TRACY CITY COUNCIL REGULAR MEETING AGENDA

Tuesday, March 20, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza *Web Site: www.ci.tracy.ca.us*

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

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

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

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

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

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

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

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL
PRESENTATIONS – Proclamation – Red Cross Month
- Planning Commission – Certificates of Appointment, Reappointment and Recognition
- C.E.R.T. Graduates and Presentation

1. CONSENT CALENDAR

A. Council Minutes

B. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the Following Events: TCCA's "Then & Now Car Show" Event on July 21, 2012; City's "Girls Night Out" Event on May 11, 2012; and City's "Downtown Block Party" Events on May 4, June 8, June 22, August 3, and August 24, 2012

C. Appropriate Measure K Non-Competitive Bicycle Funds in the Amount of $183,065.35 to CIP 78113, for Design and Construction of Various Bike Projects Throughout the City as Outlined in the City of Tracy Bikeways Master Plan Design Supplement

D. Authorize the Mayor to Sign a Land Use Covenant, with the Department of Toxic Substances Control, Restricting the Use of the Tracy Transit Station Property

E. Approval of a Resolution Selecting Hewlett Packard as the Supplier of New Desktop Computer Systems through the California Strategic Sourcing Initiative (CSSI) Competitive Bid Program Pursuant to Tracy Municipal Code Section 2.20.220

F. Approve Amendment One to an Exclusive Negotiating Rights Agreement with Tracy's California Blast, LLC, Related to the Potential Development of Approximately 628 Acres of the City-Owned Holly Sugar Property

G. Adoption of a Resolution Approving a Contract Time Extension with CH2MHill for the Purpose of Continued GIS Training for City Staff and Additional Time to Complete the Utility System Asset Management System without Additional Cost to City and Authorize the Mayor to Sign the Amendment

H. The City Council of the City of Tracy Acting as the Governing Body of the Successor Agency for the Community Development Agency of the City of Tracy Approving the Recognized Obligations Payment Schedule (ROPS)

2. ITEMS FROM THE AUDIENCE

3. PUBLIC HEARING TO CONSIDER A GENERAL PLAN AMENDMENT FROM DOWNTOWN (D) TO COMMERCIAL (C) AND REZONE FROM LIGHT INDUSTRIAL (M-1) TO PLANNED UNIT DEVELOPMENT (PUD) – THE SITE INCLUDES FIVE PARCELS ON THE NORTH SIDE OF W. SIXTH STREET BETWEEN N. "B" STREET AND N. "C" STREET (615 N. "C" ST., 63 W. SIXTH ST., 69 W. SIXTH ST., 77 W. SIXTH ST., AND 99 W. SIXTH ST., TRACY; ASSESSOR'S PARCEL NUMBERS 235-066-08 THRU 12) – THE APPLICANT IS STAN SHORE FOR THE STAN SHORE TRUST

4. DISCUSSION AND DIRECTION REGARDING THE DONATION OF A COMMUNITY SERVICE ORGANIZATION SIGN TO BE LOCATED ON PUBLIC PROPERTY, AND THE ESTABLISHMENT OF REGULATIONS AND MAINTENANCE PROVISIONS FOR SUCH A SIGN

5. MAYOR APPOINTMENT OF TWO INDIVIDUALS TO THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF TRACY

6. DISCUSSION AND DIRECTION RELATED TO CITY'S PRIORITIES FOR PUBLIC BENEFIT AMENITIES IN DEVELOPMENT AGREEMENTS, AFFIRMATION THAT A SWIM CENTER REMAINS A PRIORITY, AND DISCUSSION ON GUIDELINES FOR DEVELOPMENT AGREEMENT NEGOTIATIONS

7. ITEMS FROM THE AUDIENCE

8. COUNCIL ITEMS

   A. Appoint an Applicant to the Tracy Arts Commission from the Commission's Eligibility List

9. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

February 21, 2012, 6:15 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:15 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL – Roll call found Council Members Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present; Council Member Abercrombie absent.

3. ITEMS FROM THE AUDIENCE – None

4. CLOSED SESSION -

   A. (Real Property Negotiations (Govt. Code section 54956.8)

   - Property Location: City-owned Holly Sugar Property (APN #s: 212-140-06; 212-140-07, 212-150-01(portion); 212-160-09; 212-130-2 (portion); 212-130-13 (portion); 212-150-01 (portion); 212-160-04; 212-160-05; 212-160-11 (portion); 212-200-01

   Negotiator(s) for the City: Andrew Malik, Director of Development and Engineering Services; Kevin Tobeck, Director of Public Works; and Rod Buchanan, Director of Parks and Community Services; William Dean, Asst. Director of Development and Engineering Services; and Steve Bayley, Deputy Director of Public Works

   Negotiating Parties: Representatives of: Combined Solar Technologies, Inc.; Tracy Blast Development, LLC; Black Ops Airsoft, Inc. dba 9 Gates Airsoft; and American Custom Meats, LLC

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

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Maciel motioned to recess the meeting to closed session at 6:15 p.m. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 6:56 p.m.

7. REPORT OF FINAL ACTION – None

8. ADJOURNMENT – It was moved by Mayor Pro Tem Maciel and seconded by Council Member Elliott to adjourn. Voice vote found all in favor; passed and so ordered. Time: 6:57 p.m.

The agenda was posted at City Hall on February 16, 2012. The above are action minutes.

_____
Mayor

ATTEST:

_____
City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

March 6, 2012, 6:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Ives called the meeting to order at 6:00 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL – Roll call found Council Members Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present; Council Member Abercrombie absent. Council Member Abercrombie arrived at 6:20 p.m.

3. ITEMS FROM THE AUDIENCE – None

4. CLOSED SESSION -

   A. Anticipated Litigation (Govt. Code section 54956.9(b))

   - December 29, 2011 letter from Lance Rogers, Esq. threatening litigation

   B. Pending Litigation (Govt. Code section 54956.9(b))

   - *Whitsitt v. City of Tracy, et al.*
     (U.S. District Court Case No. CIV S-10-0528 JAM DAD PS)

   - *TRAQC v. City*
     (3rd District Court of Appeal Case No. CO69741)

   C. Labor Negotiations (Gov. Code, section 54957.6)

   - Employee Organization: Tracy Firefighters' Association

   City's designated representatives: R. Leon Churchill Jr., City Manager

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Maciel motioned to recess the meeting to closed session at 6:00 p.m. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

   City Attorney Sodergren announced that Jack Hughes, Liebert Cassidy Whitmore, would join the labor negotiations as a negotiator for the City.

6. RECONVENE TO OPEN SESSION – Mayor Pro Tem Maciel reconvened the meeting into open session at 6:56 p.m.

7. REPORT OF FINAL ACTION – In the matter of Whitsitt v. City of Tracy, et al., United States District Court Case No. CIV S-10-0528 JAM DAD Ps, Council Member Abercrombie moved to authorize the City to defend the individually named employee, subject to a reservation of rights. Council Member Elliott seconded the motion. Voice vote found all in favor; passed and so ordered.

8. ADJOURNMENT – It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adjourn. Voice vote found all in favor; passed and so ordered. Time: 6:57 p.m.

The agenda was posted at City Hall on March 1, 2012. The above are action minutes.

