TRANSPORTATION AND LOCAL PROJECT SUBMITTAL FOR CONGRESSIONAL APPROPRIATION REQUESTS DURING SAN JOAQUIN COUNCIL OF GOVERNMENTS' ONE VOICE TRIP TO WASHINGTON D.C.

5. ADOPT URGENCY ORDINANCE TEMPORARILY PROHIBITING OUTDOOR CULTIVATION, COMMERCIAL CULTIVATION AND MANUFACTURING, AND SALES AND DELIVERY OF CANNABIS IN THE CITY AND PROVIDE DIRECTION TO STAFF
6. ITEMS FROM THE AUDIENCE
7. STAFF ITEMS
8. COUNCIL ITEMS
  - A. Appointment of City Council Subcommittee to Interview Applicants to Fill Five Vacancies on the Building Board of Appeals
  - B. Review and Determine Appointments to Council Committees
9. ADJOURNMENT

**December 18, 2018, 6:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

1. Mayor Rickman called the meeting to order at 6:00 p.m.
2. Roll call found Council Members Ransom, Young, Mayor Pro Tem Vargas and Mayor Rickman present. Council Member Dement arrived at 6:30 p.m.
3. Items from the Audience – There was no one from the audience wishing speak.
4. RECEPTION IN CITY HALL LOBBY FOR INCOMING AND OUTGOING COUNCIL MEMBERS
5. Adjournment: Time: 6:44 p.m.

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Ransom to adjourn. Roll call vote Council Members Dement, Ransom, Mayor Pro Tem Vargas and Mayor Rickman in favor; passed and so ordered. Council Member Young absent.

The above agenda was posted at the Tracy City Hall on December 13, 2018. The above are action minutes.

\_\_\_\_\_  
Mayor

ATTEST:

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

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

**December 18, 2018, 6:45 p.m.**

Council Chambers, 333 Civic Center Plaza, Tracy

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

1) Real Property Negotiations (Gov. Code, § 54956.8)

Property purchase for 4.7 acre undeveloped parcel located west of Gretchen Talley Park.

Property Location: APN: 242-040-49

Negotiators for the City: Brian MacDonald, Parks & Recreation Director  
Andrew Malik, Assistant City Manager  
Randall Bradley, City Manager  
Thomas Watson, City Attorney

Negotiating Parties: Meritage Homes of California, Inc.

Under Negotiation: Terms of Agreement

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Ransom to recess the meeting to closed session at 6:46 p.m. Roll call vote found Council Members Dement, Ransom, Mayor Pro Tem Vargas, Mayor Rickman in favor; passed and so ordered. Council Member Young absent.

Council Member Young arrived at 6:50 p.m.

5. RECONVENE TO OPEN SESSION – Mayor Rickman reconvened the meeting into open session at 6:55 p.m.
6. REPORT OF FINAL ACTION – There was no report of final action

The following Closed Session matters followed the regular Council Meeting at 10:26 p.m.

7. CLOSED SESSION CONTINUED.
  - 2) Conference with Legal Counsel – Pending Litigation (Government Code section 54956.9(d)(1))
    - City of Tracy v. LoJon Property, LLC, a Delaware Limited Liability Company, LJ Remainder LLC, a Suspended Delaware Limited Liability Company, et al.  
  
Case No. STK-CV-URP-2017-0013672
  - 3) Personnel Matter (Gov. Code, § 54957)  
  
Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal  
  
Position Title: City Manager
8. Mayor Rickman reconvened to Open Session at 11:32 p.m.
9. REPORT OF FINAL ACTION - City Council authorized staff to execute settlement agreement with Long John Silver's.
10. ADJOURNMENT – Meeting adjourned at 11:33 p.m.

The agenda was posted at City Hall on December 13, 2018. The above are action minutes.

\_\_\_\_\_  
Mayor

ATTEST:

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

December 18, 2018, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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Mayor Rickman called the meeting to order at 7:00 p.m.

Mayor Rickman led the Pledge of Allegiance.

Pastor Tim Heinrich, Crossroads Baptist Church offered the invocation.

Roll call found Council Members Dement, Ransom, Young, Mayor Pro Tem Vargas and Mayor Rickman present.

1. CONSENT CALENDAR - Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Young to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.
  - A. Approval of December 4, 2018, Closed Session and Regular Meeting Minutes – Minutes were adopted
  - B. Award a Construction Contract to Taylor Backhoe Service Incorporated of Merced, California, for the Lowell Avenue Sidewalk Construction Project, CIP 73160 State Project Number ATPSB1L-5192(044) and Authorize a Contingency Amount of \$30,022 – Resolution 2018-245 awarded the Construction Contract to Taylor Backhoe Service, Inc.
  - C. Approve Amendment No. 1 to the Professional Service Agreement with Pennino Management Group for Grant, Research, and Funding Program Services for Additional Services Totaling \$32,984 – Resolution 2018-246 approved Amendment No. 1 to the agreement with Pennino Management Group
  - D. Approve a Professional Services Agreement with Patriot Pest Management of Tracy, CA, to Provide Pest Control Services for Various City Sites, for an Amount not to Exceed \$247,212 Annually, and Authorize the City Manager to Execute Extensions and to Make Any Minor Amendments to the Agreement – Resolution 2018-247 approved the agreement with Patriot Pest Management
  - E. Award a Construction Contract to Knife River Construction of Stockton, California for the 2016-2017 Overlay Project, CIP 73142-B in the Amount of \$827,572, Federal Project Number STPL-5192(043), Approve a Contingency Amount of \$82,758 and Authorize a Transfer of \$108,424 from CIP 73166 to CIP 73142-B, with a Total Project Cost of \$957,330 – Resolution 2018-248 awarded the Construction Contract with Knife River Construction

- F. That the City Council of the City of Tracy, Acting as the Governing Board of the Successor Agency to the Community Development Agency of the City of Tracy, Approve the Recognized Obligation Payment Schedule (ROPS) 19-20 – Resolution 2018-249 approved the Recognized Obligation Payment Schedule (ROPS) 19-20
  - G. Adopt a Resolution Approving the 2018 Annual Report on Development Impact Fee Revenues, Expenditures and Findings Regarding Unexpended Funds in Accordance with the Mitigation Fee Act – Resolution 2018-250 approved the 2018 Annual Report on Development Impact Fee Revenues, Expenditures and Findings Regarding Unexpended Funds in Accordance with the Mitigation Fee Act.
  - H. Approve an Appropriation of \$744,000 from Tracy Infrastructure Master Plans (TIMP) – Public Facilities Fund 366 to the Public Works Yard Renovation Phase 2 Project, CIP 71091 and Approve a Contingency Amount for the Project – Resolution 2018-251 approved the appropriation and contingency amount.
  - I. Approve Master Professional Services Agreements with Carollo Engineers, Inc., Lee & Ro, Inc., CH2M Hill, Inc., and West Yost & Associates with an Annual Not to Exceed Amount of \$350,000 for Each Consultant to Provide Engineering Services for the Utilities Department on an As-Needed Basis for a Period of Three Years and Authorize the Utilities Director to Issue Notices to Proceed Under These Agreements – Resolution 2018-252 approved the Master Professional Services Agreements with Carollo Engineers, Inc, Lee & Ro, Inc., CH2M Hill, Inc., and West Yost & Associates.
  - J. Approve a Professional Services Agreement with BSK Associates, Inc. of Livermore, California to Provide Material Testing Services During Construction for the Tracy Recycled Water Mains and WWTP Pump Station Project, CIP 74091 (State Project: City of Tracy Recycled Water Project Agreement Number 4600011424) – Resolution 2018-253 approved the agreement with BSK Associates, Inc.
  - K. Approve a Property Purchase and Sale Agreement Between the City of Tracy and Meritage Homes of California, Inc. for Development of Gretchen Talley Park Phase III, CIP 78170 – Resolution 2018-254 approved the Property Purchase and Sale Agreement with Meritage Homes
2. ITEMS FROM THE AUDIENCE – Patrica Alvarez announced she will be launching a petition condemning unethical misuse of power from politicians from leadership of non-profits. Ms. Alvarez read her complaints against Dan Arriola and Nicholas Hatton, Director of San Joaquin Pride Center. Ms. Alvarez stated she would be submitting the petition to the Board of Directors of the San Joaquin Pride Center demanding resignation or dismissal of Nicholas Hatton for alleged liable and unethical actions. Ms. Alvarez added she would be submitting the petition to the City Council requesting Dan Arriola be sanctioned for alleged unethical actions against his local constituent Patricia Alvarez, and Mr. Sanchez with zero cause. The San Joaquin County District Attorney will also be receiving a copy of the petition requesting Mr. Arriola be reprimanded regarding his alleged actions.

3. ADOPT A RESOLUTION RECITING THE FACTS AND DECLARING THE RESULTS OF THE NOVEMBER 6, 2018 CITY OF TRACY GENERAL MUNICIPAL ELECTION

Adrienne Richardson, City Clerk provided the staff report.

No one from the audience wished to speak.

There were no comments from City Council

**ACTION:** Motion was made by Mayor Pro Tem Vargas and seconded by Council Member Young to adopt a **Resolution 2018-255** reciting the fact of the General Municipal Election held in the City of Tracy on November 6, 2018, declaring the results of the Election and such other matters as provided by law. Roll call vote found all in favor; passed and so ordered

4. OUTGOING COUNCIL MEMBER PRESENTATION – Mayor Rickman presented Council Member Dement with a plaque and recognized her service on City Council.

Bob Elliott, Board of Supervisors District 5 presented Council Member Dement with a Certificate of Recognition for her service on the Tracy City Council.

5. ADMINISTER OATH OF OFFICE AND SEAT NEWLY ELECTED COUNCIL MEMBER

Tori Verber Salazar, San Joaquin County District Attorney administered the Oath of Office and presented a Certificate of Election to Council Member Arriola

Christopher Vargas, administered the Oath of Office and presented a Certificate of Election to Council Member Vargas

Karen Rickman administered the Oath of Office and presented a Certificate of Election to Mayor Rickman

Mayor Rickman called for a Roll Call of the new Council: Roll call found Council Members Arriola, Ransom, Young, Mayor Pro Tem Vargas, and Mayor Rickman present.

6. RECEIVE PRESENTATION AND DISCUSS ANIMAL SHELTER SERVICES PROVIDED BY THE CITY OF TRACY'S ANIMAL SERVICES STAFF

Beth Lyons, Police Support Services Division Manager provided the staff report.

City Council comments and questions followed.

Brittany Pasquale responded to Council questions regarding timeframe related to euthanasia if an animal is deemed to be aggressive, and if there are any other options.

Arlene Robbins, Trisha Johnson, Ricky Butch, Sara Heinrich, Lisa Cooksy, Jennifer Douglas, Leslie Parks on behalf of Jan Monroe, Linda Miller, Sue Ramondy, Jessica Minigis, Wendy Tochini, Stacy Murphy, Bethany Neal, Cheri Savage, Conrad Leviot, Caroline Gracon, Zena Robbins expressed concerns regarding the animal shelter practices, shared experiences regarding rescues from the Animal Shelter, issues with

communication between shelter staff and rescue organizations, lack of exposure to the public, forming an Animal Shelter Committee, encouraged TNR (trap, neuter, release) of feral cats, support for Trisha Johnson, requested clarification about what happened to Ozzie, education for staff and the public, asked why pet animals are being euthanized when there are empty kennels, and indicated the guidelines are outdated.

Martin Evans stated he is not feeding stray cats as that breeds more, and they have diseases. Mr. Evans suggested feeding your own cat and bringing the food inside.

Michelle Jimmerson spoke in support of the Animal Shelter staff and expressed her concerns regarding keyboard warriors saying atrocious things on social media about the Animal Shelter and its staff.

Stacy Danes, Shelter Manager at San Jose Animal Care and Services spoke about contention between the rescue community and staff, and described compassion fatigue. Ms. Danes visited the Tracy Animal Shelter with Council Member Ransom stating it was spotless. The Animal Shelter needs to look at the mental health of animals, and needs to be well funded with appropriate resources. Ms. Danes supported Trish Johnson in her efforts with the feral cat problem and the rescue community. Ms. Danes also supported shelter staff.

Deborah DeWolf spoke in support of the Tracy Animal Shelter.

City Council questions and discussion ensued.

City Council requested the information regarding the following be brought back to Council for discussion:

- Animal Services Manual was not included in the report.
- Confirm with staff that when we euthanize we do not anesthetize them.
- Consistency with assessments in regard to with what animals and when
- Spaying and neutering policy, how it is decided which animals to spay or neuter
- Communications – Carnelian program used to communicate with rescues. Enhance tools in program. Look at whether we are using all the tools that we have and how we communicate.
- Commission or group
- Is it necessary for animal shelter to be under Police Department or possible to be under Parks and Recreation Department to have that community liaison.
- Cooperative agreements regarding communications with rescue groups. Would it be useful for our city.
- Way to communicate what deems a dog being put down - what will warrant euthanasia
- Voucher Program details and what it includes – spay and neuter.
- What Information can we give to rescue groups that want to recolonize the animals. What is minimum standard of information we can give.
- Concern about use of squeeze cages and purpose – when we use it and why we would use it.
- Outdated education - how we are doing injections. Details on training plan and making sure we are using the most recent policies.
- Provide details on the \$6 adoption fee.

- Animal Services Manual available to public (Arriola)
- TMC sections that are affected (Arriola)
- Issues are categorized and answered with different solutions.

City Council comments continued.

Randall Bradley, City Manager confirmed staff would return to Council with answers to the questions and options from a public policy perspective on how to enhance the program.

Mr. Bradley added that tonight is an introductory staff report on the Animal Shelter. Staff will bring back comprehensive answers to Council's questions with recommendations.

Alex Neicu, Interim Police Chief provided an explanation regarding the euthanasia of Ozzie.

Mr. Bradley stated staff will return to Council by February 5, 2019, with a staff report or an update on the when the staff report will be agendized.

City Council accepted the report.

7. ITEMS FROM THE AUDIENCE – Michael Maciel asked the new City Council to consider addressing the previous submitted complaint related to activities at a Regional Rail meeting on January 5, 2018 by City Manager Randall Bradley, and Transportation Commissioner Alice English, for inappropriate conduct engaging in political activity representing the City. The complaint also contained information about Mayor Rickman and Mayor Pro Tem Vargas for influencing city staff to participate against his appointment. Mr. Maciel encouraged Council Member Ransom and Young to not be disenfranchised. Council needs to be held accountable for past transactions.

Arlene Robbins expressed her concerns regarding truck traffic on West Carlton. Ms. Robbins added Sutter Gould promised no freight trucks on West Carlton but it continually happens.

Robert Tanner thanked Council for a sidewalk at Dr. Powers Park. Mr. Tanner wished everyone a happy holiday and safe new year.

Martin Evans agreed with Ms. Robbins about the trucks. Mr. Evans expressed concerns about residential boundaries around the hospital. Mr. Evans requested the maps be put back.

Ameni Alexander congratulated the newly elected Council Members.

Tim Silva expressed concerns about commercial traffic on Lowell Ave. Mr. Silva added he has been petitioning the City to slow down traffic. Mr. Silva would like to see commercial traffic taken off the area and traffic slowed down.

8. STAFF ITEMS – Randall Bradley, City Manager announced staff plans to work with Council to schedule a Strategic Planning session in March 2019.

## 9. COUNCIL ITEMS

A. Appointment of Mayor Pro Tempore

Adrienne Richardson, City Clerk presented the staff report.

Ameni Alexander, Olinga Alexander, Arlene Robbins and Zena Robbins supported Nancy Young as Mayor Pro Tem.

Council Member Ransom nominated Council Member Young. Council Member Arriola seconded the nomination.

Mayor Rickman explained why he would be voting against the nomination of Council Member Young to the seat of Mayor Pro Tem.

**ACTION:** Motion was made by Council Member Ransom and seconded by Council Member Arriola to appoint Council Member Young as Mayor Pro Tem for a two year term ending in December 2020. Roll call vote found Council Members Arriola, Ransom and Young in favor. Mayor Pro Tem Vargas and Mayor Rickman opposed.

Council Member Arriola thanked everyone and stated he was looking forward to moving forward, and wished everyone a Merry Christmas and a safe and happy holiday.

Mayor Pro Tem Young thanked those that spoke on her behalf and congratulated new Council Member Arriola. Mayor Pro Tem Young stated she wanted to move forward and see positive collaboration. Mayor Pro Tem Young hoped Council continues to aspire for higher levels. Mayor Pro Tem Young responded to Mayor Rickman's explanation of why he voted against her appointment as Mayor Pro Tem. Mayor Pro Tem Young stated she will continue to work for the community as Mayor Pro Tem and City Council member.

Council Member Vargas welcomed Council Member Arriola. Council Member Vargas apologized to Council Member Arriola for the distasteful campaign flyer and stated she takes full responsibility for the flyer. Council Member Vargas wished Nancy Young the best as Mayor Pro Tem and stated she looks forward to Council being collaborative. Council Member Vargas addressed Council Member Arriola stating she hoped he would dismiss Mr. Maciel's complaint as it brings division and marginalization, and not take his advice and lead independently. Council Member Vargas added she looks forward to seeing how Council Member Arriola leads and be true to his word about collaborating and moving forward, and that goes to all the people on the Council. Council Member Vargas announced earlier this month she was asked to be a board member for the Latino Board Caucus and accepted the nomination. Council Member Vargas will be serving in that new capacity through the state to promote transportation programs to continue to better the community and figure out ways to bring Valley Link and transportation solutions to the community.