_____
Mayor Ives

ATTEST:

_____
City Clerk

March 20, 2012

AGENDA ITEM 1.B

REQUEST

APPROVAL OF PERMIT FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY STREETS FOR THE FOLLOWING EVENTS: TCCA'S "THEN & NOW CAR SHOW" EVENT ON JULY 21, 2012; CITY'S "GIRLS NIGHT OUT" EVENT ON MAY 11, 2012; AND CITY'S "DOWNTOWN BLOCK PARTY" EVENTS ON MAY 4, JUNE 8, JUNE 22, AUGUST 3, AND AUGUST 24, 2012

EXECUTIVE SUMMARY

Tracy Municipal Code states Council may, by resolution, issue a permit allowing the consumption of alcohol on public streets and the like at an organized event of community-wide interest. The Parks and Community Services Department is coordinating 3 requests for an alcohol permit in conjunction with community events and is seeking Council approval.

DISCUSSION

Tracy Municipal Code Section 4.12.190(d) states, "The Council, by resolution, may issue a permit allowing the consumption of alcohol on public streets and the like at an organized event of community-wide interest. The consumption of intoxicating beverages shall be restricted to the perimeters of the community event as described in the permit." Additionally, Tracy Municipal Code Chapter 4.40 governs Special Event permits occurring on or within the public right-of-way.

For many years, the City of Tracy has successfully coordinated special community events that have community-wide interest with various community and non-profit organizations, including the Chamber of Commerce and the Tracy City Center Association (TCCA). Some of these events have received City approval for the consumption of alcoholic beverages within the boundary of the events. All of these functions were conducted within the Downtown Tracy Business District.

At the present time, the Parks and Community Services Department is coordinating three requests for alcohol permits to allow alcoholic beverages to be served as a component of the following community events: "Then & Now Car Show," being conducted by the Tracy City Center Association and the City of Tracy; "Girls Night Out" being conducted by the City of Tracy; and "Downtown Block Parties" being conducted by the City of Tracy.

Then & Now Car Show: TCCA is requesting a permit to serve alcoholic beverages at its event on July 21, 2012, from 11:00 a.m. to 8:00 p.m., along Central Avenue between 6th and 11th Streets, and along 10th Street between A Street and E Street, and along 9th Street between C Street and E Street, and along 6th Street between Central and D Street.

Girls Night Out – Pink Party: City of Tracy is requesting a permit to serve alcoholic beverages at its event on May 11, 2012, from 6:00 p.m. to 10:00 p.m.in the Downtown Plaza along 6th Street between Central and D Street.

Downtown Block Party: City of Tracy is requesting a permit to serve alcoholic beverages from 6:00 p.m. to 10:00 p.m. at its events on May 4, June 8,June 22, August 3, August 24, 2012, in the Downtown Plaza along 6th Street between Central and D Street.

STRATEGIC PLAN

This agenda item supports the Communication and Marketing strategic plan and specifically implements the following goal and objectives:

Goal 2: Provide the community of Tracy with basic and extended services that offer opportunities for individuals, families and businesses to prosper as they live, work and play in Tracy

Objective 2e: Promote the high "quality of life" attributes and recreation opportunities of the City

FISCAL IMPACT

There is no impact on the General Fund.

RECOMMENDATION

It is recommended that City Council, by resolution, authorize and approve the permits described above for consumption of alcoholic beverages within the above-described designated areas for the following events: TCCA's "Then & Now Car Show" on July 21, 2012; City of Tracy's "Girls Night Out" on May 11, 2012; and City of Tracy's "Downtown Block Party" on May 4, June 8, June 22, August 3, August 24, 2012.

Prepared by: Kim Scarlata, Recreation Manager

Reviewed by: Rod Buchanan, Director of Parks and Community Services

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

RESOLUTION _____

APPROVING A PERMIT FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY STREETS FOR SPECIAL EVENTS IN THE CITY OF TRACY ON JULY 21, 2012 (TCCA "THEN & NOW CAR SHOW"), ON MAY 11, 2012 (CITY'S "GIRLS NIGHT OUT), AND ON MAY 4, JUNE 8, JUNE 22, AUGUST 3, AND AUGUST 24, 2012 (CITY'S DOWNTOWN BLOCK PARTY)

WHEREAS, The Tracy City Center Association (TCCA) has requested a permit to conduct a special event in the City of Tracy on July 21, 2012, that requires the authorization of the City Council to permit the consumption of alcoholic beverages in public places; and

WHEREAS, The City of Tracy has requested a permit to conduct a special event in the City of Tracy on May 4, May 11, June 8 June 22, August 3, August 24, 2012, that requires the authorization of the City Council to permit the consumption of alcoholic beverages in public places; and

WHEREAS, These events will have community-wide interest and will enhance the property of the downtown Tracy business area; and

WHEREAS, Subject to City Council approval, the Tracy Municipal Code allows such activities and permits under Section 4.12.190(d) and Chapter 4.40.

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby authorize the issuance of a permit to the TCCA for the possession and consumption of alcoholic beverages within the boundary and timeframes of the above-described special events, as further described in the staff report accompanying this resolution, to be conducted in the Downtown Area of Tracy.

* * * * * * * * * * * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

March 20, 2012

AGENDA ITEM 1.C

REQUEST

APPROPRIATE MEASURE K NON-COMPETITIVE BICYCLE FUNDS IN THE AMOUNT OF $183,065.35 TO CIP 78113, FOR DESIGN AND CONSTRUCTION OF VARIOUS BIKE PROJECTS THROUGHOUT THE CITY AS OUTLINED IN THE CITY OF TRACY BIKEWAYS MASTER PLAN DESIGN SUPPLEMENT

EXECUTIVE SUMMARY

The City of Tracy receives funds for bicycle projects through the Measure K program. These projects can be used for various new bikeways construction projects including design, planning and implementation studies. The San Joaquin Council of Governments (SJCOG) requires that a claim form be signed and submitted by the City prior to receiving the funds. A claim form was approved and the funds have been received by the City. The funds must be appropriated to a CIP in order to be spent.

DISCUSSION

The voters of San Joaquin County approved Measure K, which provides funding for transportation system improvements through a one-half cent retail sales tax. One categorical allocation under Measure K is the Bicycle, Pedestrian and Safe Routes to School Program. This funding category provides both competitive and non-competitive funds.

The City of Tracy is eligible to receive non-competitive funds for bicycle projects through the Measure K program. These projects can be used for various new bikeways construction projects including design, planning and implementation studies. The San Joaquin Council of Governments (SJCOG) requires that a claim form be signed and submitted by the City prior to receiving the funds.

The City of Tracy has submitted a claims totaling $183,065.35 in non-competitive funds this year. The funds have been received and need be appropriated to a CIP in order to begin work on the projects. These funds will be used for costs relating to design and construction of various bikeways projects as outlined in the City of Tracy Bikeways Master Plan Design Supplement approved by Council on February 3, 2009.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no impact to the General Fund for this item. The City has already submitted a claim for $183,065.35 for FY 2011/12 to be used for bikeways projects. The funds have already been received by the City and need to be appropriated to CIP 78113.

RECOMMENDATION

That City Council appropriates Measure K Non-Competitive Bicycle Funds in the amount of $183,065.35 to CIP 78113, for design and construction of various bike projects throughout the City as outlined in the City of Tracy Bikeways Master Plan Design Supplement.