Council Member Ransom stated this is the new Council and she is looking forward to being able to hit the reset button and do what is best for the city and for Tracy's citizens to see the best side of City Council. Council Member Ransom added when she was elected in 2016, she was excited and ready to serve, and has taken time to bring forward all the policies people have brought to her, but got zero support from Council members. Council

Member Ransom stated she will do her part and hoped City Council will work with her and have open dialogue. A majority is not a way to run a city. Council Member Ransom asked the City Attorney about the Public Records Act software process and if staff is tracking the time it takes for all public records requests.

Thomas Watson, City Attorney responded the website is up and running. Staff is tracking all public record requests and putting material on the website.

Bianca Rodriguez, Deputy City Attorney responded the application does track the average number of days it takes to close out a response and tracks staff's time

Council Member Ransom asked if staff was familiar with a legal ruling that says that cities can recover costs for electronic records when people are excessively requesting items.

Mr. Watson responded staff will start with tracking for a period of time and come back to see if a Council policy is necessary.

Council Member Ransom wished a very merry Christmas to staff and the community.

Mayor Pro Tem Young wished everyone a Merry Christmas and referred to a conversation she previously had with the City Attorney about Council policies regarding things that Council should or should not cover or look into or overturn.

Mr. Watson responded part of that policy will be discussed when staff brings the Code of Conduct to City Council. Mr. Watson estimated bringing the item before Council at the February 5, 2019 meeting once last minute items were ironed out. Mr. Watson confirmed he understood what Mayor Pro Tem Young was referring to regarding dealing with Council protocol and policies.

Mayor Rickman responded to Michael Maciel's complaint regarding misconduct of City Manager Randall Bradley, Transportation Advisory Commission Alice English, Mayor Pro Tem Vargas and Mayor Rickman speaking up in opposition of Mr. Maciel's appointment to the Regional Rail Commission on January 5, 2018.

Mayor Rickman announced the following: Saturday was Wreaths Across America which had a great turn out with many veterans at Tracy Cemetery. Mayor Rickman stated he was proud to participate and sponsor some wreaths. Santa's Show at Nirvaana at 6:00 p.m. Mayor Rickman wished everyone Merry Christmas and happy birthday to his wife.

10. ADJOURNMENT – City Council adjourned the regular meeting at 10:26 p.m., and reconvened into Closed Session.

**ACTION:** Motion was made by Council Member Ransom and seconded by Mayor Pro Tem Young to adjourn. Roll call vote found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on December 13, 2018. The above are action minutes. A recording is available at the office of the City Clerk.

ATTEST:

\_\_\_\_\_  
Mayor

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

January 15, 2019

AGENDA ITEM 1.B

REQUEST

**APPROVE LEASE AGREEMENTS WITH COMBINED SOLAR TECHNOLOGIES, INC. AND ARNAUDO BROS., LLC FOR DRYING BEDS LOCATED AT THE FORMER-HOLLY SUGAR PROPERTY**

EXECUTIVE SUMMARY

The City owns two 40-acre paved solar drying beds acquired in 2003 as part of the Holly Sugar property purchase. These two drying beds are leased to two separate entities, and used for different purposes.

Combined Solar Technologies, Inc. (CST) has worked for the past eight years to develop a project to desalinate Tracy's wastewater, commonly referred to as the Tracy Desalination and Green Energy Project. As the desalination project will utilize walnut shells as a fuel source, CST has leased the southerly drying bed since 2016.

Arnaudo Bros. have leased the northerly drying bed since 2008. This drying bed is used for storage of silage and drying agricultural products.

This item seeks Council approval of new leases to these entities.

DISCUSSION

These drying bed sites are located on the northeast corner of Tracy Boulevard and Sugar Road. Each site is a nominal 40 acres. The term of the lease to CST is through 2035 to match the term of the lease for the parcel where the desalination facility is to be constructed. The term of the lease to the Arnaudo Bros. is five years, from July 1, 2019 to June 30, 2024. Both leases have a termination clause that allow the lease to be ended with six months' notice.

STRATEGIC PLAN

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

FISCAL IMPACT

The leases provide rent to the Wastewater Fund. Rent for each drying bed is \$4,200 per month or \$50,400 per year. Due to the seventeen year term of the CST lease, this lease contains an escalator clause to adjust the rent annually. The rent for the Arnaudo Bros. leased parcel will be remain the same during the term of the lease.

RECOMMENDATION

That the City Council approve:

1. By resolution, the lease agreement with CST.
2. By resolution, the lease agreement with Arnaudo Bros., LLC

Prepared by: Steve Bayley, Project Specialist

Reviewed by: Kul Sharma, Utilities Director  
Karin Schnaider, Finance Director

Approved by: Andrew Malik, Acting City Manager

ATTACHMENTS

Attachment A: CST Lease Agreement  
Attachment B: Arnaudo Bros. Lease Agreement

Recorded at the request of  
and after recording, return to:  
**City Clerk, City of Tracy**  
333 Civic Center Plaza  
Tracy, CA 95376  
(No recording fee, under Government Code §27383)

## LEASE AGREEMENT

This Lease Agreement (hereinafter "Agreement") is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "City"), and Combined Solar Technologies, Inc., a Delaware corporation (hereinafter "Lessee").

### RECITALS

- A. City owns approximately 1,097 acres of land located north of the City of Tracy, commonly known as the former Holly Sugar property, a portion of which is currently used for drying and storing agricultural products.
- B. Lessee, doing business as Tracy Renewable Energy, currently leases a forty acre parcel containing a paved drying bed (Exhibit A; hereinafter "Property") from the City and the lease will expire on December 30, 2018.
- C. Lessee has been working with City for the past seven years to construct a desalination and green energy project to reduce salinity of the City's treated wastewater effluent.
- D. Lessee has entered into a lease agreement for a nearby parcel, APN 212-160-11, on which to construct the desalination and green energy project.
- E. Lessee will generate heat using biofuels and that heat will be used to distill wastewater effluent and separate the salts and water, and dry agricultural products.
- F. In order to store the biofuels, Lessee wishes to enter into this lease agreement for the Property.
- G. The City desires to enter in to the lease agreement bounded by certain restrictions and performance standards on the said forty acre property as a good faith effort to work with the Lessee towards completion of the desalination and green energy project.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE upon the following terms and conditions.

### 1. PROPERTY

City hereby leases to Lessee, and Lessee hereby leases from City, an area of land comprised of approximately forty acres identified as the southerly paved drying bed located on the land commonly known as the former Holly Sugar Property, such drying bed being located on the northeast corner of Tracy Boulevard and Sugar Road, in the County of San Joaquin, State of

California, and as further shown in more particular detail on Exhibit "A" attached hereto (hereinafter referred to as the "Property").

**2. TERM**

This Agreement will commence on December 31, 2018, and run through June 30, 2035, unless terminated by either City or Lessee. City or Lessee may terminate this Agreement by giving written notice to the other, six months in advance of the termination date. If this Agreement is terminated by either City or Lessee, Lessee must remove all of the stored materials and clean the Property within six months of the written notice.

The Lessee may sublease the Property for the duration of this Agreement; provided, however, that Lessee must remain primarily responsible for upkeep of the Property, pay rent and satisfy all terms of this Agreement.

**3. LESSEE PAYMENTS**

Lessee agrees to pay City a fixed rate lump sum in the amount of four-thousand, two hundred dollars (\$4,200) per month. Rent shall be due every six months on January 1 and July 1 for the following six month period. The lease payment shall be adjusted annually, beginning January 1, 2020, using the CPI for All Urban Consumers, All Items, San Francisco-Oakland San Jose CMSA, utilizing a base of 1982-1984 = 100, as published by the United States Department of Labor, Bureau of Labor Statistics.

3.1 Payment shall be sent to:

City of Tracy  
RE: Lease of Holly Sugar Drying Beds  
Finance Department  
333 Civic Center Plaza  
Tracy, CA 95376

**4. USE OF THE PROPERTY**

Lessee agrees to prepare and use the Property for the following uses all at Lessee's own cost and expense:

- 4.1 Use of the Property shall conform to all applicable rules and regulations governing the property, including, but not limited to, local zoning, building and fire codes.
- 4.2 Lessee is responsible for safely securing all property and equipment and for safely storing all materials in accordance with State and local laws.
- 4.3 Lessee shall keep the Property free and clear of all rubbish, trash and weeds.
- 4.4 Upon termination of its tenancy, unless otherwise authorized in writing at the sole option of and by City, Lessee shall return the Property to the same, or substantially similar, condition as exists on the commencement date of this lease.
- 4.5 Lessee and its employees, agents or invitees shall only access the Property from the driveway and gate on Tracy Boulevard, and the driveway and gate on Sugar Road.
- 4.6 Lessee's use of the Property shall not result in a public nuisance or become a source for odors.
- 4.7 Only biofuels and soil amendment materials blended for landscaping are allowed to be received/stored on the Property. Biofuels consist of walnut shell, almond shell, and chipped wood. Soil amendment materials consist of organic compost, and fly ash. Other materials may be received/stored provided the materials are approved in writing by the City.

- 4.7.1 Any existing materials that does not meet the above criteria must be removed from the Property. Storage and/or processing of olive pumace, grape pumace, tomato pumace, potatoes or distillers grain shall be allowed during the first nine months of this lease term. Thereafter no storage and/or processing of olive pumace, grape pumace, tomato pumace, potatoes or distillers grain shall be allowed. Drying of fresh tomato cannery waste is permissible, provided there are minimal odors.
- 4.7.2 All materials must be contained on-site. Lessee shall install fencing along the irrigation supply ditch in order to keep windblown materials from entering the irrigation ditch. All materials must be contained onsite.
- 4.7.3 The Property must be kept safe and accessible as approved by the City at all times.
- 4.7.4 Any material causing a public nuisance, in the reasonable opinion of Code Enforcement, must be removed from the Property within 30 days after notice from the City.
- 4.7.5 The City Fire Department will inspect the Property periodically or on an as needed basis and will make fire hazard and safety assessments with required mitigations. Materials shall be stored in accordance with Fire Department recommendations so as to minimize the risk of a fire. Lessee will comply with the Fire Department requirements within one week of receipt of notice of such requirements. The fully loaded cost of the Fire Inspectors (hourly wages plus overhead) and the cost of reports shall be paid by Lessee within 30 days after the City invoices Lessee for same.

## **5. ACCEPTANCE AND MAINTENANCE OF PROPERTY**

Lessee further agrees that:

- 5.1 Lessee shall accept the Property in its present condition without any liability or obligation on the part of City to remove any material, make any alterations, improvements or repairs of any kind which would constitute a change to the present condition of the Property.
- 5.2 Lessee shall be liable for any and all damage to the Property caused by the Lessee, its employees, agents, sub-lessees, or invitees.

## **6. ALTERATIONS AND MODIFICATIONS**

Lessee covenants and agrees not to install any fixtures or make any alterations, additions, erecting of structures or improvements to the Property without the prior written approval of City. All fixtures installed or additions and improvements made to the Property shall become City's property and shall remain on the Property at the termination of this Agreement, , without compensation or payment to Lessee.

## **7. ASSIGNMENT**

Lessee may not assign this Lease without City's prior written consent.

## **8. REGULATIONS**

Lessee's use of the Property shall comply with all Federal, State and local rules, regulations, laws, ordinances, and directives of competent authority applicable to the use of the Property.

## **9. HOLD HARMLESS**

Lessee shall defend, indemnify, and hold the City, its officials, employees, agents and

volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorneys' fees, arising out of or in connection with the performance of this Agreement, including, but not limited to, those claims, injuries, damages, losses, or suits, and attorneys' fees based upon nuisance or inverse condemnation, excepting however, those claims, injuries, damages, losses, or suits, including attorneys' fees, for injuries and damages caused by the sole negligence or willful misconduct of the City.

## **10. TAXES**

Lessee shall pay, when due, any real property taxes levied against the leased Property as a result of any possessory interest taxes which may be imposed on Lessee's interest in the leased Property. This provision constitutes written notice to Lessee pursuant to California Revenue and Taxation Code Section 107. City shall not be responsible for payment of any such tax. No such tax shall in any way reduce or substitute for the charges or fees required to be paid as a condition of this Lease or as otherwise required by the City.

## **11. ENTRY AND INSPECTION**

City reserves the right to enter the Property at any time and by whatever means necessary, including, but not limited to, the following situations: (a) in case of emergency, (b) to make necessary repairs and improvements, (c) to supply necessary services, (d) when City reasonably believes that the Lessee has abandoned or surrendered the Property, (e) to inspect the Property for Agreement compliance, (f) pursuant to court order, (g) for necessary tests or surveying, (h) installation or maintenance of irrigation facilities. When entering the Property, City shall take care to minimize disruption to Lessee's operations. City agrees to provide appropriate notification to Lessee of any approved entries to Property that City has given to any third party.

## **12. DEFAULT**

12.1 Lessee shall be in default of this Agreement, if City determines that any of the following conditions exist (which conditions are not intended to constitute the exclusive basis for default):

- (a) Lessee is insolvent, bankrupt, or makes a general assignment of the benefit of the creditors.
- (b) Lessee abandons the Property.
- (c) Lessee violates any legal requirement relating to the Use of the Property.
- (d) Lessee fails to remit payment of any installment or rent or of any amount owed to City.
- (e) Lessee fails to abide by any covenant or condition contained in this Agreement, including but not limited to Use of the Property.

12.2 In the event Lessee, fails within twenty (20) calendar days after receipt of written notice, to either cure the default or provide adequate written assurance to the reasonable satisfaction of City that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:

- (a) Terminate the Agreement.
- (b) File an unlawful detainer action against Lessee to regain possession of the Property.
- (c) Any other judicial remedies available to City.

### **13. INSURANCE**

13.1 Lessee shall, throughout the duration of this Agreement, maintain insurance to cover Lessee, its agents, representatives, and employees in connection with the Use of the Property and this Agreement at the minimum levels set forth here.

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

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

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

13.5 Endorsements. Lessee shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

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

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

13.6 Notice of Cancellation. Lessee 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. Lessee shall immediately obtain a replacement policy.

13.7 Authorized Insurers. All insurance companies providing coverage to Lessee 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.

13.8 Insurance Certificate. Lessee 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.

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

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

### **14. WAIVER**

The waiver by either party of any provision or condition of this Agreement shall not be construed to be a waiver of any other provision or condition of this Agreement and shall not preclude the other party from demanding performance in accord with the other terms thereof nor shall any such waiver be construed to be permanent unless such waiver is in writing and signed by both City and Lessee.

### **15. FORCE MAJEURE**

Except as to the payment of rent and for damages chargeable to the responsible party, neither City nor Lessee shall be chargeable with, liable for, or responsible to the other for anything or in any amount for any delay caused by fire, earthquake, explosion, the elements,

acts of God, riots, strikes, lockouts and any delay due to said causes or any of them shall not be deemed a breach of or default in the performance of this Agreement.

**16. RELATIONSHIP OF PARTIES**

The relationship between City and Lessee shall always and only be that of lessor and lessee. Lessee shall never at any time during the term of this Agreement become the agent of City, and City shall not be responsible for the acts or omissions of Lessee or its agents.

**17. SEVERABILITY**

The unenforceability, invalidity, or illegality of any of provision herein shall not render the other provisions unenforceable, invalid, or illegal.

**18. RECORDATION**

Pursuant to Government Code § 37393, this Agreement shall be recorded in the Office of the County Recorder, County of San Joaquin, State of California.

**19. NOTICES**

All notices to the parties shall be in writing and shall be addressed and mailed to their representatives as follows:

**City:**

City of Tracy  
Utilities Director  
3900 Holly Drive  
Tracy, CA 95304

**Lessee:**

Combined Solar Technologies, Inc.  
Frank Schubert  
P O Box 583  
Tracy, CA 95378

**With a copy to:**

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

Intentionally left blank

**20. 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 Lessee and City. This Agreement shall insure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties agree to the full performance of the terms set forth.

**CITY OF TRACY**

By: \_\_\_\_\_  
Mayor

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

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
City Attorney

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

**LESSEE**

By: Frank Schenk

Title: President

Date: 11/29/2018

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

# Exhibit A

Tracy Blvd



Property

Sugar Road



Recorded at the request of  
and after recording, return to:  
**City Clerk, City of Tracy**  
333 Civic Center Plaza  
Tracy, CA 95376  
(No recording fee, under Government Code §27383)

## LEASE AGREEMENT

THIS Lease Agreement (hereinafter "Agreement") is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "City"), and Arnaudo Bros., Inc., a California Limited Liability Company (hereinafter "Lessee").

### RECITALS

- A. City owns approximately 1,097 acres of land located north of the City of Tracy, commonly known as the former Holly Sugar property, a portion of which is currently used for drying and storing agricultural products.
- B. Lessee is a California corporation engaged in the delivery, processing, storage and distribution of silage.
- C. Lessee currently leases the forty acre parcel, depicted in Exhibit A; (hereinafter "Property") from the City and the lease will expire on June 30, 2019.
- D. City desires to lease the Property to Lessee, and Lessee desires to lease said Property from City, which is the subject of this Agreement.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE** upon the following terms and conditions:

1. **Term:**

This Agreement will commence on July 1, 2019 and will run through June 30, 2024 unless otherwise terminated by either City or Lessee. City or Lessee may terminate this Agreement by giving written notice to the other six months in advance of the termination date.

2. **Lease Payment:**

Lessee agrees to pay City a fixed rate lump sum in the amount of four-thousand, two hundred dollars (\$4,200) per month. Rent is due on the first day of January and the first day of July for the succeeding six (6) month period that the Agreement is in effect. The first lease payment under this Agreement shall be due on July 1, 2019.

2.1 Payment shall be sent to:

City of Tracy  
Re: Drying Bed Lease  
Finance Department  
333 Civic Center Plaza  
Tracy, CA 95376

3. **Property:**

City leases to Lessee, and Lessee leases from City, an area of land comprised of roughly forty acres identified as the northerly paved drying bed located on the land commonly known as the former Holly Sugar Property, such drying bed being located off Tracy Boulevard, in the County of San Joaquin, State of California, and as further shown in more particular detail on Exhibit "A" attached hereto (hereinafter referred to as the "Property").

4. **Use:**

Lessee agrees to prepare the Property all at Lessee's own cost and expense. Lessee further agrees as follows:

4.1 Use of the Property shall conform to all applicable rules and regulations governing the property, including, but not limited to, local zoning, building and fire codes.

4.2 Lessee is responsible for safely securing all property and equipment and for safely storing all materials in accordance with State and local laws.

4.3 Lessee shall keep the Property free and clear of all rubbish, trash and weeds.

4.4 Upon termination of its tenancy, Lessee shall return the Property to the same, or substantially similar, condition as exists on the commencement date of this lease.

4.5 Lessee and its employees, agents or invitees shall access the Property from the driveway and gate on Tracy Boulevard only.

4.6 Lessee shall use the Property only for the delivery, processing, storage and distribution of silage and/or bulk livestock feed. No storage or processing of olive pumace, grape pumace, tomato pumace, or distillers grain shall be allowed. Drying of fresh tomato cannery waste is permissible, provided there are minimal odors. Other materials may be received/ processed/stored provided the materials are approved in writing by the City. All materials must be contained on-site. Lessee shall install fencing along the irrigation supply ditch in order to keep windblown materials from entering the irrigation ditch.

5. **Acceptance and Maintenance of Property:**

Lessee further agrees that:

5.1 Lessee shall accept the Property in its present condition without any liability or obligation on the part of City to make any alterations, improvements or repairs of any kind which would constitute a change to the present condition of the Property.

5.2 Lessee shall be liable for any and all damage to the Property caused by the Lessee, its employees, agents or invitees.

**6. Alterations and Modifications:**

Lessee covenants and agrees not to install any fixtures or make any alterations, additions, erecting of structures or improvements to the Property without the prior written approval of City. All fixtures installed or additions and improvements made to the Property shall become City's property and shall remain on the Property at the termination of this Lease Agreement, however such is terminated, without compensation or payment to Lessee. A truck scale is permitted and will remain the property of the Lessee to be removed at the termination of this Lease.

**7. Sublease:**

Lessee may not voluntarily or involuntarily assign or sublease this Lease without first obtaining City's written consent.

**8. Regulations:**

Lessee's use of the Property shall comply with all Federal, State and local rules, regulations, laws, ordinances, and directives of competent authority applicable to the use of the Property.

**9. Hold Harmless:**

Lessee shall defend, indemnify, and hold the City, its officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses, or suits, including attorneys' fees, arising out of or in connection with the performance of this Lease, including, but not limited to, those claims, injuries, damages, losses, or suits, and attorneys' fees based upon nuisance or inverse condemnation, excepting however, those claims, injuries, damages, losses, or suits, including attorneys' fees, for injuries and damages caused by the sole negligence of the City.

**10. Taxes:**

Lessee shall pay, when due, any real property taxes levied against the leased Property as a result of any possessory interest taxes which may be imposed on Lessee's interest in the leased Property. This provision constitutes written notice to Lessee pursuant to California Revenue and Taxation Code Section 107. City shall not be responsible for payment of any such tax. No such tax shall in any way reduce or substitute for the charges or fees required to be paid as a condition of this Lease or as otherwise required by the City.

**11. Entry and Inspection:**

City reserves the right to enter the Property at any time and by whatever means necessary, including, but not limited to, the following situations: (a) in case of emergency, (b) to make necessary repairs and improvements, (c) to supply necessary services, (d) when City reasonably believes that the Lessee has abandoned or surrendered the Property, (e) to inspect the Property for Lease compliance, (f) pursuant to court order, (g) for necessary tests or surveying, or (h) installation and maintenance of irrigation facilities. When entering the Property, City shall take care to minimize disruption to Lessee's operations. City agrees to provide appropriate notification to Lessee of any approved entries to Property that City has given to any third party.

## 12. Default:

12.1 Lessee shall be in default of this Lease, if City determines that any of the following conditions exist (which conditions are not intended to constitute the exclusive basis for default):

- (a) Lessee is insolvent, bankrupt, or makes a general assignment of the benefit of the creditors.
- (b) Lessee abandons the Property.
- (c) Lessee violates any legal requirement relating to the Use of the Property.
- (d) Lessee fails to remit payment of any installment or rent or of any amount owed to City
- (e) Lessee fails to abide by any covenant or condition contained in this Lease, including but not limited to Section 4 "Use".

12.2 In the event Lessee, fails within twenty (20) calendar days after receipt of written notice, to either cure the default or provide adequate written assurance to the reasonable satisfaction of City that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:

- (a) Terminate the lease.
- (b) File an unlawful detainer action against Lessee to regain possession of the Property.
- (c) Any other judicial remedies available to City.

## 13. Insurance:

13.1 Lessee shall, throughout the duration of this Agreement, maintain insurance to cover Lessee, its agents, representatives, and employees in connection with the Use of the Property and this Agreement at the minimum levels set forth here.

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

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

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

13.5 Endorsements. Lessee shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

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

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

13.6 Notice of Cancellation. Lessee 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. Lessee shall immediately obtain a replacement policy.

13.7 Authorized Insurers. All insurance companies providing coverage to Lessee 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.

13.8 Insurance Certificate. Lessee 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.

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

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

14. **Waiver:**

The waiver by either party of any provision or condition of this Lease Agreement shall not be construed to be a waiver of any other provision or condition of this Lease Agreement and shall not preclude the other party from demanding performance in accord with the other terms thereof nor shall any such waiver be construed to be permanent unless such waiver is in writing and signed by both City and Lessee.

15. **Force Majeure:**

Except as to the payment of rent and for damages chargeable to the responsible party, neither City nor Lessee shall be chargeable with, liable for, or responsible to the other for anything or in any amount for any delay caused by fire, earthquake, explosion, the elements, acts of God, riots, strikes, lockouts and any delay due to said causes or any of them shall not be deemed a breach of or default in the performance of this Lease Agreement.

16. **Relationship of Parties:**

The relationship between City and Lessee shall always and only be that of lessor and lessee. Lessee shall never at any time during the term of this Lease Agreement become the agent of City, and City shall not be responsible for the acts or omissions of Lessee or its agents.

17. **Severability:**

The unenforceability, invalidity, or illegality of any of provision herein shall not render the other provisions unenforceable, invalid, or illegal.

18. **Recordation:**

Pursuant to Government Code § 37393, this Agreement may be recorded in the Office of the County Recorder, County of San Joaquin, State of California.

19. **Notices:**

All notices to the parties shall be in writing and shall be addressed and mailed to their representatives as follows:

**City:**

City of Tracy  
Director of Public Works  
520 Tracy Boulevard  
Tracy, CA 95376

**Lessee:**

Arnaudo Bros., Inc.  
16505 S. Tracy Blvd.  
Tracy, CA 95304

**With a copy to:**

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

20. **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 Lessee and City. This Agreement shall insure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties agree to the full performance of the terms set forth.

**CITY OF TRACY**

By: \_\_\_\_\_  
Mayor

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

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

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

**LESSEE**

By:   
Title: V.P. Arnaudo Bros Inc.

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

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

# Exhibit A



Tracy Blvd

Property

Sugar Rd



0 145 290 580 Feet

RESOLUTION 2019-\_\_\_\_\_

APPROVING A SEVENTEEN-YEAR LEASE AGREEMENT WITH COMBINED SOLAR TECHNOLOGIES, INC. FOR A DRYING BED

WHEREAS, The City owns two 40-acre paved solar drying beds acquired in 2003 as part of the Holly Sugar property purchase, and

WHEREAS, These drying bed sites are located on the northeast corner of Tracy Boulevard and Sugar Road, and

WHEREAS, These two drying beds are leased to two separate entities, and used for different purposes, and

WHEREAS, Combined Solar Technologies, Inc. (CST) has worked for the past eight years to develop a project to desalinate Tracy's wastewater, commonly referred to as the Tracy Desalination and Green Energy Project, and

WHEREAS, As the desalination project will utilize walnut shells as a fuel source, CST has leased the southerly drying bed since 2016, and

WHEREAS, The term of the lease to CST is through 2035 to match the term of the lease for the parcel where the desalination facility is to be constructed, and

WHEREAS, This lease has a termination clause that allow the lease to be ended with six months' notice, and

WHEREAS, Rent for the drying bed is \$4,200 per month or \$50,400 per year, and

WHEREAS, Due to the seventeen year term of the CST lease, this lease contains an escalator clause to adjust the rent annually;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves a lease agreement With Combined Solar Technologies, Inc. for one drying bed located at the former Holly Sugar property.

\*\*\*\*\*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by Tracy City Council on the 15<sup>th</sup> day of January, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

RESOLUTION 2019-\_\_\_\_\_

APPROVING A FIVE-YEAR LEASE AGREEMENT WITH ARNAUDO BROS., LLC FOR A DRYING BED

WHEREAS, The City owns two 40-acre paved solar drying beds acquired in 2003 as part of the Holly Sugar property purchase, and

WHEREAS, These drying bed sites are located on the northeast corner of Tracy Boulevard and Sugar Road, and

WHEREAS, These two drying beds are leased to two separate entities, and used for different purposes, and

WHEREAS, Arnaudo Bros. have leased the northerly drying bed since 2008, and

WHEREAS, This drying bed is used for storage of silage and drying agricultural products, and

WHEREAS, The term of the lease to the Arnaudo Bros. is five years, from July 1, 2019 to June 30, 2024, and

WHEREAS, This lease has a termination clause that allow the lease to be ended with six months' notice, and

WHEREAS, Rent for the drying bed is \$4,200 per month or \$50,400 per year;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves a five-year lease agreement with Arnaudo Bros, LLC for one drying bed located at the former Holly Sugar property.

\*\*\*\*\*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by Tracy City Council on the 15<sup>th</sup> day of January, 2019, 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

**ACCEPT SUBDIVISION IMPROVEMENTS FOR PLAN “C” – BARCELONA INFILL, TRACT 3803, CONSTRUCTED BY TAYLOR MORRISON OF CALIFORNIA, LLC.**

EXECUTIVE SUMMARY

Taylor Morrison of California, LLC, a California Limited Liability Company (Subdivider), has completed subdivision improvements for Plan “C” – Barcelona Infill, Tract 3803, containing 51 residential single family dwelling lots, as shown on Attachment A in accordance with the Subdivision Improvement Agreement, project plans, and specifications. Staff recommends City Council accept the improvements as completed to enable the City to release the Subdivider’s performance and payment bonds.

DISCUSSION

On March 7, 2017, by Resolution 2017-047 City Council approved the Subdivision Improvement Agreement (Agreement) for Barcelona Infill Subdivision, Tract 3803, including 51 residential single family dwelling lots as shown on Attachment A.

VVH Consulting Engineers, of Modesto, California prepared the improvement plans titled “Improvement Plans for Barcelona Infill,” which include all public improvements included in the Agreement.

Subdivider has completed all the work required to be done in accordance with the Agreement, and has requested acceptance of the subdivision public improvements. The City Engineer has inspected the completed work and confirmed that the improvements conform to the Agreement and City specifications and plans. The estimated cost of the infrastructure improvements are as follows:

Cost Breakdown:

|                      |              |
|----------------------|--------------|
| Roadway Improvements | \$ 669,569   |
| Water                | \$ 106,469   |
| Storm Drainage       | \$ 70,248    |
| Sanitary Sewer       | \$ 91,298    |
| Street Lighting      | \$ 59,950    |
| Land dedication      | \$ 1,106,700 |
| Total                | \$ 2,104,234 |

A total of 94,500 square feet (2.17 acres) has been dedicated as part of the public right-of-way in the Final Map for Barcelona Infill Tract 3803 and will be accepted by the City given the completion of the required improvements.

The project carries a one-year warranty bond for all public improvements.

### STRATEGIC PLAN

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

### FISCAL IMPACT

The Developer, in accordance with the Subdivision Improvement Agreement, completed all improvements. The infrastructure improvement and right-of-way costs of \$2,104,234 will be included as assets in the City of Tracy General Fund (910), all other improvements do not meet the threshold outlined in the City's Capital Asset policy. The ongoing maintenance of the Roadway Improvements will be budgeted in the Public Works and the Water, Storm, Sewer and Street Lights improvements will be in Utilities. There are sufficient funds to meet these expenses.

### RECOMMENDATION

That City Council, by resolution, accept the subdivision improvements as complete and dedicated right-of-way for Plan "C" – Barcelona Infill, Tract 3803, assume responsibility for their future maintenance and repair, and authorize the filing of a notice of completion and release of bonds in accordance with the Subdivision Improvement Agreement.

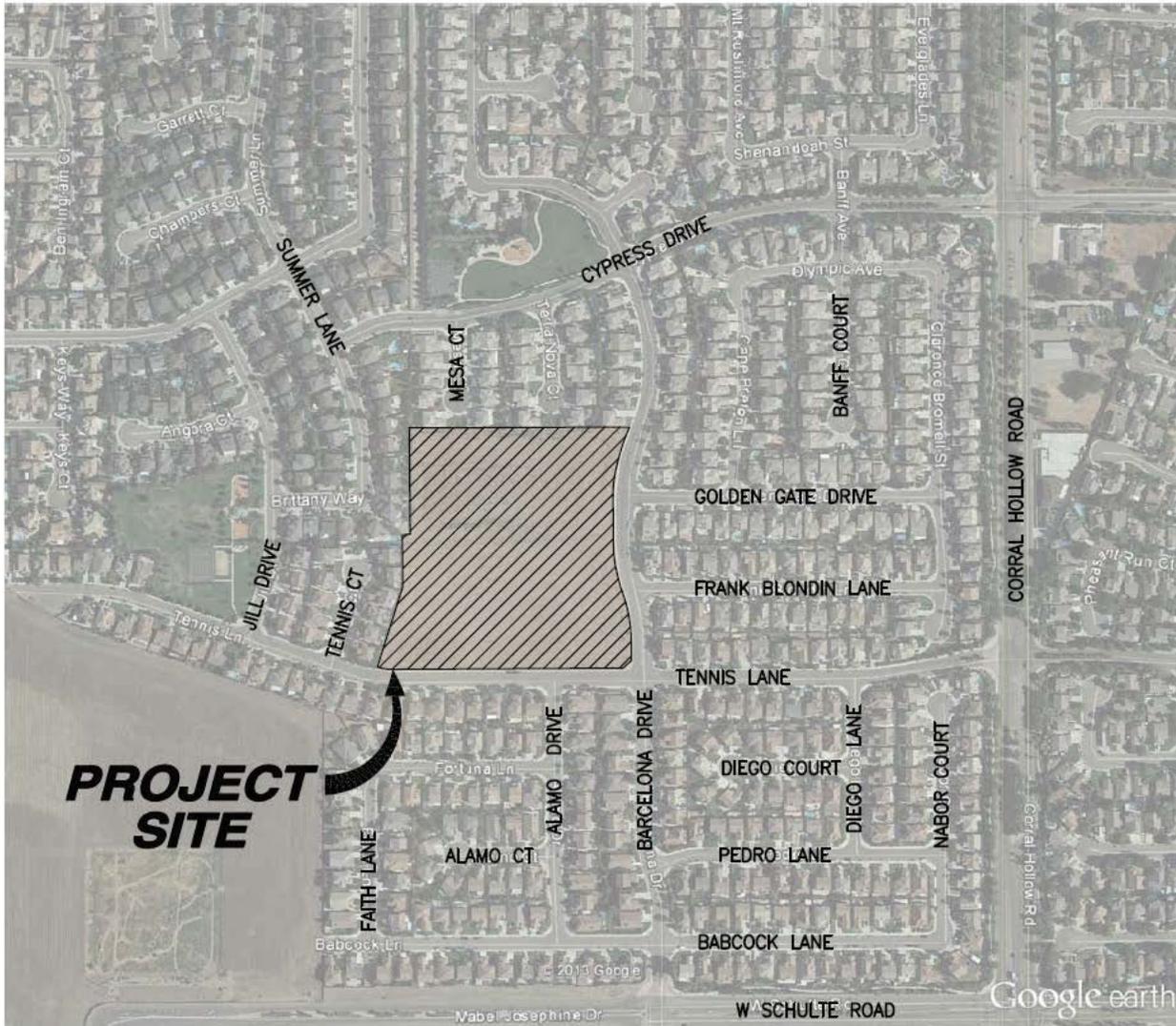
Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Director of Development Services  
Karin Schnaider, Finance Director