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: Rod Buchanan, Director of Parks and Community Services

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

RESOLUTION _____

APPROPRIATING MEASURE K NON-COMPETITIVE BICYCLE FUNDS IN THE AMOUNT OF $183,065.35 TO CIP 78113, FOR DESIGN AND CONSTRUCTION OF VARIOUS BIKE PROJECTS THROUGHOUT THE CITY AS OUTLINED IN THE CITY OF TRACY BIKEWAYS MASTER PLAN DESIGN SUPPLEMENT

WHEREAS, The voters of San Joaquin County approved Measure K, which provides funding for transportation system improvements through a one-half cent retail sales tax; and

WHEREAS, One categorical allocation under Measure K is the Bicycle, Pedestrian and Safe Routes to School program; and

WHEREAS, This funding category provides for both competitive and non-competitive funding for new bikeways construction projects, including design, planning and implementation studies; and

WHEREAS, The City of Tracy has submitted a claim to SJCOG in the amount of $183,065.35 for the design and construction of various bikeways projects throughout the City; and

WHEREAS, The funds in the amount of $183,065.35 has been received by the City of Tracy and needs to be appropriated to a CIP in order to be expended.

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby authorizes the appropriating Measure K Non-Competitive Bicycle Funds in the amount of $183,065.35 to CIP 78113, for design and construction of various bike projects throughout the City as outlined in the City of Tracy Bikeways Master Plan Design Supplement.

* * * * * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

March 20, 2012

AGENDA ITEM 1.D

REQUEST

AUTHORIZE THE MAYOR TO SIGN A LAND USE COVENANT, WITH THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL, RESTRICTING THE USE OF THE TRACY TRANSIT STATION PROPERTY

EXECUTIVE SUMMARY

The City of Tracy built the Tracy Transit Station on the site of the former Tracy Rail Yard. Due to the existence of hazardous substances in the soil, the property needed to be remediated prior to construction. The Department of Toxic Substances Control (DTSC) has determined that a covenant is necessary in order to protect present or future human health or safety or the environment. The covenant lists certain restrictions to the property where the Tracy Transit Station is located.

DISCUSSION

The Tracy Transit Station is built on the site of the former Tracy Rail Yard. The land contained lead, arsenic, and petroleum hydrocarbons in the soil and petroleum hydrocarbons in the ground water of portions of the property. The site has been remediated pursuant to the Removal Action Work Plan developed in accordance with Health and Safety Code, division 20, chapter 6.8 under the oversight of the Department of Toxic Substances Control (DTSC). Because hazardous substances, as defined in Health and Safety Code section 25316, which are also hazardous materials as defined in Health and Safety Code section 25260, including arsenic, remain in soil above unrestricted cleanup goal at depths of three feet or more below the surface of the Property, the Removal Action Workplan provides that a Covenant be required as part of the site remediation. Remediation included removing the impacted soil and backfilled with clean fill. This action fits in with the intended use of the property to be used for commercial purposes.

The DTSC concluded that the property, as remediated, and subject to the restrictions of this Covenant, does not present an unacceptable threat to human health or safety or the environment, if limited to commercial or industrial use.

Restrictions listed in the covenant include but are not limited to residential use, use for a hospital, use for a school for persons under age 21, use as a day care center, soil excavation and drilling. A complete list of restrictions can be found in Attachment A.

Once signed the Covenant will be recorded with the County of San Joaquin.

STRATEGIC PLAN

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

FISCAL IMPACT

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

RECOMMENDATION

That City Council authorize the Mayor to sign a Land Use Covenant with the Department of Toxic Substance Control restricting the use of the Tracy Transit Station property.

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: Rod Buchanan, Director of Parks and Community Services

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

Attachment

Exhibit “A” – Covenant to Restrict Use of Property, Environmental Restriction

RECORDING REQUESTED BY:
City Clerk
City of Tracy
333 Civic Center Plaza
Tracy, California 95376

WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control
8800 Cal Center Drive
Sacramento, California 95826-3200
Project: Tracy Transit (101743)
Brownfields and Environmental
Restoration Program

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

Union Pacific Railroad Company
Former Tracy Railyard
Area 3 and Area 4 Operable Units
Parcel Numbers: 235-150-29 and 235-150-28
DTSC Site Code Number: 101743

This Covenant and Agreement ("Covenant") is made by and between the City of Tracy (the "Covenantor"), the current owner of property situated in Tracy, County of San Joaquin, State of California, described in Exhibit "A" and depicted in Exhibit "B," attached, (the "Property"), and the Department of Toxic Substances Control (the "Department"). Pursuant to Civil Code section 1471, the Department has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials as defined in Health and Safety Code section 25260. The Covenantor and Department, collectively referred to as the "Parties," hereby agree that the use of the

Property be restricted as set forth in this Covenant and the Parties further agree that the Covenant shall conform with the requirements of California Code of Regulations, title 22, section 67391.1.

ARTICLE I
STATEMENT OF FACTS

1.01. The Property, totaling approximately 4.5 acres, is more particularly described and depicted in the attached Exhibits "A" and "B". The property is located within the Tracy City limits at the Southeast corner of 6th Street and Central Avenue to the north, and extending to the northeast corner of 4th Street and Central Avenue to the south. The Property is also generally described as San Joaquin County Assessor's Parcel No's.: 235-150-28 and 235-150-29.

1.02. The property is the site of the Former Tracy Railyard located in Tracy, California and contained lead, arsenic and petroleum hydrocarbons in the soil and petroleum hydrocarbons in the groundwater beneath the property.

The site has been remediated pursuant to a Removal Action Work Plan (RAW) (May 2008) developed in accordance with Health and Safety code, division 20, chapter 6.8 under the oversight of the Department. The RAW and a Notice of Exemption pursuant to the California Environmental Quality Act, Public Resources Code section 21000 et seq. were released for public review and comment and subsequently approved by the Department on May 19, 2008.

The Covenantor has remediated the Property under the supervision and authority of the Department. Because hazardous substances, as defined in H&SC section 25316 that are also hazardous materials as defined in HSC section 25260, including: total petroleum hydrocarbons (diesel and motor oil) and metals (arsenic and lead), which remain in the soil and total petroleum hydrocarbons and aromatic compounds which remain in groundwater at the property above the unrestricted cleanup goals, the RAW

indicates that a land use control be required as part of the site remediation. This action fits in with the intended use of the property to be used for commercial purposes.

1.03. The Department concluded that the Porperty, as remediated, and subject to the restrictions of this Covenant, does not present an unacceptable threat to human health or the safety or the environment, if limited to commercial or industrial use.

ARTICLE II
DEFINITIONS

2.01. Department. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.

2.02. Environmental Restrictions. "Environmental Restrictions" means all protective provisions, covenants, restrictions, prohibitions, and terms and conditions as set forth in any section of this Covenant.

2.03. Improvements. "Improvements" includes, but is not limited to: buildings, structures, roads, driveways, improved parking areas, wells, pipelines, or other utilities.

2.04. Lease. "Lease" means lease, rental agreement, or any other document that creates a right to use or occupy any portion of the Property.

2.05. Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property.

2.06. Owner. "Owner" means the Covenantor, and all successors in interest including heirs and assigns, who at any time hold title to all or any portion of the Property.

ARTICLE III
GENERAL PROVISIONS

3.01. Runs with the Land. This Covenant sets forth Environmental Restrictions that apply to and encumber the Property and every portion thereof no matter how it is improved, held, used, occupied, leased, sold, hypothecated, encumbered, or conveyed. This Covenant: (a) runs with the land pursuant to Health and Safety Code sections 25222.1 and 25355.5 and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property, (c) is for the benefit of, and is enforceable by the Department, and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.