Approved by: Andrew Malik, Acting City Manager

### ATTACHMENTS

Attachment A – Vicinity Map



**VICINITY MAP**

**N.T.S.**

RESOLUTION 2019-\_\_\_\_\_

ACCEPTING SUBDIVISION IMPROVEMENTS FOR PLAN “C” – BARCELONA INFILL, TRACT 3803, AND DEDICATED RIGHT OF WAY AS COMPLETE, CONSTRUCTED BY TAYLOR MORRISON OF CALIFORNIA, LLC., ASSUMING RESPONSIBILITY FOR THEIR FUTURE MAINTENANCE AND REPAIR, AND FILING OF A NOTICE OF COMPLETION AND RELEASE OF BONDS

WHEREAS, On March 7, 2017, City Council approved the Subdivision Improvement Agreement (Agreement) for Barcelona Infill Subdivision, Tract 3803, and

WHEREAS, Subdivider has completed all the work required to be done in accordance with the Agreement, and has requested acceptance of the subdivision public improvements, and has requested acceptance of the subdivision public improvements, and

WHEREAS, The City Engineer has inspected the completed work and recommends acceptance, and

WHEREAS, The estimated cost of infrastructure improvements is as follows:

Cost Breakdown:

|                      |              |
|----------------------|--------------|
| Roadway Improvements | \$ 669,569   |
| Water                | \$ 106,469   |
| Storm Drainage       | \$ 70,248    |
| Sanitary Sewer       | \$ 91,298    |
| Street Lighting      | \$ 59,950    |
| Land dedication      | \$ 1,106,700 |
| Total                | \$ 2,104,234 |

WHEREAS, A total of 94,500 square feet (2.17 acres) of the land has been dedicated as part of the public right-of-way in the Final Map for Barcelona Infill Tract 3803, and

WHEREAS, The Developer, in accordance with the Subdivision Improvement Agreement, completed all improvements. The infrastructure improvement and right-of-way costs of \$2,104,234 will be included as assets in the City of Tracy General Fund (910), all other improvements do not meet the threshold outlined in the City’s Capital Asset policy;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the improvements as complete and dedicated right-of-way in accordance with the Agreement for Plan “C” – Barcelona Infill, Tract 3803, including the project plans and specifications, assumes responsibility for their future maintenance and repair, and authorizes the filing of a notice of completion with the San Joaquin County Recorder’s Office and release of bonds in accordance with the Subdivision Improvement Agreement.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 15<sup>th</sup> day of January 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.D

REQUEST

**ACCEPT INTERSECTION IMPROVEMENTS AT THE 11TH STREET & MACARTHUR DRIVE PROJECT, CIP 72069, FEDERAL PROJECT NO. CML-5192(035), COMPLETED BY GRADETECH, INC., OF SAN RAMON, CALIFORNIA**

EXECUTIVE SUMMARY

The contractor has completed the construction of the Intersection Improvements at 11th Street & MacArthur Drive Project (Project), CIP 72069, in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

On November 7, 2017, City Council awarded a construction contract to GradeTech, Inc., of San Ramon, California, for the Intersection Improvements at 11th Street & MacArthur Drive Project, CIP 72069, in the amount of \$1,828,957. This Project was necessary to realign the intersection of 11th Street and MacArthur Drive, the successful completion was the final tie in piece of the adjacent 11th Street Overhead (Bridge) Project. The Project included adding turn lanes, modifying traffic signal timing and configuration, and constructed sidewalks and medians. The ultimate goal was to improve traffic flow, which was accomplished with the construction of this Project.

The Project design, improvement plans, specifications, and contract documents were prepared under a Professional Service Agreement with Drake Haglan and Associates Inc., of Rancho Cordova, California and managed in-house by staff.

The Project was designed and approved to match the existing lanes width of 10 feet which result in design variance to standard 11 feet lanes and approved by the City Engineer. Additional right-of-way from the existing properties on north and south was acquired accordingly to match the existing lanes.

Three change order amounting to \$21,445 were issued for the Project, which included multiple unforeseen conditions. Work consisted of additional work to railroad improvements not shown on original plans, changes to traffic signal due to unforeseen conditions, and additional striping and traffic calming devices.

The project construction contract unit prices are based on estimated quantities. Actual payment is based on field measured quantities installed by the Contractor. According to City's inspection records, actual field measured quantities were less than the contract quantities in the amount \$112,645.

Final construction Project costs are as follows:

|    |   |             |
|----|---|-------------|
| A. | Construction contract amount  | \$1,716,312 |
| B. | Approved change orders  | \$ 21,445   |
| C. | Design assistance, construction management,<br>inspection, testing & miscellaneous project<br>management expenses | \$ 117,183  |
|    | Total construction project costs  | \$1,854,940 |
|    | Budget amount   | \$2,470,884 |

The Project has been completed within the available budget and original contract time frame and in accordance with the plans, specifications, and City of Tracy standards.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

CIP 72069 is an approved Capital Improvement Project with sufficient funding and there will be no impact to the General Fund. The Congestion Mitigation and Air Quality (CMAQ) Improvement Program Grant will reimburse the City of Tracy \$1,000,000 of the construction cost. The cost savings of \$615,944 will remain in the Capital Outlays Fund for street patch and overlays and will be used for future improvement projects.

#### RECOMMENDATION

That City Council accept, by resolution, the Intersection Improvements and design variance at the 11th Street & MacArthur Drive Project, CIP 72069, completed by GradeTech, Inc., of San Ramon California, and authorize the filing of a notice of completion and release of bonds and retention payment.

Prepared by: Leisser P. Mazariegos, Associate Civil Engineer

Reviewed by: Paul Verma, PE, Senior Civil Engineer  
Robert Armijo, PE, City Engineer / Assistant Development Services Director  
Karin Schnaider, Finance Director

Approved by: Andrew Malik, Acting City Manager

RESOLUTION 2019-\_\_\_\_\_

ACCEPTING THE INTERSECTION IMPROVEMENTS AT THE 11TH STREET & MACARTHUR DRIVE PROJECT, CIP 72069, FEDERAL PROJECT NO. CML-5192(035), CONSTRUCTED BY GRADETECH, INC., OF SAN RAMON, CALIFORNIA, AS COMPLETE, AND AUTHORIZING THE FILING OF A NOTICE OF COMPLETION AND RELEASE OF BONDS AND RETENTION PAYMENT

WHEREAS, On November 7, 2017, City Council awarded a construction contract to GradeTech, Inc., of San Ramon California, for the Intersection Improvements at the 11th Street & MacArthur Drive Project (Project), CIP 72069, in the amount of \$1,828,957, and

WHEREAS, The Project realigned the intersection of 11th Street and MacArthur Drive, a Project necessary for the successful completion of the adjacent 11th Street Overhead (Bridge) Project, and

WHEREAS, The Project improved the traffic flow by adding turn lanes, modifying traffic signal timing & configuration and constructed sidewalks and medians, and

WHEREAS, Change orders amounting to \$21,445 were issued for the Project which included multiple unforeseen conditions, and

WHEREAS, The status of budget costs is as follows:

|    |   |             |
|----|---|-------------|
| A. | Construction contract Amount  | \$1,716,312 |
| B. | Approved change orders  | \$ 21,445   |
| C. | Overrun of quantities   | \$ 0        |
| D. | Design assistance, construction management, inspection, testing & miscellaneous project management expenses | \$ 117,183  |
|    | Total construction project costs  | \$1,854,940 |
|    | Budgeted amount   | \$2,470,884 |

WHEREAS, The Project has been completed within the available budget and original contract time frame and in accordance with project plans, specifications, and City of Tracy standards, and

WHEREAS, The Congestion Mitigation and Air Quality Improvement Program (CMAQ) Program will reimburse the City up to the amount of \$1,000,000 for the construction of this project, and

WHEREAS, The cost savings of \$615,944 will remain in the Capital Outlays Fund for street patch and overlays and will be used for future improvement projects;

NOW, THEREFORE, BE IT RESOLVED, That City Council of the City of Tracy hereby accepts the construction of the Intersection Improvements at 11th Street & MacArthur Drive Project, CIP 72069, completed by GradeTech, Inc. of San Ramon, California, authorizes the

City Clerk to record the Notice of Completion with the San Joaquin County Recorder, and authorizes the City Engineer to release the bonds and retention payment.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was passed and adopted by the Tracy City Council on the 15<sup>th</sup> day of January, 2019, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.E

REQUEST

**ADOPT RESOLUTION AUTHORIZING THE SUBMITTAL OF AN AIRPORT IMPROVEMENT PROGRAM (AIP) MATCHING GRANT APPLICATION WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE MAYOR TO ACCEPT AN ALLOCATION OF FUNDS AND TO EXECUTE THE GRANT AGREEMENT**

EXECUTIVE SUMMARY

The City was awarded a grant in September 2018 from the Federal Aviation Administration (FAA) in order to reconstruct the south hangar area taxiways and installation of a new rotating beacon at the Tracy Municipal Airport. A State Airport Improvement Program (AIP) matching grant is available that will offset the City's General Fund match. In order to finalize the State grant award process, a Council resolution is required, authorizing the Mayor to file the application, accept the allocation of state AIP Matching Grant funds and execute the grant agreement.

DISCUSSION

The State Division of Aeronautics provides matching grants of 5% of the FAA grant awards, not to exceed \$50,000. The application for the grant must be submitted and approved before any work can be completed on the new project. The project has been bid and is ready to begin. However, City staff has identified this grant and is requesting to utilize this grant to offset the General Fund's grant match prior to starting the project.

**The cost breakdown for this project is as follows:**

|                                      |                  |
|--------------------------------------|------------------|
| South Hangar Pavement Reconstruction | \$2,711,000      |
| New Rotating Beacon                  | \$45,500         |
| Contingency (10%)                    | <u>\$275,650</u> |
|                                      | \$3,032,150      |

**Reimbursements Allocated:**

|                      |                    |
|----------------------|--------------------|
| FAA Participation    | \$1,846,827        |
| State Matching Grant | \$50,000           |
| City Responsibility  | <u>\$1,135,323</u> |
|                      | \$3,032,150        |

Staff is requesting Council approve a resolution authorizing the Airport Manager to file the grant application to receive state matching funds, and authorizing the Mayor to accept the allocation of state AIP Matching Grant funds and execute the grant agreement. This resolution will be provided to the State in order to finalize the grant match.

STRATEGIC PLAN

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

FISCAL IMPACT

This Council-approved CIP 77037 is budgeted at \$3,032,150. Of that amount, \$1,185,323 comes from the City's General Fund to cover the City's 10% match requirement and the portion of the project which is ineligible for FAA funding. With the State AIP Matching Grant, this will lower the overall matching requirement from the City from \$1,185,323 to \$1,135,323, saving the City's General Fund \$50,000

RECOMMENDATION

That the City Council adopt a resolution authorizing the Airport Manager to file the application, and authorizing the Mayor to accept the allocation of state AIP Matching Grant funds and execute the grant agreement in the amount of \$50,000 to offset the costs of the AIP #3-06-0259-019-2018.

Prepared by: Paula Jessup, Airport Manager

Reviewed by: Brian MacDonald, Parks & Recreation Director  
Karin Schnaider, Finance Director  
Midori Lichtwardt, Assistant City Manager

Approved by: Andrew Malik, Acting City Manager

RESOLUTION 2019- \_\_\_\_\_

AUTHORIZING THE SUBMITTAL OF AN AIRPORT IMPROVEMENT PROGRAM (AIP) MATCHING GRANT APPLICATION WITH THE CALIFORNIA DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE MAYOR TO ACCEPT AN ALLOCATION OF FUNDS AND TO EXECUTE THE GRANT AGREEMENT

WHEREAS, the City of Tracy and the Federal Aviation Administration are parties to federal Airport Improvement Program (AIP) grant 3-06-0259-019-2018 for installation of a new rotating beacon on existing tower and the reconstruction of T-hangar taxilanes at the Tracy Municipal Airport, and

WHEREAS, the California Department of Transportation, pursuant to the Public Utilities Code section 21683.1, provides grants of 5% of Federal Aviation Administration grants to airports not to exceed \$50,000, and

WHEREAS, the California Department of Transportation requires the City Council to adopt a resolution authorizing the submission of an application for an AIP Matching grant;

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Tracy hereby authorizes the Airport Manager to file an application for a state AIP Matching grant for this project and authorizes the Mayor to accept the allocation of state AIP Matching funds for the project and to execute the AIP Matching Grant Agreement for this project.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was adopted by City Council of the City of Tracy, on the 15<sup>th</sup> day of January, 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_

MAYOR

ATTEST:

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

AGENDA ITEM 1.F

REQUEST

**APPROVE RESOLUTION INCREASING COMPENSATION AND BENEFITS TO BE PAID TO THE CITY TREASURER**

EXECUTIVE SUMMARY

On August 21, 2018, Council approved Resolution No. 2018-171 with the intention of increasing the salary portion of the City Treasurer's compensation by \$150. Based on the wording used in the staff report and resolution, the action in effect reduced the City Treasurer's overall total compensation because it limited the position's ability to access City-paid health benefits allowed under Resolution No. 2003-391 . This report seeks to correct the action by increasing the monthly pay by \$150 while leaving access to City-paid health benefits intact.

DISCUSSION

On August 21, 2018 Council approved Resolution No. 2018-171 with the intention of increasing the salary portion of the City Treasurer's compensation by \$150 per month. Based on the wording used in both the staff report and resolution, the action inadvertently reduced the Treasurer's overall compensation and benefits by capping total compensation, including benefits at \$950. The intention of the pay increase was to increase the salary by \$150 per month without any effect on the benefits provided by Council Resolution No. 2003-391, which allows for the City Treasurer to receive a salary as well as have access to City-paid health benefits under certain conditions.

If approved, the City Treasurer can receive said compensation, at their preference, in salary or City contribution to retirement, so long as the salary paid by the City does not exceed \$950 per month. Health insurance shall be provided per Resolution No. 2003-391.

FISCAL IMPACT

The increase to the General Fund is \$1,800 per year. There are sufficient funds for this request.

STRATEGIC PLAN

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

RECOMMENDATION:

That the City Council approve, by resolution, an increase to the monthly salary of the City Treasurer from \$800 to \$950, effective September 1, 2018.

Agenda Item 1.F  
January 15, 2019  
Page 2

Prepared and Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Andrew Malik, Acting City Manager

ATTACHMENTS:

Attachment A - Resolution No. 2003-391 City Paid Health Insurance for City  
Treasurer

RESOLUTION 2003-391

A RESOLUTION TO PROVIDE CITY PAID HEALTH INSURANCE FOR CITY TREASURER, CITY CLERK AND CITY COUNCIL

WHEREAS, At the October 7, 2003 City Council meeting, the possibility of providing health insurance to the elected positions of the City was discussed and

WHEREAS, Several Council members indicated that if such health insurance was offered, that it should be restricted to those officials not already covered by an employer paid plan, and

WHEREAS, With a resolution to offer City paid health insurance to the City's elected officials, it would be applicable to the City Treasurer and City Clerk upon adoption, and would take effect for the Mayor and Council until after the next general election, and

WHEREAS, There would be no cash value to an elected official should they not require or be eligible for City insurance, and

WHEREAS, The elected official would not be eligible for city-paid health benefit if the official or the official's spouse has employer-paid health insurance, and

WHEREAS, The elected official shall sign an acknowledgement of eligibility before being provided City-paid health benefits, and

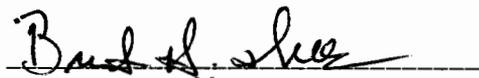
WHEREAS, The monthly amount would be capped at the level specified by the resolution covering department heads, and the official can use this amount toward the procurement of health, dental and/or vision insurance through the City's health benefit plan.

NOW, THEREFORE, BE IT RESOLVED, That City Council provide for City paid health insurance for the City's elected officials subject to the limitations set forth above.