3.02. Binding upon Owners/Occupants. Pursuant to the Health and Safety Code, this Covenant binds all owners of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471, all successive owners of the Property are expressly bound hereby for the benefit of the Department.

3.03. Incorporation into Deeds and Leases. This Covenant shall be incorporated by reference in each and every deed and Lease for any portion of the Property.

3.04. Conveyance of Property. The Owner shall provide written notice to the Department not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding Leases, and mortgages, liens, and other non-possessory encumbrances). The written notice shall include the name and mailing address of the new owner of the Property and shall reference the site name and site code as listed on page one of this Covenant. The notice shall also include the Assessor's Parcel Number (APN) noted on page one. If the new owner's property has been assigned a different APN, each such APN that covers the Property must be provided. The Department shall not, by reason of this Covenant, have authority to approve, disapprove, or otherwise

affect proposed conveyance, except as otherwise provided by law or by administrative order.

3.05. Costs of Administering the Covenant to be paid by Owner. The Department has already incurred and will in the future incur costs associated with the administration of this Covenant. Therefore, the Covenantor hereby covenants for the Covenantor and for all subsequent Owners that, pursuant to California Code of Regulations, title 22, section 67391.1(h), the Owner agrees to pay the Department's costs in administering the Covenant.

ARTICLE IV
RESTRICTIONS AND REQUIREMENTS

4.01. Prohibited Uses. The Property shall not be used for any of the following purposes:

(a) A residence, including any mobile home or factory built housing, constructed or installed for use as residential human habitation.

(b) A hospital for humans.

(c) A public or private school for persons under 21 years of age.

(d) A day care center for children.

4.02. Soil Management.

(a) No activities that will disturb the soil at or below three feet below grade (e.g., excavation, grading, removal, trenching, filling, earth movement, mining, or drilling) shall be allowed on the Property without a Soil Management Plan approved by the Department in advance.

(b) Any contaminated soils brought to the surface by grading, excavation, trenching or backfilling shall be managed in

accordance with all applicable provisions of state and federal law.

4.03. Prohibited Activities. The following activities shall not be conducted at the Property:

(a) Drilling for water, oil, or gas without prior written approval by the Department.

4.05. Access for Department. The Department shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department in order to protect the public health or safety, or the environment.

4.06. Inspection and Reporting Requirements. The Owner shall conduct an annual inspection of the Property verifying compliance with this Covenant, and shall submit an annual inspection report to the Department for its approval within 30 days receiving the inspection request letter for each year. The annual inspection report must include the dates, times, and names of those who conducted the inspection and reviewed the annual inspection report. It also shall describe how the observations were performed that were the basis for the statements and conclusions in the annual inspection report (e.g., drive by, fly over, walk in, etc.). If violations are noted, the annual inspection report must detail the steps taken to return to compliance. If the Owner identifies any violations of this Covenant during the annual inspections or at any other time, the Owner must within **(10 days)** of identifying the violation: determine the identity of the party in violation, send a letter advising the party of the violation of the Covenant, and demand that the violation ceases immediately. Additionally, copies of any correspondence related to the violation of this Covenant shall be sent to the Department within **(10 days)** of its original transmission.

ARTICLE V
ENFORCEMENT

5.01. Enforcement. Failure of the Owner or Occupant to comply with this Covenant shall be grounds for the Department to require modification or removal of any Improvements constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant, including but not limited to, failure to submit, or the submission of any false statement, record or report to the Department, shall be grounds for the Department to pursue administrative, civil, or criminal actions, as provided by law.

ARTICLE VI
VARIANCE, TERMINATION, AND TERM

6.01. Variance. Owner, or any other aggrieved person, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with Health and Safety Code section 25233.

6.02 Termination or Partial Termination. Owner, or any other aggrieved person, may apply to the Department for a termination or partial termination of one or more terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.

6.03 Term. Unless ended in accordance with paragraph 6.02, by law, or by the Department in the exercise of its discretion, this Covenant shall continue in effect in perpetuity.

ARTICLE VII
MISCELLANEOUS

7.01. No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02. Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of San Joaquin within ten (10) days of the Covenantor's receipt of a fully executed original.

7.03. Notices. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Owner:

City Manager
City of Tracy
333 Civic Center Plaza
Tracy, California 95376

and

To Department:

Project Manager (Site Code 101765)
Brownfields and Environmental Restoration Program
8800 Cal Center Drive
Sacramento, California 95826-3200

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

7.04. Partial Invalidity. If this Covenant or any of its terms are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

7.05. Statutory References. All statutory references include successor provisions.

7.06. Incorporation of Attachments. All attachments and exhibits to this Covenant are incorporated herein by reference.

IN WITNESS WHEREOF, the Parties execute this Covenant.

Covenantor:

By: _____

Title:

Date: _____

Department of Toxic Substances Control:

By: _____

Tami Trearse

Title: Engineering Geologist, Project Manager

Sacramento Office
Brownfields and Environmental Restoration Program

Date: _____

State of California

County of _____

On _____ before me,

_____

(space above this line is for name and title of the officer/notary),

Personally appeared_____

_____

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

WITNESS my hand and official seal.

Signature _____ (Seal)

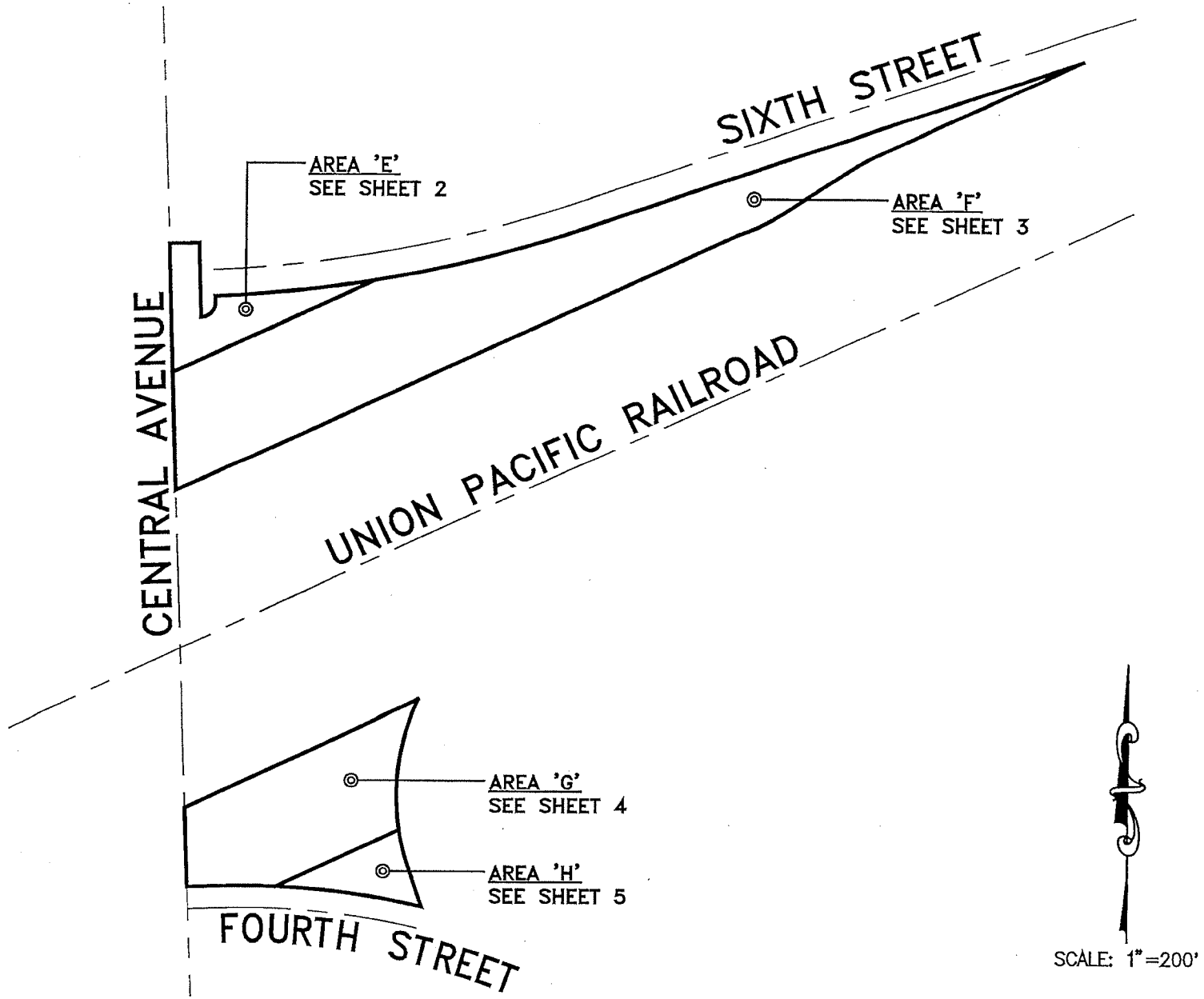
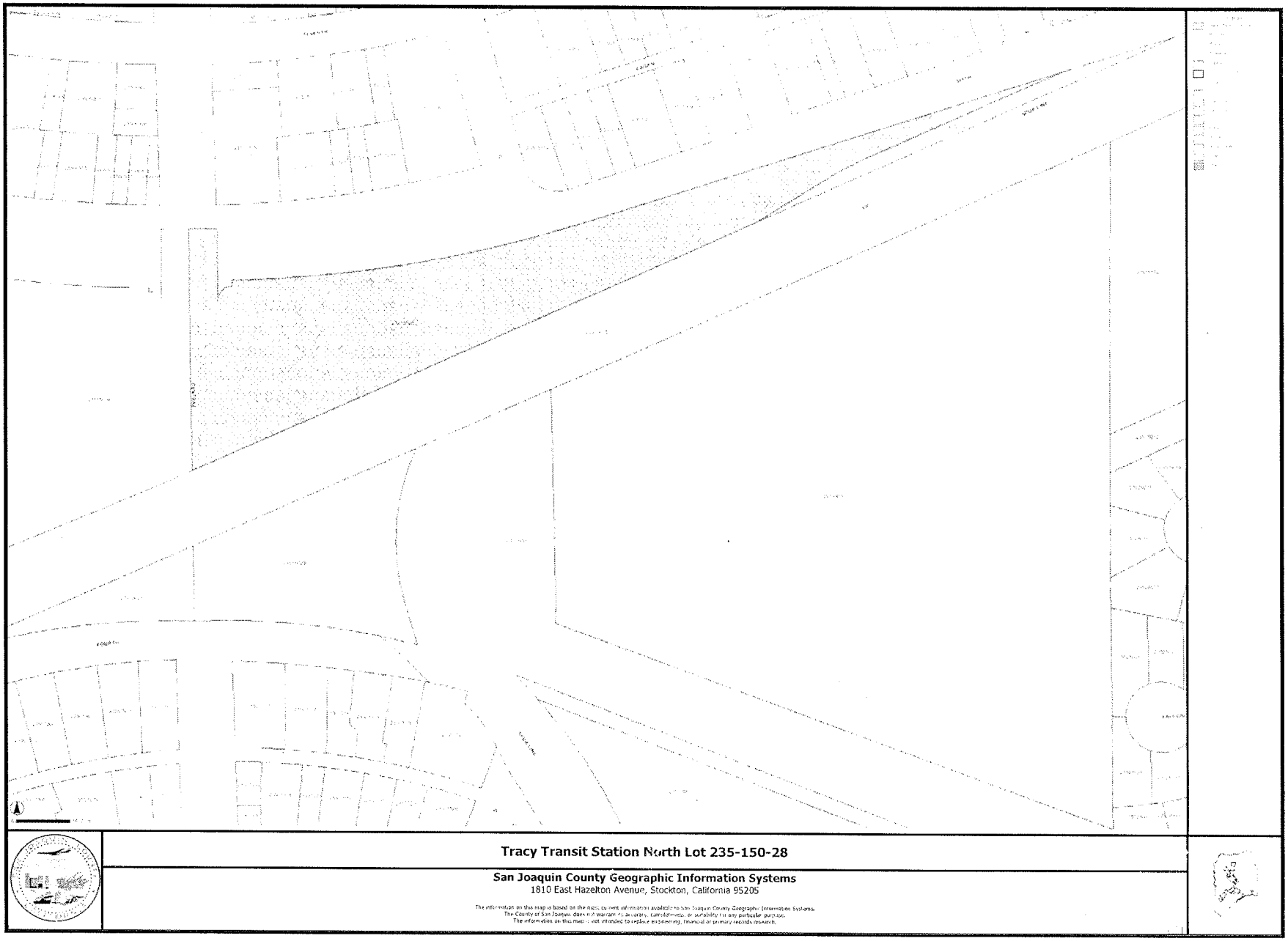

SIXTH STREET
AREA 'E'
SEE SHEET 2
AREA 'F'
SEE SHEET 3
CENTRAL AVENUE
UNION PACIFIC RAILROAD
AREA 'G'
SEE SHEET 4
AREA 'H'
SEE SHEET 5
FOURTH STREET
SCALE: 1"=200'

EXHIBIT "A"


Tracy Transit Station North Lot 235-150-28
San Joaquin County Geographic Information Systems
1810 East Hazelton Avenue, Stockton, California 95205