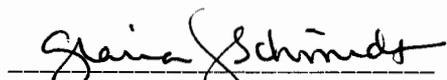
\*\*\*\*\*

The foregoing Resolution 2003-391 was passed and adopted by the Tracy City Council on the 21st day of October, 2003, by the following vote:

|          |                  |                          |
|----------|------------------|--------------------------|
| AYES:    | COUNCIL MEMBERS: | HUFFMAN, TOLBERT, TUCKER |
| NOES:    | COUNCIL MEMBERS: | IVES                     |
| ABSENT:  | COUNCIL MEMBERS: | BILBREY                  |
| ABSTAIN: | COUNCIL MEMBERS: | NONE                     |

  
 \_\_\_\_\_  
 Mayor Pro Tem

ATTEST:

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

RESOLUTION \_\_\_\_\_

APPROVING AN INCREASE IN COMPENSATION AND BENEFITS  
TO BE PAID TO THE CITY TREASURER

WHEREAS, Government Code Section 36517 directs that the compensation for the City Treasurer be determined by ordinance or resolution, and

WHEREAS, Resolution No. 1998-186 fixed the salary of the City Treasurer at \$800 per month, and

WHEREAS, An adjustment in salary is recommended due to increased responsibilities over the past 20-year period;

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The City Treasurer shall receive a salary in an amount not to exceed \$950 per month.
2. The City Treasurer is eligible for City-paid health benefits in accordance with Resolution No. 2003-391

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council on the 15th day of January 2019, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:  
\_\_\_\_\_  
CITY CLERK

AGENDA ITEM 3

REQUEST

**CONDUCT A PUBLIC HEARING AND APPROVE BY RESOLUTION THE LICENSE AGREEMENT BETWEEN THE CITY OF TRACY AND AMERICAN LEGION, JAMES McDERMOTT POST NO. 172, INC., AND APPROVE \$30,000 TO BE ALLOCATED DURING THE 2019-2020 BUDGET AUGMENTATION PROCESS FOR PARKING LOT REPAIR, SLURRY SEAL, AND STRIPING**

EXECUTIVE SUMMARY

In 1991, the City of Tracy ("City") entered into a 25-year license agreement with American Legion, James McDermott Post No. 172 ("Legion"), for use of a "minor portion" of the Ritter Family Ballpark (formerly Tracy Ball Park) in order for the Legion to construct and maintain a parking lot on and adjacent to Legion property located at 1960 North Tracy Boulevard. In exchange, both parties agreed to non-exclusive use of all 51 parking spaces constructed on the properties. The original license agreement expired in 2016 and has continued on a "tenant at will" basis.

The City and Legion wish to enter into a new agreement and continue shared use of the parking lot. Before the City can enter into this agreement, action is required by Council resolution to discontinue use of a minor portion of the Ritter Family Ballpark following a public hearing.

Additionally, at Council direction, staff is requesting approval of funds for the City to repair, slurry seal, and stripe the entire parking lot, which will be completed by December 31, 2019, per recommendation by City engineering staff.

DISCUSSION

Following a public hearing held on November 20, 1991, by Council resolution 91-097, the City and Legion exchanged a 25-year license for the Legion to use City property ("licensed property") in exchange for the City's right to the non-exclusive use of 51 parking spaces on the Legion and licensed properties. As part of the agreement, the Legion constructed and maintained all 51 parking spaces at its sole cost and expense.

The original license agreement expired in 2016 and has continued on a "tenant at will" basis. When the license agreement expired in 2016, all terms of exchange outlined in the 1991 license agreement were considered fulfilled by both parties. Since 2015, the City and Legion have been engaged in an ongoing negotiation to update the terms for a new license agreement. The procedure to enter into a new license agreement that includes use of City property designated for park use is governed by Government Code section 38441, and provides:

*Without a special election, the legislative body may convey a minor portion of such a park in exchange for an equal or greater area or value of privately owned land contiguous to the park after:*

- (a) Notice and a public hearing pursuant to this article.*
- (b) Determination that the exchange is in the public interest.*
- (c) Adoption of a resolution of discontinuance*

Legion property contains approximately 27 parking spaces (approximately 12,525 square feet), while City (“licensed”) property contains 24 parking spaces (approximately 9,900 square feet) and consists of approximately 0.24 acres, located within the boundaries of Ritter Family Ballpark (formerly Tracy Ball Park), contiguous to Legion property. The licensed property is a minor portion of the Ritter Family Ballpark. Because this exchange results in the use of privately owned land of greater area and value than the licensed property, the exchange is deemed to be in the public interest.

To comply with Government Code section 38441, subdivision (a) and Government Code section 38444, subdivision (d), the Council, at its December 4, 2018 meeting, passed a resolution of intention, 2018-244 to hold a public hearing regarding discontinuance of the minor portion of Ritter Family Ballpark. The public hearing was duly noticed and is being held by Council as part of this agenda item. The public and all persons interested in said matter may protest the proposed discontinuance in writing by delivering the protest to the City Clerk before the hearing or by appearing in person at the time of the hearing.

The resolution approving the proposed license agreement in Attachment A includes the discontinuance of park use of the minor portion of the Ritter Family Ballpark. The license agreement reflects the terms agreed to by both parties and includes a five-year license, with an option for one five-year extension at the discretion of the City Manager, for the Legion’s non-exclusive use of the licensed property, in exchange for City non-exclusive use of the 51 parking spaces on the Legion and licensed properties. Negotiations also resulted in terms for limited exclusive use that address shared parking use during anticipated dates and times when City or Legion use of parking lot is unusually heavy. As part of the negotiations, the City has agreed to repair (“dig out” area), slurry seal, and re-stripe the parking lot by December 31, 2019. Staff requests Council approve \$30,000, which includes a \$5,000 (20%) contingency, for the repair, slurry seal, and re-striping of the parking lot.

### STRATEGIC PLAN

This item supports Quality of Life, Goal 1, “Address City amenities and facility usage with an emphasis on accessibility, streamlined services, and cost recovery,” in the City Council Strategic Priorities 2017-2019.

### FISCAL IMPACT

The projected cost of the “dig out” repair, slurry seal, and re-striping of the parking lot is estimated to be \$30,000, which includes a \$5,000 contingency. The total appropriation requested is \$30,000 that will be allocated during the 2019-2020 budget augmentation process to be deposited into a CIP account, which will be created upon approval of the project.

Other general, ongoing maintenance costs incurred during the term of this agreement will be absorbed within annual operating budgets and are estimated not to exceed an average of \$1,000 per fiscal year.

RECOMMENDATION

That Council approve, by resolution, the License Agreement between the City of Tracy and American Legion, James McDermott Post No. 172, Inc., and approve \$30,000 to be allocated during the 2019-2020 budget augmentation process for repair, slurry seal, and re-striping of the parking lot.

Prepared by: Christine Mabry, Management Analyst I

Reviewed by: Thien Nguyen, Recreation Services Supervisor  
Brian MacDonald, Parks & Recreation Director  
Karin Schnaider, Finance Director

Approved by: Andrew Malik, Acting City Manager

ATTACHMENTS

Attachment A: License Agreement between City of Tracy and American Legion, James McDermott Post No. 172, Inc.

**CITY OF TRACY  
LICENSE AGREEMENT  
WITH JAMES McDERMOTT POST NO. 172., THE AMERICAN LEGION, DEPARTMENT OF  
CALIFORNIA**

This License Agreement (hereafter "Agreement") is entered into between the City of Tracy ("CITY") a California Municipal Corporation, and James McDermott Post No. 172, The American Legion, Department of California ("LICENSEE"), a California Domestic Non-profit Corporation, effective on the date of its execution by both parties.

**RECITALS**

- a. CITY and LICENSEE entered into a License Agreement for the use of a portion of Tracy Ball Park in exchange for constructing, reconstructing, and maintaining parking spaces thereon, approved by the Tracy City Council on November 20, 1991, under Resolution No. 91-097.
- b. Pursuant to the November 20, 1991 License Agreement, CITY and LICENSEE each obtained non-exclusive license to use the parking spaces on the subject CITY property and LICENSEE property for a term of 25 years.
- c. CITY and LICENSEE desire to enter into this Agreement to allow LICENSEE to continue with a non-exclusive license for the joint use of the approximately 51 parking spaces, subject to the hours for exclusive and non-exclusive use set forth below in item 6.
- d. CITY has duly scheduled a public hearing and has adopted a resolution of discontinuance of park use on the licensed property for the duration of this agreement, terminating on December 31, 2023.

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

1. **RECITALS TRUE AND CORRECT.** CITY and LICENSEE hereby agree that the recitals set forth above are true and correct.
2. **LICENSE TERM.** The term of this Agreement shall begin on January 15, 2019, and terminate on December 31, 2023, unless otherwise terminated by either party in advance, per Section 9 of this Agreement. City, at the sole discretion of the City Manager, may extend this Agreement for one, additional five-year term.
3. **DESCRIPTION OF LICENSED PROPERTY.** The following described parcel of land called "licensed property" is a minor portion of the Tracy Ball Park (Exhibits A & B: City Property/ "Licensed Property").

A parcel of property located in the City of Tracy, County of San Joaquin, State of California, more particularly described as follows:

A portion of Lot 191 in PARKER VILLAS NO. 3 and a portion of Lot 72 of PARKER ACRES, City of Tracy, situated in the Northwest one-quarter of Section 21, Township 2 South, Range 5 East, Mount Diablo Base and Meridian, more particularly described as follows:

BEGINNING at the Southeast corner of Parcel "A" as labeled in Exhibit A; thence North 0°01' East, along the East line of said Parcel "A", 143.50 feet to the Northeast corner of said Parcel "A"; thence South 89°53' East, along the Easterly extension of the North line of said Parcel "A". 74.00 feet to a point; thence South 0°1' West, parallel to the East line of said Parcel "A", 1143.50 feet to a point of the Easterly extension of the South line of said Parcel "A"; thence North 89°53' West, along the Easterly extension of the South line of said Parcel "A", 74.00 feet to a point of beginning.

Containing 0.24 acre, more or less.

4. **LICENSE PAYMENT AMOUNT.** The value of the CITY's non-exclusive use of 51 parking spaces provided by LICENSEE is equal or greater to the value of the use of said minor portion of the Tracy Ball Park for the LICENSE TERM, as stated in section 2.
5. **INSURANCE.** LICENSEE, at its sole expense, shall maintain in full force and effect throughout the term of this Agreement the following insurance, and evidence of said insurance shall be provided through a certificate of insurance presented to the CITY.
  - a. **Commercial General Liability Insurance** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage. CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an "additional insured."
6. **MAINTENANCE AND CARE OF LICENSED PROPERTY.** It is agreed by and between the parties hereto that:

The subject property shall be used by either party for non-exclusive, joint parking, excepting the following:

The parties agree that during the months of July to November, on weeknights, Monday through Friday, between the hours of 5:00 pm and 9:00 pm, parking spaces 29 to 51 shall be for the exclusive use and under the control of the Legion. Parking spaces 1 to 28 shall be exclusively under the control of City and subject to the City park ordinance. (Exhibits A & B).

The parties furthermore agree that for up to five (5) pre-designated dates per calendar year, LICENSEE may close the parking lot for exclusive Legion use. The parties shall agree upon the dates in writing.

It is furthermore agreed by and between the parties hereto that each party has the following responsibilities:

- a. **CITY shall:**

1. During permitted use of the Tracy Ball Park, City shall coordinate use of licensed property by LICENSEE and permitted park user group by:
    - i. Providing parking and behavior expectations in writing to permitted park user group for distribution to its members;
    - ii. Providing a schedule of events held at the American Legion building to permitted park user group;
    - iii. Providing one City staff person on site up to the first two weeks of park user group permit to coordinate with LICENSEE and permitted park user group to: maintain safe traffic flow and parking in marked spaces; clean up litter and debris; and refer any and all procedural non-compliance to the user group's Board of Directors for immediate follow up and correction;
    - iv. Facilitating communication between LICENSEE and permitted user group;
    - v. Providing City traffic safety equipment, such as delineators, for the purposes of routing parking lot traffic flow during park user permitted dates and times;
    - vi. Providing City staff and equipment to assist LICENSEE to close parking lot on up to five (5), pre-designated dates per calendar year, agreed upon by both parties in writing, for exclusive Legion use.
  
  2. Maintain property as follows:
    - i. Repair and maintain approximately 290 linear feet of fencing located on the north, east, and south perimeter of parking lot and gate located within north perimeter fencing on licensed property (Exhibits A & B);
    - ii. Repair section of asphalt in northwest area of parking lot as designated by City engineering staff (Exhibit C); then, slurry seal and restripe entire parking lot, to be completed by December 31, 2019.
    - iii. Provide monthly street sweeping, by City street sweeping contractor, of licensed property and LICENSEE property and emergency call out street sweeping on an as-needed basis;
    - iv. Maintain and replace concrete car stop blocks as needed on licensed property;
- b. LICENSEE shall:**
1. Provide and maintain ADA parking spaces on licensed property, as required for the parking lot.

2. Maintain and replace concrete car stop blocks as needed on LICENSEE property.
3. Maintain property as follows:
  - i. Daily litter and debris cleanup of licensed and LICENSEE property;
  - ii. Monthly street sweeping prep on licensed and LICENSEE property, by blowing dirt and debris to the center of the parking lot on published and scheduled street sweeping days;
  - iii. Weed control, manually or by state-qualified applicator;
  - iv. Maintenance of paint striping on licensed and LICENSEE property.

7. **INDEMNIFICATION.** LICENSEE shall defend, indemnify, save and hold harmless CITY, its officers, agents, volunteers and employees, from any claims or lawsuits arising out of injury to, or death of, any person or damage to any property caused by or alleged to have been caused by any negligent act or omission of LICENSEE, in carrying out the terms of this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of CITY.

8. **ACCESS TO LICENSED PROPERTY.** CITY, its officers, agents, employees, volunteers, assignees, and lessees or subcontractors, shall have the right to enter on to LICENSEE's property for the purposes of accessing licensed property and to perform necessary maintenance and repairs.

9. **TERMINATION OF AGREEMENT.** Either party may terminate this Agreement by providing at least ninety (90) days' advance written notice.

10. **UTILITIES.** LICENSEE has no right, nor shall the CITY provide such right, to any use of CITY utilities as a part of this Agreement.

11. **TIME OF PERFORMANCE.** Time is of the essence in the performance of this Agreement and the parties shall strictly adhere to the timing requirements set forth herein.

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

13. **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.

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

- 15. JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of this 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.
- 16. ENTIRE AGREEMENT.** This Agreement comprises the entire integrated understanding between the parties concerning the license of the premises. This Agreement supersedes all prior negotiations, representations, or agreements.
- 17. 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 respective party as follows:

To CITY:

Parks & Recreation Director  
333 Civic Center Plaza  
Tracy, CA 95376

To LICENSEE:

Commander  
American Legion, James McDermott Post No. 172  
P.O. Box 156  
Tracy, CA 95378

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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

- 18. 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 LICENSEE and the CITY. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

\*\*\* This section left intentionally blank. \*\*\*

CITY OF TRACY

By: \_\_\_\_\_  
Randall Bradley  
Title: City Manager

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

ATTEST:

By: \_\_\_\_\_  
Adrienne Richardson  
Title: City Clerk

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

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Thomas Watson  
Title: City Attorney

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

LICENSEE

By: Vaughn Gates  
Vaughn Gates  
Title: Post Commander

Date: 12-18-18

By: Wes Huffman  
Wes Huffman  
Title: Finance Officer

Date: 12-18-18

**EXHIBITS:**

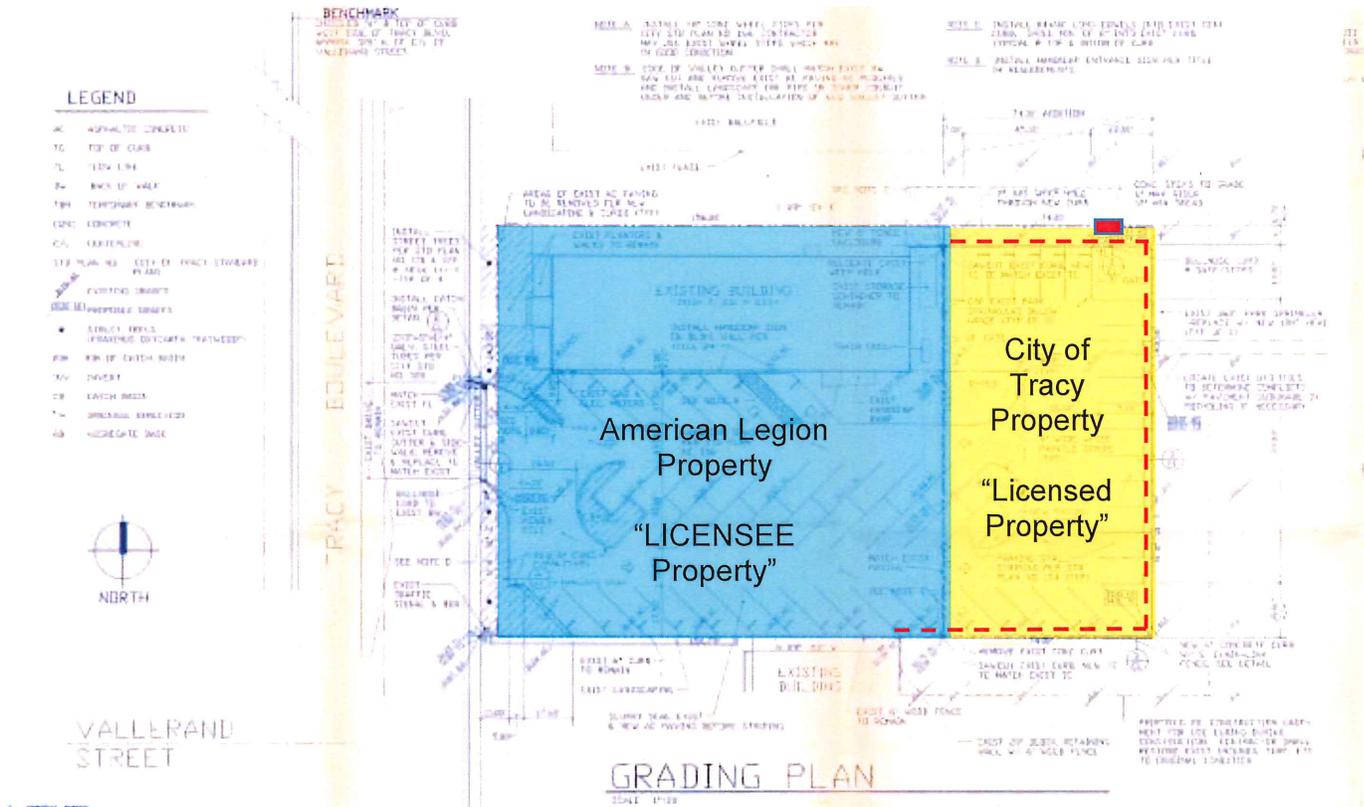
A – Engineer’s Drawing of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park