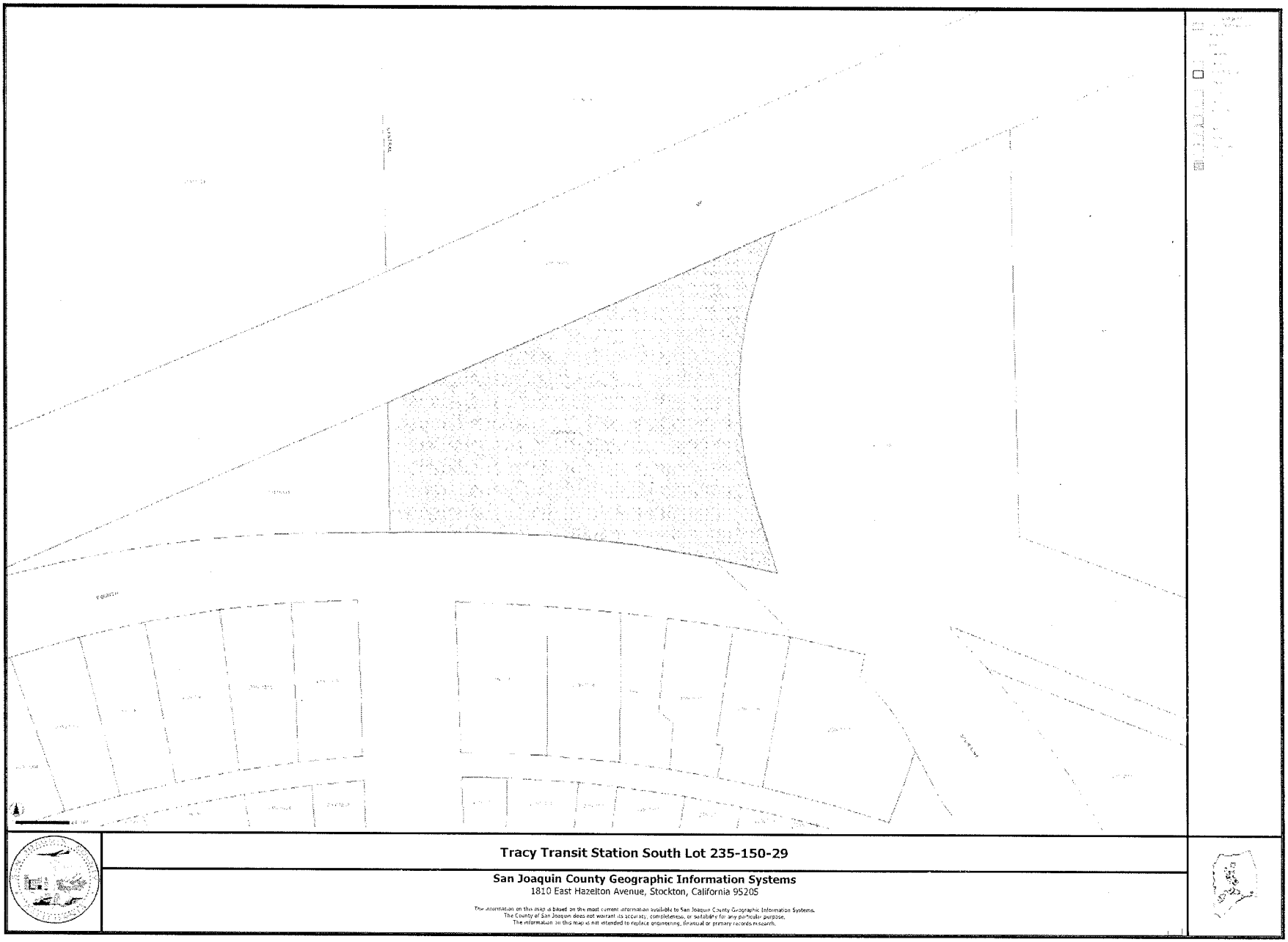

Tracy Transit Station South Lot 235-150-29
San Joaquin County Geographic Information Systems
1810 East Hazelton Avenue, Stockton, California 95205
The information on this map is based on the most current information available to San Joaquin County Geographic Information Systems.
The County of San Joaquin does not warrant its accuracy, completeness, or suitability for any particular purpose.
The information on this map is not intended to replace engineering, financial or primary records research.

EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

Designated Area E
Tracy, California

All that certain real property situate in the North One-Half (1/2) of Section 28, Township 2 South, Range 5 East, Mount Diablo Meridian, City of Tracy, County of San Joaquin, State of California and being more particularly described as follows;

Beginning at a point of intersection of the northerly line of that certain 400 foot wide right-of-way granted to the Central Pacific Railroad Company by Act of Congress with the centerline of Central Avenue;

Thence from said **Point of Beginning** along said right-of-way line, North 64°47'14" East a distance of 299.82 feet to a point of cusp being an intersection with the southerly line of that certain tract of land granted to the City of Tracy in the document recorded as Instrument No. 83087491 in said Official Records;

Thence leaving said Congressional Grant line and proceeding along said southerly line of Lands of Tracy, northwesterly 216.33 feet along the arc of a 1778.37 foot radius curve to the right through a central angle of 06°58'11" and being subtended by a chord which bears South 83°59'45" West for 216.20 feet;

Thence continuing along said southerly line of Lands of Tracy, the following five (5) courses, distances and arcs:

1. South 02°31'09" East, 8.50 feet to a point of curvature;

2. Southerly 31.20 feet along the arc of a 20.00 foot radius curve to the left through a central angle of 89°21'57" and being subtended by a chord which bears South 42°47'52" West for 28.13 feet;

3. North 01°53'06" West, 101.18 feet;

4. South 88°06'54" West, 40.00 feet to a point of intersection with the aforementioned centerline of Central Avenue;

Thence leaving said southerly line of Lands of Tracy and proceeding along the centerline of Central Avenue, South 01°53'06" East, 175.88 feet to the Point of Beginning and containing 0.366 gross acres of land, more or less.

Carl R. C.de Baca L.S. 5854
License Expires 12-31-04

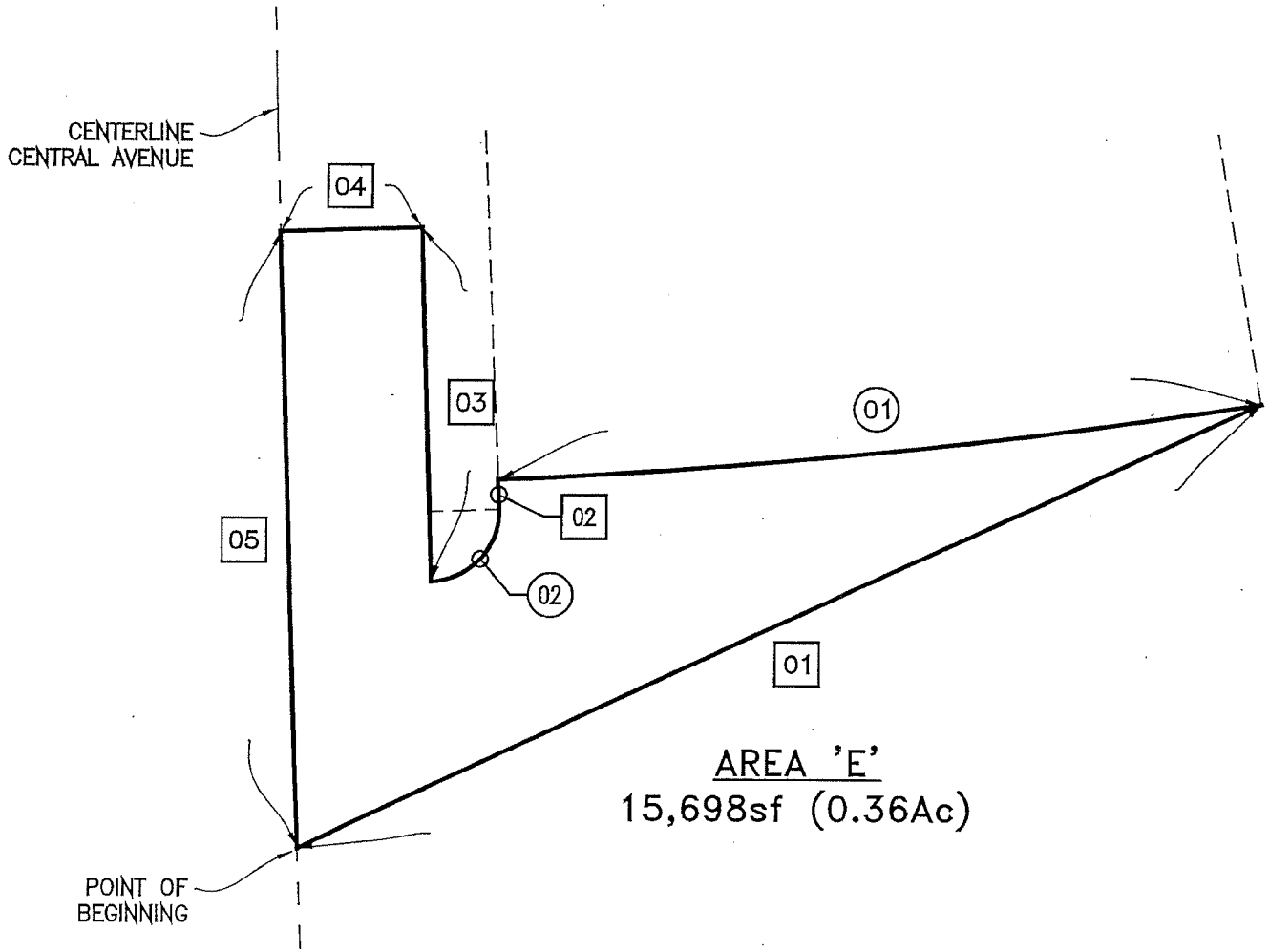
Prepared by:
NOLTE Associates, Inc.
Sacramento, California