B – Aerial View of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park

C – Engineer’s Estimate to Repair, Slurry Seal, and Stripe Parking Lot

Exhibit A

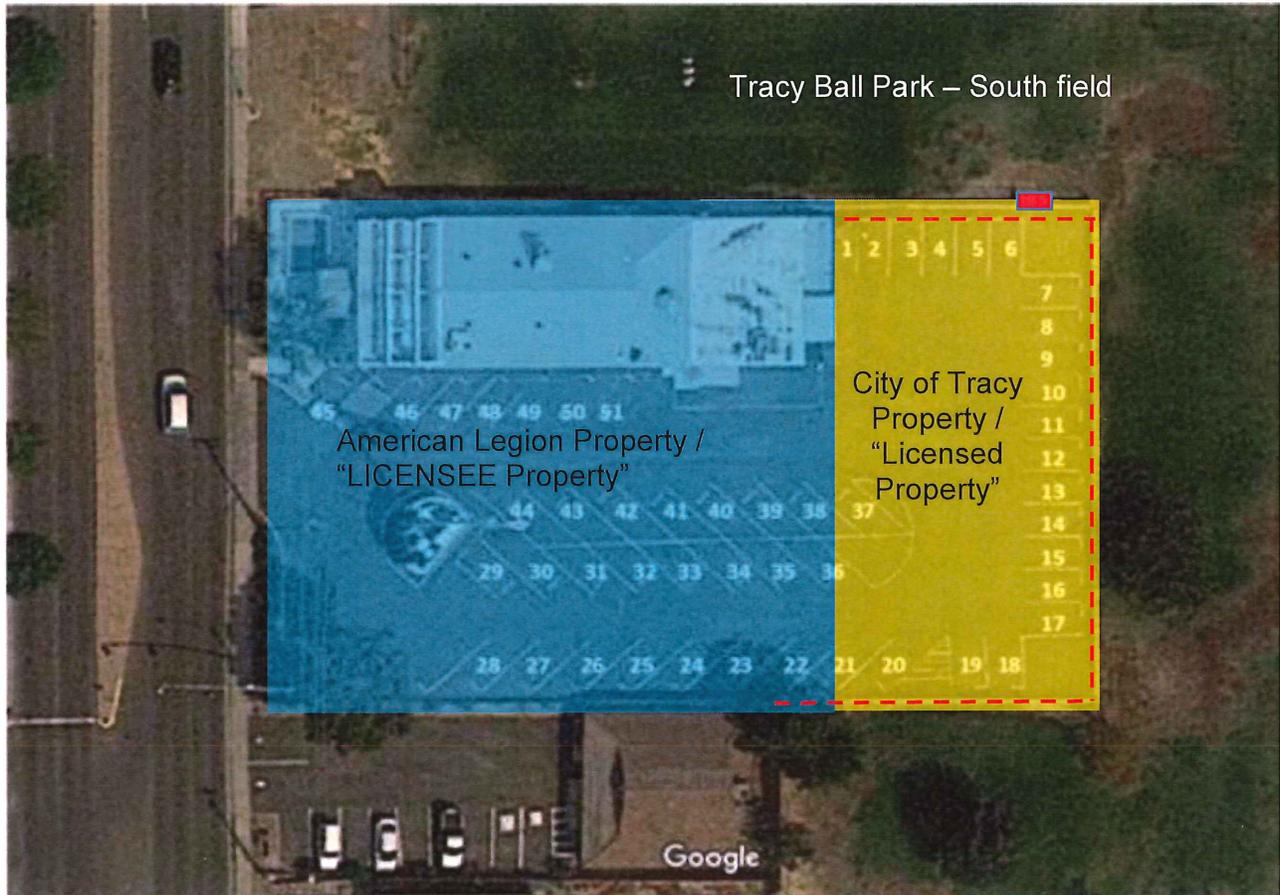
Engineer’s Drawing of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park



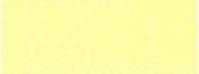
- = American Legion Property
- = City of Tracy Property / "Parcel A"
- = Perimeter Fence
- = Gate access to Tracy Ball Park @ North Perimeter Fence

**Exhibit B**

**Aerial View of American Legion Building, Parking Lot (Legion Property and City Property), Adjacent to Tracy Ball Park**



 = American Legion Property

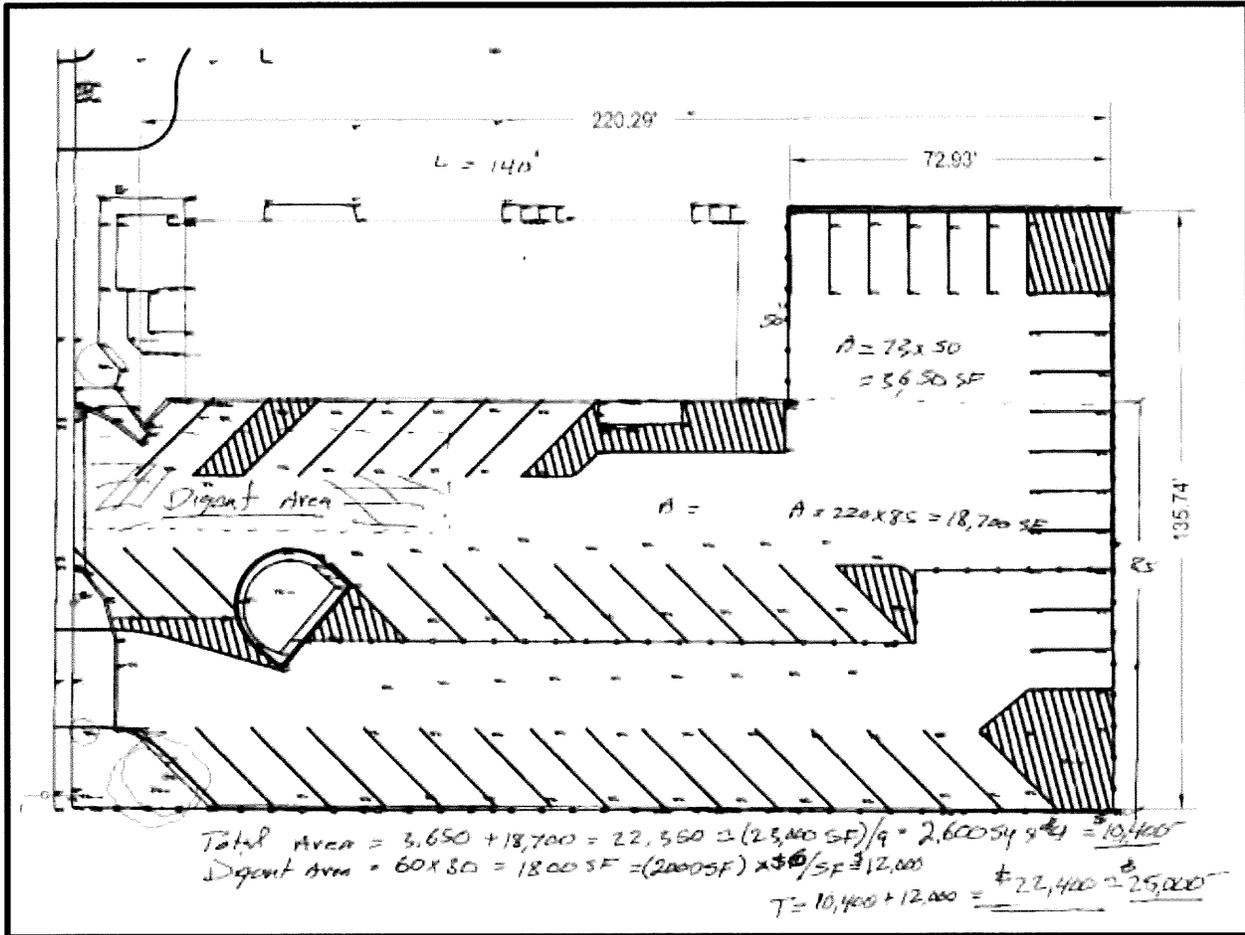
 = City of Tracy Property / "Parcel A"

 = Perimeter Fence

 = Gate access to Tracy Ball Park @ North Perimeter Fence

Exhibit C

Engineer's Estimate to Repair, Slurry Seal, and Stripe Parking Lot



RESOLUTION \_\_\_\_\_

A RESOLUTION APPROVING THE LICENSE AGREEMENT BETWEEN THE CITY OF TRACY AND AMERICAN LEGION, JAMES McDERMOTT POST NO. 172, INC., AND APPROVING \$30,000 TO BE ALLOCATED DURING THE 2019-2020 BUDGET AUGMENTATION PROCESS FOR PARKING LOT REPAIR, SLURRY SEAL, AND STRIPING

WHEREAS, the Tracy City Council adopted a resolution of intention on December 4, 2018, 2018-244, to hold a public hearing on the discontinuance of a minor portion of the Ritter Family Ballpark (formerly Tracy Ball Park) on January 15, 2019, and

WHEREAS, notice of said hearing was duly posted, and

WHEREAS, said hearing was conducted on January 15, 2019;

NOW, THEREFORE, BE IT RESOLVED that City Council finds:

1. That the land to be discontinued for park use at the Ritter Family Ballpark (formerly Tracy Ball Park) as hereinafter described is a minor portion of said park.
2. That the term of the license, from January 15, 2019, through December 31, 2023, to use said minor portion of said park is exchanged for non-exclusive use of approximately 51 parking spaces situated on the land described herein and land contiguous to the park at 1960 North Tracy Boulevard owned by the American Legion, James McDermott Post No. 172, Inc.
3. That the value of the parking spaces is equal to or greater than the value of the use of said minor portion for the term of the agreement.
4. That obtaining the non-exclusive use of the 51 parking spaces for the users of the Ritter Family Ballpark is in the public interest and requires the discontinuance of the use of such minor portion of such land as a public park.
5. That pursuant to Government Code Section 38441, such discontinuance does not require a special election.

BE IT ALSO RESOLVED that the park use of the following described land is discontinued for the term of January 15, 2019 through December 31, 2023, and may be extended an additional five years through December 31, 2028, if and when the license agreement term is extended at the discretion of the City Manager:

The real property situated at the City of Tracy, County of San Joaquin, State of California, depicted as Parcel A on Exhibit 1 attached hereto and incorporated herein.

BE IT ALSO RESOLVED that Council approves the appropriation of \$30,000 to be allocated during the 2019-2020 budget augmentation process to be used to repair, slurry seal, and re-stripe the parking lot referenced in the license agreement, which is to be deposited into a CIP account created for the project.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by Tracy City Council on the 15<sup>th</sup> day of January 2019, by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

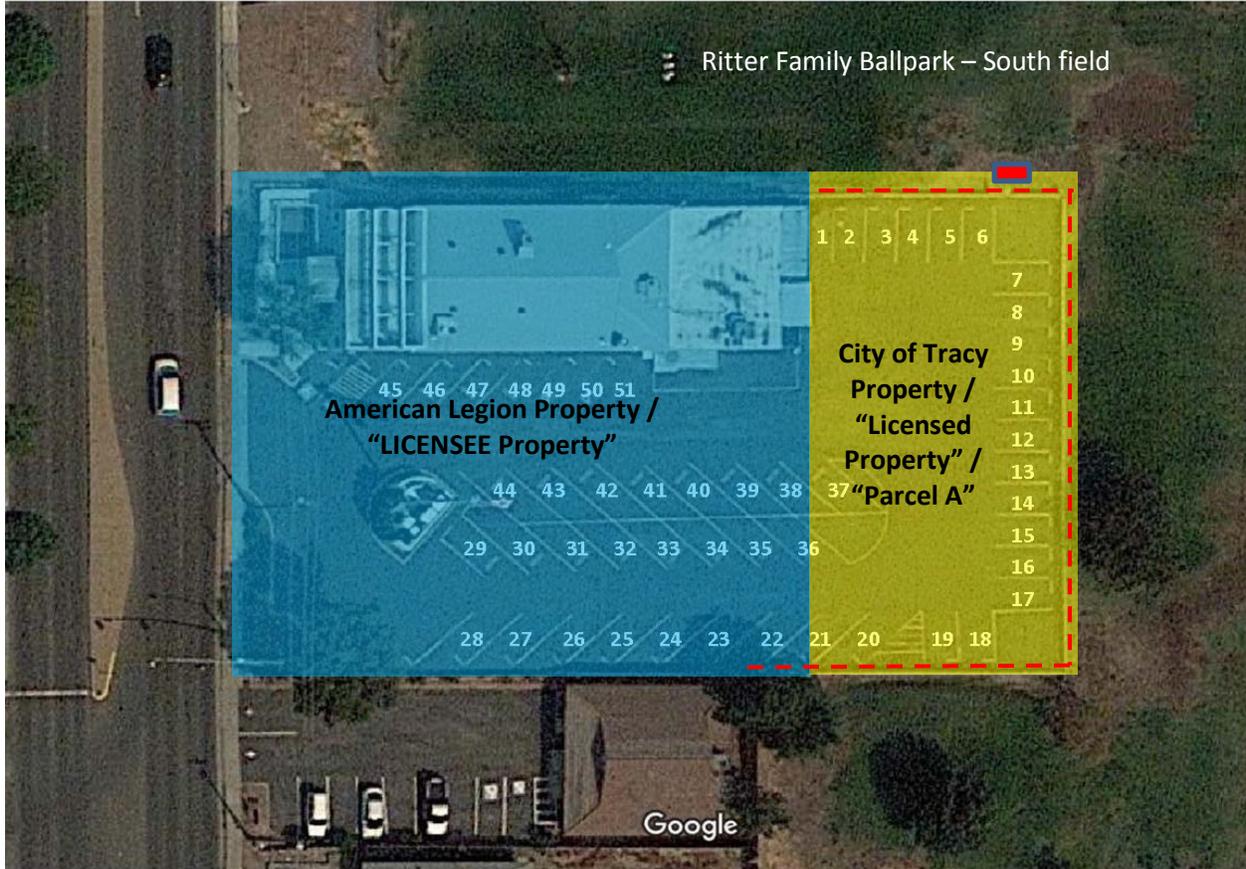
ABSTAIN: COUNCIL MEMBERS

\_\_\_\_\_  
MAYOR

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

**Attachment: Exhibit 1**

**Exhibit 1**



= American Legion Property



= City of Tracy Property / "Parcel A"



= Perimeter Fence



= Gate access to Tracy Ball Park @ North Perimeter Fence

AGENDA ITEM 4

REQUEST

**APPROVE THE CITY OF TRACY 2019 REGIONAL TRANSPORTATION AND LOCAL PROJECT SUBMITTAL FOR CONGRESSIONAL APPROPRIATION REQUESTS DURING SAN JOAQUIN COUNCIL OF GOVERNMENTS' ONE VOICE TRIP TO WASHINGTON D.C.**

EXECUTIVE SUMMARY

City Council's approval of the listed projects will allow these transportation improvement projects to be eligible for inclusion in the congressional funding appropriation requests for the San Joaquin Council of Governments' (SJCOG) One Voice trip to Washington D.C.

DISCUSSION

Every year the City of Tracy submits a list of projects to SJCOG for consideration in their legislative agenda and congressional appropriation requests during the One Voice trip to Washington D.C. The One Voice trip includes representatives of San Joaquin County, SJCOG, and city elected officials. Each city is asked to submit a total of two projects; one project of regional significance, and one project for local improvements.

Staff has reviewed the existing needs of various transportation projects and is recommending the following two projects for the 2019 One Voice trip.

Valley Link (Connecting BART and ACE Rail System)

Total Construction Cost (estimate) - \$1.8 billion  
Requested Appropriation - \$25 million (BUILD Grant Request)

The growth of Northern San Joaquin Valley commuters to the Bay Area on the I-205 and I-580 have been particularly dramatic, more than doubling from 31,670 in 1990 to 64,930 in 2013, with traffic anticipated to increase another 60% within the next two decades. Additionally, nearly 14,000 trucks per day travel over the Altamont Pass causing further congestion and bottlenecks.

The Metropolitan Transportation Commission ranks the I-580 among the Bay Area freeway corridors with the highest commuting delays.