CURVE TABLE

SYM	RADIUS	DELTA	LENGTH	CHORD	LENGTH
01	1778.37'	06°58'12"	216.33'	S83°59'45"W	216.20'
02	20.00'	89°21'57"	31.20'	S42°47'52"W	28.13'
–					

LINE TABLE

SYM	COURSE	LENGTH	SYM	COURSE	LENGTH
01	N64°47'14"E	299.82'	02	S02°31'09"E	8.50'
03	N01°53'06"W	101.18'	04	S88°06'54"W	40.00'
05	S01°53'06"E	175.88'	–		



AREA 'E'
15,698sf (0.36Ac)

SCALE: 1"=50'

Exhibit A (continued)

Designated Area F and G
Tracy, California

All that certain real property situate in the North One-Half (1/2) of Section 28, Township 2 South, Range 5 East, Mount Diablo Meridian, City of Tracy, County of San Joaquin, State of California and being a portion of the land lying within that certain 400 foot wide right-of-way granted to the Central Pacific Railroad Company by Act of Congress and being more particularly described as follows;

Area F
Beginning at the intersection of the centerline of Central Avenue with the northerly line of the aforementioned 400 foot wide right-of-way granted to the Central Pacific Railroad Company by Act of Congress;

Thence from said **Point of Beginning** along said right-of-way line, North 64°47'14" East a distance of 299.82 feet to a point of cusp being an intersection with the southerly line of that certain tract of land granted to the City of Tracy in the document recorded as Instrument No. 83087491 in said Official Records;

Thence leaving said Congressional Grant line and proceeding along said southerly line of Lands of Tracy, being the southerly line of Sixth Street, Southeasterly 295.32 feet along the arc of a 1778.37 foot radius curve to the left through a central angle of 09°30'52" and being subtended by a chord which bears North 75°45'13" East for 294.98 feet;

Thence continuing along said southerly line of Sixth Street, North 70°59'47" East a distance of 702.87 feet;

Thence leaving said southerly line of Sixth Street, South 64°47'14" West a distance of 303.73 feet to a point of curvature;

Thence southwesterly 47.15 feet along the arc of a 350.00 foot radius curve to the left through a central angle of 07°43'06" and being subtended by a chord which bears South 60°55'41" for 47.11 feet;

Thence South 57°04'08" West a distance of 92.54 feet to a point of curvature;

Thence southwesterly 33.68 feet along the arc of a 250.00 foot radius curve to the right through a central angle of 07°43'06";

Thence South 64°47'14" West a distance of 833.29 feet to a point situate on the centerline of Central Avenue;

Thence along said centerline, North 01°53'06" West a distance of 163.35 feet to the Point of Beginning and containing 2.662 gross acres of land, more or less.

Area G

Beginning at a point situate on the southerly line of that certain 400 foot wide right-of-way granted to the Central Pacific Railroad Company by Act of Congress being an intersection with the northerly right-of-way line of Fourth Street, from which point the point of intersection of the northerly line of that certain 400 foot wide right-of-way granted to the Central Pacific Railroad Company by Act of Congress with the centerline of Central Avenue bears South 64°47'14" West a distance of 85.69 feet and North 01°53'06" West a distance of 435.61 feet;

Thence from said **Point of Beginning** along said Congressional Grant right-of-way line, North 64°47'14" East a distance of 183.64 feet to a point on a curve;

Thence leaving said Congressional Grant line, northerly 181.66 feet along the arc of a 312.96 foot radius curve to the right through a central angle of 33°15'24" and being subtended by a chord which bears North 07°54'58" East for 179.12 feet;

Thence South 64°47'14" West a distance of 346.08 feet to a point situate on the aforementioned centerline of Central Avenue;

Thence South 01°53'06" East a distance of 109.39 feet;

Thence North 88°04'59" East a distance of 40.00 feet to an intersection with the northerly right-of-way line of Fourth Street;

Thence along said northerly right-of-way line, easterly 78.76 feet along the arc of a 1035.00 foot radius curve to the right through a central angle of 04°21'35" and being subtended by a chord which bears South 89°50'34" East for 78.74 feet to the Point of Beginning and containing 1.023 gross acres of land, more or less.