To ease congestion, in October 2017 Assembly Bill 758 was signed into law creating the Tri-Valley San Joaquin-Valley Regional Rail Authority (Authority), thereby placing authority with local stakeholders to plan, develop and deliver a rail connection between Bay Area Rapid Transit (BART) and Altamont Commuter Express (ACE). The Authority has adopted a preferred project concept and is advancing the project concept into the environmental review phase; the project is now known as Valley Link. Valley Link will extend initially from the planned ACE Lathrop Station in San Joaquin Valley through the Altamont Pass, then connect with the Dublin/Pleasanton BART terminus station in the

Tri-Valley, with additional Phase 1 stations in River Islands, Downtown Tracy, and Mountain House.

The United States Department of Transportation's (USDOT) Better Utilizing Investments to Leverage Development (BUILD) program is likely the most relevant federal discretionary grant program to the Valley Link project because it seeks to award funds to innovative partnerships between government and the private sector that benefit multimodal transportation and freight needs, particularly in rural areas. The objectives and benefits of the Valley Link project are conceptually well aligned with the goals of the BUILD federal discretionary grant program. The USDOT is expected to release updated grant guidelines and a notice of funding opportunity for 2019, at which time competitiveness for Valley Link will be reassessed in greater detail.

Project Segment: West Tracy to North Lathrop  
Segment Project Cost: \$361 million

- Right of way improvements (\$204m)
- Stations (Downtown Tracy (\$17m), River Islands (\$60m))
- Maintenance Facility (\$80m)

BUILD Grant application

- Tracy Maintenance Facility
- Stations (Downtown Tracy, River Islands)

Project sponsors request that a BUILD Grant award of \$25 million be added to the One Voice trip agenda.

International Park of Commerce (IPC) : Interchange Improvements and Parkway Improvements connecting the two interchanges

Total Construction Cost (estimate) - \$68 million  
Requested Appropriation - \$5 million

The International Park of Commerce (IPC, and otherwise known as the Cordes Ranch project) is an office, retail and industrial park comprised of approximately 1,700 acres and is generally located on the west side of Tracy bounded by I-205, the former Mountain House Parkway, Schulte Road and just east of Hansen Road. The project is expected to create over 30,000 jobs at build-out and will include over 28 million square feet of building. The IPC project is of national significance as it directly accesses two routes on the National Freight System. It is also within 50 miles of the Port of Oakland, the third largest port in California, and a Port with known rail congestion issues, making truck transport a necessary option for national goods movement. In order to facilitate efficient goods movement in the region and nationally, two interchanges and a key access parkway between the interchanges are necessary for construction.

The total construction cost for the two interchanges and necessary parkway improvements is approximately \$68 million. The requested federal appropriations of \$5 million dollars will be used for the design and environmental analysis (CEQA and NEPA) for the two interchanges as well as purchasing future right-of-way.

This list of projects, after approval from City Council, will be submitted to SJCOG for inclusion in the legislative agenda for the One Voice trip to Washington D.C. and congressional funding consideration. Submittal of projects to the SJCOG's One Voice effort does not necessarily mean continued participation in the program. Other alternatives can also be considered in the future to advocate for Tracy projects.

#### STRATEGIC PLAN

This agenda item is consistent with the Council's adopted Economic Development Strategy to ensure the availability of infrastructure necessary for development in Tracy.

#### FISCAL IMPACT

Approving the proposed projects for the One Voice lobbying trip will not impact the General Fund. The City is requesting approximately \$5 million in congressional appropriations and \$25 million as part of a future BUILD Grant award. In addition to this funding, the proposed projects could be supported through other sources, including SJCOG Measure K Sales Tax, development impact fees or other sources.

#### RECOMMENDATION

That City Council approve, by resolution, the City of Tracy 2019 regional transportation and local project submittal for congressional appropriation requests during San Joaquin Council of Governments' One Voice trip to Washington D.C.

Prepared by: Robert Armijo, PE, City Engineer / Assistant Development Services Director

Reviewed by: Karin Schnaider, Finance Director

Approved by: Andrew Malik, Acting City Manager

RESOLUTION 2019-\_\_\_\_\_

APPROVING THE CITY OF TRACY 2019 REGIONAL TRANSPORTATION AND LOCAL PROJECT SUBMITTAL FOR CONGRESSIONAL APPROPRIATION REQUESTS DURING SAN JOAQUIN COUNCIL OF GOVERNMENTS' ONE VOICE TRIP TO WASHINGTON D.C.

WHEREAS, The City of Tracy submits a list of projects for congressional appropriation consideration at the annual One Voice trip to Washington D.C., by the San Joaquin County Council of Governments and city elected officials, and

WHEREAS, Staff reviewed the existing needs of various transportation projects and is recommending the following two projects be submitted for congressional funding consideration as part of the One Voice trip:

Valley Link (Connecting BART and ACE Rail System)

Total Construction Cost (estimate) - \$1.8 billion  
Requested Appropriation - \$25 million (BUILD Grant Request)

International Park of Commerce (IPC) : Interchange Improvements and Parkway Improvements connecting the two Interchanges

Total Construction Cost (estimate) - \$68 million  
Requested Appropriation - \$5 million

WHEREAS, In addition to the requested congressional appropriations, funding for the above projects will be shared by a variety of sources including Measure K Sales Tax and development impact fees;

NOW, THEREFORE BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the aforementioned list of City of Tracy 2019 projects for the San Joaquin Council of Governments' One Voice Trip to Washington D.C. for congressional appropriation requests.

\* \* \* \* \*

The foregoing Resolution 2019-\_\_\_\_\_ was introduced and adopted at a regular meeting of the City of Tracy City Council on the 15<sup>th</sup> day of January, 2019 by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 5

REQUEST

**ADOPT URGENCY ORDINANCE TEMPORARILY PROHIBITING OUTDOOR CULTIVATION, COMMERCIAL CULTIVATION AND MANUFACTURING, AND SALES AND DELIVERY OF CANNABIS IN THE CITY AND PROVIDE DIRECTION TO STAFF**

EXECUTIVE SUMMARY

Since June 2017, the City Council has engaged in lengthy discussions and conducted outreach to the community in response to the passage of the Adult Use of Marijuana Act (AUMA or Proposition 64). On September 19, 2017, the City Council adopted Ordinance No. 1240, which temporarily prohibited outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of cannabis in the City of Tracy until December 31, 2018, to allow time for the City to consider and discuss reasonable regulations for such uses before the State started issuing licenses to cannabis businesses on January 1, 2018.

On December 5, 2017, the City Council directed staff to prepare an ordinance to allow up to two medical cannabis non-storefront (i.e., delivery only) retailers (i.e., dispensaries) to operate in the City's industrial locations, subject to a high level of regulation and oversight by the City, and a tax ordinance for all cannabis business activities. The Council placed Measure D, a special tax measure for commercial cannabis activity, on the November 2018 ballot. Measure D failed to obtain the required two-thirds voter approval. Council's previous discussions indicated that the approval of the tax was a prerequisite to adopting the ordinances to allow two cannabis delivery businesses to operate in Tracy.

Staff is recommending that Council adopt an urgency ordinance pursuant to California Government Code Section 65858 to institute a temporary ban (45 days) on commercial cannabis activity given the expiration of the City's ban on December 31, 2018. The urgency ordinance would take effect immediately if approved by a four-fifths vote of the Council. Staff is also seeking Council direction on whether to return with an ordinance to permanently ban commercial cannabis activity or to discuss options for allowing certain cannabis commercial activity in the City.

DISCUSSION

Background

In November 2016, the California voters passed Proposition 64, which legalized the use of non-medicinal marijuana (cannabis) by individuals over the age of 21 and the cultivation of up to six plants for personal use.

On June 13, 2017, staff presented and Council discussed general aspects of the potential regulations available to jurisdictions within Proposition 64. Council

directed staff to bring back greater detail and best practices on a number of aspects of regulating and/or implementing recreational and medical marijuana in the City.

The City hired The HDL Companies (HDL), a consulting firm with Proposition 64 expertise, to develop and implement a Council and community education and outreach program related to the implementation of Proposition 64 in Tracy. The following table outlines some key activities related to cannabis policy that occurred since June 2017.

| Date                    | Meeting/<br>Outreach | Purpose or Outcome   |
|-------------------------|----------------------|--|
| June 13, 2017           | City Council         | Informational item regarding cannabis and Proposition 64; City Council asked staff to return with more information on impacts including service level impacts and fiscal impacts, if known.  |
| July                    | Staff                | Entered into contract with HdL, a consultant with expertise on cannabis regulation and taxation.   |
| Sept. 5                 | City Council         | Temporary ordinance prohibiting outdoor cultivation, commercial cultivation and manufacturing, and sales of marijuana (cannabis) and delivery of adult use marijuana (cannabis) until December 31, 2018, to allow time for the City Council to consider reasonable regulations for such uses.  |
| Oct. 3                  | City Council         | Education about Proposition 64 and State law regarding cannabis. Public input about cannabis uses, such as retail, testing, personal cultivation, and potential land use and public safety impacts.  |
| Oct. 19<br>Oct. 26      | Public Outreach      | Two Community Engagement meetings: Education about Proposition 64 and State law regarding cannabis. Public input concerning cannabis uses, such as retail, testing, personal cultivation, and potential land use and public safety impacts.  |
| Oct. 26                 | Online Engagement    | Launched online engagement tool (cannabis survey), asking for input on cannabis uses in Tracy. Survey open from October 26th through November 23rd, receiving <b>936</b> responses.  |
| Dec. 5                  | City Council         | Directed staff to develop an ordinance to allow two dispensaries to sell only medical cannabis which will be highly regulated, for delivery only, in an industrial area only, with land use restrictions and or Police restrictions to be brought back to Council at a later date.<br>Directed staff to place a general tax on the November 2018 ballot with a rate between 2% and 15% to be determined at a later date. |
| Dec. 2017-<br>Feb. 2018 | Staff meetings       | Staff received draft regulatory ordinance from HdL and created three sub-committees to review. 1) Public Safety and Code Enforcement; 2) Permitting, Land Use, and Building; 3) Licensing and Taxation. Each sub-committee   |

|          |                     |   |
|----------|---------------------|---|
|          |                     | is reviewing the draft regulatory ordinance based upon areas of expertise.<br>Staff received draft tax ordinance from HdL.  |
| March 20 | City Council        | <ul style="list-style-type: none"> <li>• Consideration of maximum tax rates for cannabis business activities</li> <li>• Consideration of Special Tax measure for November 2018</li> <li>• Consideration of special purpose for cannabis tax revenues.</li> <li>• Overview of regulatory ordinance timeline</li> </ul> |
| May 1    | City Council        | Council approved submitting tax ordinance to the voters on the November 2018 ballot.  |
| July 25  | Planning Commission | Presented draft Regulatory Ordinance and Zoning Ordinance with proposed locational requirements for review and discussion.  |
| Sept. 18 | City Council        | Present draft Regulatory Ordinance and Zoning Ordinance for discussion.<br>Discuss permitting and application process, including fees.  |
| Nov. 6   | General Election    | Voters consider Measure D (Cannabis Special Tax)  |
| Dec. 6   |                     | Registrar of Voters certified election City Clerk announces election results.<br><br>62.24% of voters voted Yes on Measure D and 37.76% voted No. The Measure failed.   |

Urgency Ordinance

Government Code section 65858 authorizes the adoption of an interim urgency ordinance to protect the public health, safety, and welfare, and to prohibit land uses that may conflict with land use regulations that a legislative body is considering, studying, or intending to study within a reasonable time. An urgency ordinance must contain findings that there is a current and immediate threat to the public health, safety or welfare and that the approval of additional entitlements would result in that threat to the public health, safety or welfare. A four-fifths vote of the City Council is required to enact an urgency ordinance. An urgency ordinance takes effect immediately upon approval by Council and is in effect for 45 days following its adoption. Urgency ordinances may be extended a maximum of two (2) times for a total maximum duration of two (2) years. Section 65858(d) requires legislative body to issue a written report describing the measures taken to alleviate the condition(s) which led to the adoption of the ordinance at least ten (10) days prior to the expiration of the urgency ordinance or any extension.

The proposed urgency ordinance would prohibit:

1. Cultivation of medicinal cannabis.
  - a. The City has prohibited the cultivation of medicinal cannabis since 2012 when Ordinance No. 1170 was adopted.
2. Outdoor cultivation of cannabis.

- a. The indoor cultivation of up to six plants per residence allowed under Proposition 64 would still be permissible.
3. Commercial medicinal and adult-use cannabis businesses.
4. Medicinal and adult-use cannabis dispensaries

Staff recommends that Council adopt the urgency ordinance because the City's previous ban on these activities expired on December 31, 2018 and therefore there is no ordinance or regulation expressly prohibiting commercial cannabis activities and uses in the City. Under Proposition 64 and subsequently enacted state laws and regulations, a cannabis business must first apply to the state to receive the appropriate cannabis license (i.e. retailer, cultivation, manufacturing). The state will not approve a license if the approval violates any local ordinance or regulation. State law requires that the cannabis licensing authority contact the local jurisdiction to confirm whether issuing the license violates any local ordinance or regulation. Local jurisdictions have between 10- 60 days (depending on circumstances) to respond to the state's inquiries regarding a potential licensee.

The State is currently reviewing cannabis regulations proposed by the state licensing authorities that may impact the City's ability to regulate cannabis deliveries and shorten the time period for cities to respond to licensing inquiries from the State.

#### FISCAL IMPACT

There is no immediate fiscal impact associated with the adoption of this urgency ordinance.

#### RECOMMENDATION

Staff recommends that the City Council adopt an urgency ordinance prohibiting outdoor cultivation, commercial cultivation and manufacturing, and sales of marijuana (cannabis) and delivery of cannabis, to allow time for the City Council to consider reasonable regulations for such uses; and provide direction to staff.

Prepared by: Leticia Ramirez, Assistant City Attorney  
Karin Schnaider, Finance Director

Reviewed by: Bill Dean, Assistant Development Services Director  
Midori Lichtwardt, Assistant City Manager  
Thomas Watson, City Attorney

Approved by: Andrew Malik, Acting City Manager

#### ATTACHMENTS

Attachment A –Urgency Ordinance

## ORDINANCE \_\_\_\_\_

## AN URGENCY ORDINANCE OF THE CITY OF TRACY PROHIBITING OUTDOOR CULTIVATION, COMMERCIAL CULTIVATION AND MANUFACTURING, AND SALES AND DELIVERY OF MARIJUANA (CANNABIS)

WHEREAS, California voters approved Proposition 64, the Adult Use of Marijuana Act (AUMA), in November 2016, which legalizes the use of non-medicinal (recreational) marijuana by adults and the cultivation of up to six marijuana plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical marijuana (or cannabis) for adult use, and

WHEREAS, Cities have the authority to ban, restrict, or otherwise regulate certain non-medical marijuana activities and uses in their jurisdictions under the AUMA, and

WHEREAS, On September 19, 2017, the City Council adopted Ordinance No. 1240 which prohibited outdoor cultivation, commercial cultivation and manufacturing, and sales and delivery of cannabis in the City of Tracy until December 31, 2018 to allow time for the City to consider and discuss reasonable regulations for such uses before the State started issuing licenses to cannabis businesses on January 2018. and

WHEREAS, Because Ordinance No.1240 has expired there are no local ordinances or regulations addressing the outdoor cultivation of cannabis and commercial cannabis activities in the City. While a state license is required in order to engage in commercial cannabis activity, express City regulations regarding these uses and are necessary to provide clear guidelines and mitigate adverse impacts related to these uses, which may include, but are not limited to, criminal activity, odors, degradation of the natural environment, nuisances, excess energy consumption, and indoor fire hazards, and

WHEREAS, Although the City has considered and discussed policy options regarding commercial cannabis activity and uses, additional time is needed to adopt a permanent and comprehensive ordinance that adequately protect against the adverse impacts of outdoor cannabis cultivation and commercial cannabis activity, and thus an urgency ordinance under Government Code section 65858(a) is necessary to protect the public health, safety, and welfare.

The City Council of the City of Tracy does ordain as follows:

SECTION 1. Purpose and Findings. It is the purpose and intent of this Ordinance to place a temporary prohibition on all outdoor cannabis cultivation and commercial cannabis activities and land uses in the City while the City evaluates and adopts appropriate land uses and reasonable regulations in accordance with the Adult Use of Marijuana Act (Proposition 64) and subsequently adopted state laws and regulations including the Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"). The City Council has authority to adopt this ordinance pursuant to California Constitution Article XI, Section 7 and Government Code Section 65858 as an urgency measure prohibiting a use that may be conflict with a contemplated general plan, specific plan, or zoning proposal that the City is considering or studying.

The City Council hereby finds, determines and declares that the recitals and statements of fact set forth in this Ordinance are true and correct, constitute a substantive part of this Ordinance, and are incorporated herein by this reference. Based on those facts, the City

Council finds that this Ordinance is necessary pursuant to California Government Code sections 65858 and 36937 (b) that this urgency ordinance is necessary to protect against the immediate threat to the public health, safety and welfare presented by outdoor cannabis cultivation and commercial cannabis activities and uses.

SECTION 2. Section 10.08.3196 of the Tracy Municipal Code is hereby amended to read as follows:

“10.08.3196 - Marijuana dispensaries and cultivation.

(a) For the purpose of this section, the following definitions apply:

(1) Commercial marijuana businesses means any activity licensed by the State of California pursuant to California Business and Professions Code sections 19300 et seq. or 26000 et seq., as those sections may be amended from time to time, including but not limited to marijuana cultivation, distribution, manufacturing, transporting and testing.

(2) Cultivation of marijuana means the planting, growing, harvesting, drying, or processing of marijuana plants, or any part thereof.

(3) Fully enclosed and secure structure means a space within a building, greenhouse, or other structure that has a complete roof enclosure supported by connecting walls extending from the ground to the roof, which is secure against unauthorized entry, and which is accessible only through one or more lockable doors.

(4) Marijuana or cannabis means all the parts of the plant *Cannabis sativa* L. and as defined by California Health and Safety Code section 11018, as this section may be amended from time to time.

(5) Medical or medicinal marijuana means marijuana used for medical purposes pursuant to the Compassionate Use Act (California Health and Safety Code section 11362.5, as those sections may be amended from time to time) and the Medical Marijuana Program Act (California Health and Safety Code section 11362.7 et seq., as those sections may be amended from time to time).

(6) Marijuana dispensary means any facility or location where marijuana is grown, made available to and/or distributed by or to any of the following: a primary caregiver, a qualified patient, a person with an identification card, or a person over the age of 21.

(7) Marijuana products means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients or as defined by California Health and Safety Code section 11018.1, as may be amended from time to time.

(8) Non-medical or adult use marijuana means marijuana that is intended to be used for non-medical purposes pursuant to California Health and Safety Code section 11362.1 et seq., as those sections may be amended from time to time.

(9) Outdoors means any location within the City of Tracy that is not within a fully enclosed and secure structure or private residence, as defined by California Health and Safety Code section 11362.2.

(b) Marijuana Dispensaries Prohibited.

Medicinal and adult-use marijuana dispensaries are prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(c) Commercial Marijuana Businesses Prohibited.

Commercial medicinal and adult-use marijuana businesses are prohibited within the City, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(d) Marijuana Cultivation.

(1) Medical marijuana cultivation is not allowed, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(2) All outdoor cultivation of non-medical marijuana within the City is prohibited, and shall be unlawful, as a principal use, conditional use, special use, or accessory use in any zone.

(e) Penalties.

(1) Violations of this chapter are hereby declared a public nuisance.

(2) Violations of this section are punishable as misdemeanors and as otherwise set forth in chapter 1.04 of this Code. Each day of operation of a commercial marijuana business or marijuana dispensary, or outdoor cultivation of marijuana occurs, in violation of this section constitutes a separate offense.”

SECTION 3. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

SECTION 4. California Environmental Quality Act. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines sections 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment and 15060(c)(3) because the activity is not a project as defined by Section 15378 of the CEQA Guidelines because it has no potential for resulting in physical change to the environment, directly or indirectly.

SECTION 5. This Ordinance shall take effect immediately upon its adoption by a four-fifths vote of the City Council.

SECTION 6. This Ordinance shall be published in accordance with Government Code section 36933.

\* \* \* \* \*

The foregoing Ordinance \_\_\_\_\_ was adopted at a regular meeting of the Tracy City Council on \_\_\_\_\_, 2019, by the following vote, pursuant to Government Code section 65858:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ATTEST:

\_\_\_\_\_  
Mayor

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

AGENDA ITEM 8.A

REQUEST

**APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS TO FILL FIVE VACANCIES ON THE BUILDING BOARD OF APPEALS**

EXECUTIVE SUMMARY

This item requests that Council appoint members to a subcommittee to interview applicants to fill five (5) vacancies on the City's Building Board of Appeals.

DISCUSSION

On July 17, 2018, City Council adopted Ordinance No. 1257 amending Sections 9.44.030 and 9.44.040 of the Tracy Municipal Code to reestablish that five members of the Building Board of Appeals will be appointed to serve four-year terms. The Building Board of Appeals is responsible to hear appeals by anyone aggrieved by any administrative decision in the application of the California Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, Residential, Green Building Standards, Historical Building, Energy, Existing Building and Fire Codes. Following the adoption of the Ordinance, a recruitment was opened on November 13, 2018, and extended on December 6, 2018 and January 7, 2019. At this time the City Clerk's office has received four applications. The recruitment has been extended again and will close on January 28, 2019.

In accordance with Resolution No. 2004-152, a two-member Council subcommittee needs to be appointed to interview applicants and make a recommendation to the full Council.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

That Council, by motion, appoint a two-member subcommittee to interview applicants to fill five vacancies on the Building Board of Appeals.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Andrew Malik, Acting City Manager

AGENDA ITEM 8.B

REQUEST

**REVIEW AND DETERMINE APPOINTMENTS TO COUNCIL COMMITTEES**

EXECUTIVE SUMMARY

This item requests that Council review and determine appointments of Council representatives on various City Council committees and other agency committees and commissions.

DISCUSSION

Appointments to Council subcommittees are reviewed on an annual basis. The appointments were last reviewed on January 16, 2018. Attached is the list of appointments approved by the Council for 2018 (Exhibit A) to various Council committees and regional committees and commissions on which the City of Tracy is allocated a representative.

Some committees may need to be deleted from the list if they are no longer active or if Council participation is no longer required. Likewise, active committees not on the list may need to be added. Council members may be reappointed to the same committees on which they are currently serving, or new assignments can be made upon request.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact associated with this report.

RECOMMENDATION

That the City Council, by motion, determine appointments to the remaining committees as appropriate.

Prepared by: Adrienne Richardson, City Clerk

Reviewed by: Midori Lichtwardt, Assistant City Manager

Approved by: Andrew Malik, Acting City Manager

ATTACHMENT:

Exhibit A - 2018 List of Council Committees/Commissions Appointments

## 2018 - COUNCIL COMMITTEES/COMMISSIONS

| <b>Committee/Commission</b>  | <b>Meetings Held</b>   | <b>Council Members</b>  |
|--|--|---|
| City/Chamber Liaison   | Quarterly  | Council Member Dement<br>Council Member Ransom (Alternate)                |
| City/Schools Liaison   | Every other month  | Council Member Dement<br>Mayor Rickman                                    |
| Investment Review Committee  | Quarterly  | Mayor Pro Tem Vargas<br>Council Member Ransom                             |
| South San Joaquin County Fire Authority                                    | Quarterly  | Mayor Rickman<br>Council Member Ransom<br>(Alternate Required)            |
| *Tracy Area Public Facilities Financing Agency                             | As needed, with an annual meeting in May                               | Council Member Dement<br>Mayor Pro Tem Vargas                             |
| **City Selection Committee   | Annually, additional meetings as needed                                | Mayor Rickman   |
| **Community Development Block Grant Policy Advisory Committee              | As needed, in conjunction with the distribution of the CDBG grants.    | Mayor Pro Tem Vargas  |
| **Council of Governments   | Monthly, in Stockton at 5:30 p.m. on the fourth Thursday of the month. | Mayor Rickman<br>Council Member Young - Alternate                         |
| **Duel Vocational Institution, Citizen's Advisory Committee                | Alternate Months   | Council Member Young<br>Council Member Ransom (Alternate)                 |
| **San Joaquin County Water Advisory Commission                             | Monthly  | Kul Sharma<br>Stephanie Reyna-Heinstand<br>(Alternate)                    |
| **San Joaquin Partnership  | Monthly, on the fourth Thursday of each month                          | Mayor Rickman   |
| **San Joaquin Regional Rail Commission                                     | Monthly  | Selection made by SJCOG<br>(No City of Tracy representative at this time) |
| **Solid Waste Management Plan Advisory Task Force                          | As needed  | Council Member Young<br>Don Scholl  |
| **Special City Selection Committee, SJVAPCD                                | As needed  | Council Member Dement<br>Mayor Pro Tem Vargas (Alternate)                 |
| **League of California Cities, Central Valley Division Executive Committee | Quarterly Dinner Meetings  | Council Member Ransom<br>Council Member Dement (Alternate)                |
| Joint City/County Criminal Justice Task Force                              | As needed  | Mayor Pro Tem Vargas<br>Council Member Dement (Alternate)                 |
| San Joaquin Council of Government's One Voice – Washington                 | Annual Delegation: May 5 – 9, 2019                                     | To Be Determined  |
| Altamont Regional Traffic Authority (ARTA) JPA                             | As needed  | Mayor Rickman   |

## 2018 - COUNCIL COMMITTEES/COMMISSIONS CONTINUED

|   |         |                       |
|---|---------|-----------------------|
| Tri-Valley- San Joaquin Valley<br>Region Rail Authority | Monthly | Mayor Pro Tem Vargas  |
| LAFCo   |         | Mayor Rickman         |
| Tracy Chamber Governmental<br>Affairs Committee         | Monthly | Council Member Dement |

\*Ad Hoc Committee \*\*Outside Agencies \*\*\*Third Agency Members

## COUNCIL COMMITTEES - 2018

Following is a current list of both standing committees and ad hoc committees. Some of these appointments are City of Tracy appointments to a larger body, while others are City directed activities only.

### **I. STANDING COMMITTEES**

#### **A. City/Chamber Liaison Committee**

1. Juana Dement, Council Member
2. Rhodesia Ransom, Council Member (Alternate)
3. City Manager

Meets quarterly, typically on the second Monday of the designated month at 4:00 p.m. at the Chamber to discuss issues of concern to both the City and the Chamber, i.e. Fourth of July activities, Downtown activities, etc.

#### **B. City/Schools Liaison Committee**

1. Robert Rickman, Mayor
2. Juana Dement, Council Member
3. City Manager
4. Alex Neicu, Interim Police Chief
5. Andrew Malik, Assistant City Manager
6. Don Scholl, Public Works Director
7. Brian MacDonald, Parks & Recreation Director
8. Assistant City Manager

Meets every other month on a Thursday at 1:00 p.m. with School District officials to discuss issues of mutual concern, i.e. school pedestrian routes, bus routes, facilities, crossing guards, etc.

#### **C. Investment Review Committee**

1. Veronica Vargas, Mayor Pro Tem
2. Rhodesia Ransom, Council Member
3. Ray McCray, Treasurer
4. Finance Director
5. City Manager

Meets on a quarterly basis to address issues involving investment of the City's funds and management of the City's portfolio. Meetings are usually held on the last Monday of the quarter at 5:30 p.m. in Room 109 at City Hall.

**D. South San Joaquin County Fire Authority (SSJCFA)**

1. Robert Rickman, Mayor
2. Rhodesia Ransom, Council Member
3. Alternate

The SSJCFA consists of four members - two Council Members appointed annually by the City Council, and two Board Members of the Tracy Rural Fire Protection District appointed annually by the Board. The Board of Directors meets on a quarterly basis, and has the responsibility to manage and administer the fire protection services provided to the jurisdictional area of the South San Joaquin County Fire Authority.

**II. AD HOC COMMITTEES**

**A. Tracy Area Public Facilities Financing Agency (TAPFFA)**

1. Juana Dement, Council Member
2. Veronica Vargas, Mayor Pro Tem
3. Finance Director

TAPFFA was formed as a Joint Power Authority between the City, Tracy School District, and Jefferson School District. The JPA was authorized to issue Mello-Roos bonds primarily to build new schools in the Residential Specific Plan area. With the ultimate build out of the TAPFFA area usually only a brief annual meeting of the TAPFFA Board of Directors is necessary in order to approve the budget and levy the necessary tax for the duration of the bonds. The annual meeting is normally held in May.

**III. THIRD AGENCY MEMBER APPOINTMENTS**

**A. City Selection Committee**

1. Robert Rickman, Mayor

This committee is composed of the Mayors of the cities in San Joaquin County and addresses issues related to membership and appointments to regional boards, such as LAFCO, Delta Protection Agency, and the San Joaquin Valley Unified Air Pollution Control District, etc.

**B. Community Development Block Grant Policy Advisory Committee**

1. Veronica Vargas, Mayor Pro Tem

Meets as needed in conjunction with the distribution of the CDBG grants.

**C. Council of Governments (COG)**

1. Robert Rickman, Mayor
2. Nancy Young, Council Member (Alternate)

The Council of Governments meets monthly and deals with regional issues, including transportation issues, habitat mitigation, regional rail issues, airport land use matters, etc. Meetings are held in Stockton at 4:00 p.m. on the fourth Thursday of the month.

**D. Deuel Vocational Institution, Citizens Advisory Committee**

Contact: Martina Virrey, Community Partnership Manager (209/830-3891) or [martina.virrey@cdcr.ca.gov](mailto:martina.virrey@cdcr.ca.gov)

1. Nancy Young, Council Member
2. Rhodesia Ransom, Council Member (Alternate)

This subcommittee serves in an advisory capacity to Deuel Vocational Institution, a state prison located to the southeast of Tracy. The subcommittee's primary objective is to promote effective communication between the Institution and the community at large. California Penal Code Section 5056 requires two persons shall be appointed for two year terms from nominations submitted by the local City Council in whose district the prison is located. Individuals nominated may be elected officials or involved residents of the City. Meetings are normally held on the second Thursday of odd numbered months from 9:00 a.m. to 10:00 a.m.

**E. Local Transportation Authority Citizens Advisory Committee (COG)** Contact: COG (468-3913)

1. Eleassia Davis (Citizen appointed by Mayor)

**F. San Joaquin County Water Advisory Commission**

Contact: Mel Lytle, San Joaquin County Public Works Dept. (468-3000)

1. Kul Sharma, Director of Utilities
2. Stephanie Reyna-Heinstand, Water Resources Coordinator (Alternate)

Appointed by the Board of Supervisors, this Commission acts in an advisory capacity to the San Joaquin County Flood Control and Water Conservation District. Consists of 22 members from the various cities and water agencies in San Joaquin County. Meets monthly.

**G. San Joaquin Partnership**  
Contact: Chris Youngsma, (956-3380)

1. Robert Rickman, Mayor

The San Joaquin Partnership is a non-profit, private-public economic development corporation assisting business and industry to locate into San Joaquin County. Meets on the fourth Thursday of each month at 8:00 a.m.

**H. San Joaquin Regional Rail Commission**  
Contact: Rail Commission staff (468-3025)

1. No current representative (selection made by SJCOG)

The San Joaquin Regional Rail Commission oversees the development of rail services on a regional basis. Meets monthly on the first Friday of each month in Stockton.

**I. Solid Waste Management Plan Advisory Task Force**  
Contact: Tom Horton, SJC Public Works Department – (209/468-3066)

1. Nancy Young, Council Member
2. Don Scholl, Public Works Director

This task force is comprised of elected representatives of the governmental agencies responsible for preparing the County Integrated Waste Management Plan. The duties of the task force include: identifying solid waste management issues of County-wide or regional concern; facilitating the development of multi-jurisdictional arrangements for the marketing of recyclable materials; developing goals, policies and procedures consistent with guidelines and regulations adopted by the Department of Resources Recycling and Recovery, and advising the Board of Supervisors on matters pertaining to the County-wide Household Hazardous Waste Program. Meets as needed.

**J. Special City Selection Committee, SJVAPCD**  
Contact: Seyed Sadredin, Executive Director – (559/230-6036)  
Email: seyed.sadredin3@valleyair.org

1. Juana Dement, Council Member
2. Veronica Vargas, Mayor Pro Tem (Alternate)

The Committee is charged with making appointments of City representatives to the San Joaquin Valley Air Pollution Control District's Governing Board.

**K. League of California Cities, Central Valley Division Executive Committee**

1. Rhodesia Ransom, Council Member
2. Juana Dement, Council Member (Alternate)

Meets Quarterly

**L. Joint City/County Criminal Justice Task Force**

1. Veronica Vargas, Mayor Pro Tem
2. Juana Dement, Council Member (Alternate)

Meets when needed.

**N. San Joaquin Council of Government's One Voice Trip to Washington**

- 1.
- 2.

Annual trip to Washington, D.C. as part of SJCOG delegation.

**O. Tri-Valley-San Joaquin Valley Regional Rail Authority**

1. Veronica Vargas, Mayor Pro Tem

The Tri-Valley-San Joaquin Valley Regional Rail Authority was formed for purposes of planning, developing, and delivering cost-effective and responsive transit connectivity between the Bay Area Rapid Transit District's (BART) rapid transit system and the Altamont Corridor Express commuter rail service in the Tri-Valley region. Meets on second Wednesday of the month. Location rotates. Contact: Michael Tree

**P. Altamont Regional Traffic Authority (ARTA) JPA**

1. Robert Rickman, Mayor

JPA consists of Mayor of Tracy, Mayor of Livermore, and Supervisor from Alameda County BOS District 1. Meets as needed.

**Q. LAFCo (Local Agency Formation Commission)**

1. City of Tracy's next rotation will not be until 2025 as Alternate

LAFCo is responsible for coordinating logical and timely changes in local governmental boundaries, including: annexations and detachments of territory; incorporations of cities; formations of special districts; and consolidations, mergers, and dissolutions of districts. LAFCo Commission meets regularly on the 2nd Thursday of each month at 9:00 a.m.

**R. Tracy Chamber Governmental Affairs Committee**

1. Council Member Dement

Tracy Chamber Governmental Affairs Committee is to provide information and updates to Chamber membership on issues and legislation affecting businesses. The Chamber invites businesses to attend and engage in dialogue about issues affecting the business community, as well as receive updates from local, county, state, and federal representatives. The Committee meets on the third Wednesday of every month at 4:00 p.m. at the Chamber of Commerce Office.