Carl R. C.de Baca L.S. 5854
License Expires 12-31-04

Prepared by:
NOLTE Associates, Inc.
Sacramento, California

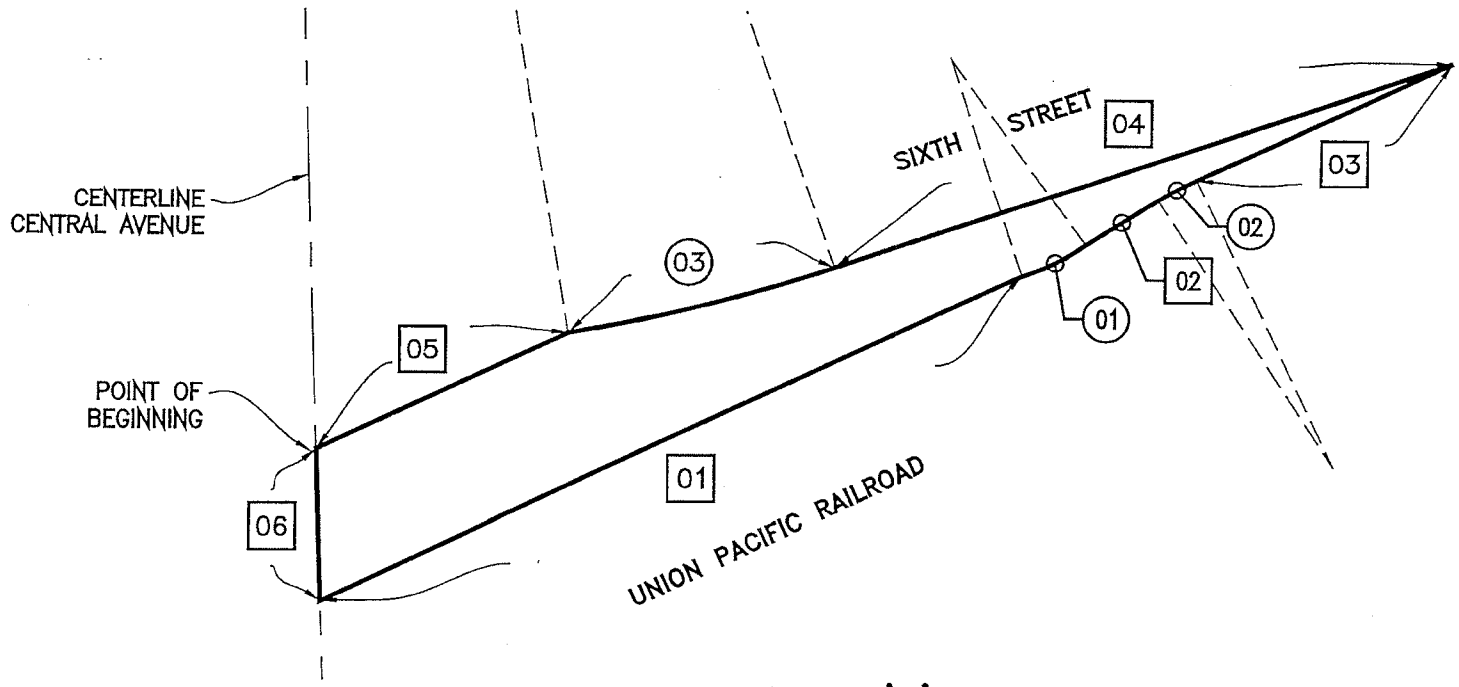
CURVE TABLE

SYM	RADIUS	DELTA	LENGTH	CHORD	LENGTH
01	250.00'(C) 250.00'(D)	17°45'12"(C) 07°43'06"(D)	77.46'(C) 33.68'(D)	N63°06'27"E(C) NONE(D)	77.15'(C) NONE(D)
02	350.00'	07°43'06"	47.15'	S60°55'41"W	47.11'
03	1778.37'	09°30'52"	295.32'	N75°45'13"E	294.98'

NOTE: CURVE 01 DATA SHOWN IN TABLE ABOVE CONTAINS BOTH DEED INFORMATION (D) AND CALCULATED DATA (C).

LINE TABLE

SYM	COURSE	LENGTH	SYM	COURSE	LENGTH
01	S64°47'14"W	833.29'	02	S57°04'08"W	92.54'
03	S64°47'14"W	303.73'	04	N70°59'47"E	702.87'
05	N64°47'14"E	299.82'	06	N01°53'06"W	163.35'



AREA 'F'
116,046sf (2.66Ac)

SCALE: 1"=100'

CURVE TABLE

SYM	RADIUS	DELTA	LENGTH	CHORD	LENGTH
01	312.96'	33°15'24"	181.66'	N07°54'58"E	179.12'
02	1035.00'	04°21'35"	78.76'	S89°50'34"E	78.74'
–					

LINE TABLE

SYM	COURSE	LENGTH	SYM	COURSE	LENGTH
01	N64°47'14"E	183.64'	02	S64°47'14"W	346.08'
03	S01°53'06"E	109.39'	04	N88°04'59"E	40.00'
–			–		

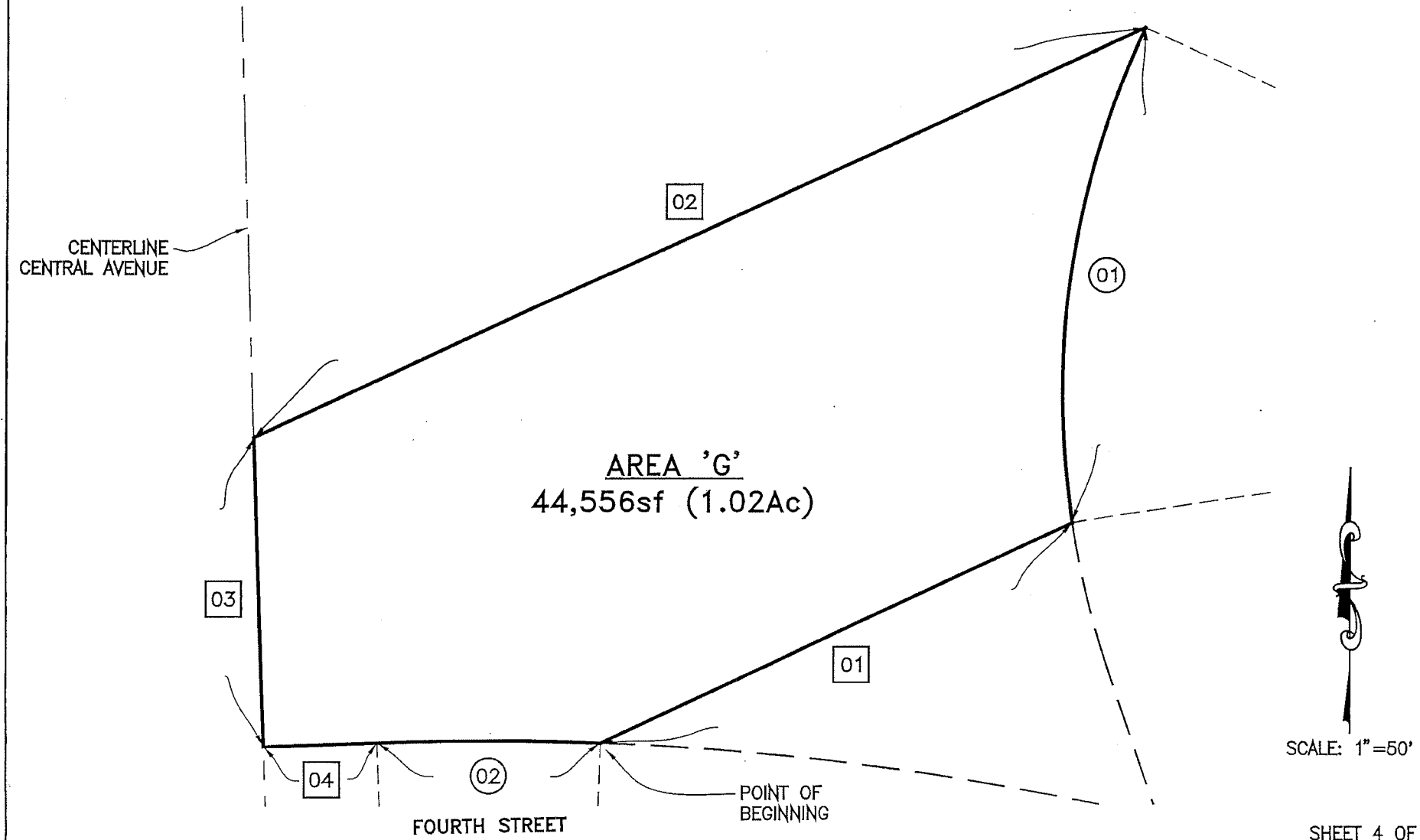


Exhibit A (continued)

Designated Area H
Tracy, California

All that certain real property situate in the North One-Half (1/2) of Section 28, Township 2 South, Range 5 East, Mount Diablo Meridian, City of Tracy, County of San Joaquin, State of California and being more particularly described as follows;

Beginning at a point situate on the southerly line of that certain 400 foot wide right-of-way granted to the Central Pacific Railroad Company by Act of Congress being an intersection with the northerly right-of-way line of Fourth Street, from which point the point of intersection of the northerly line of that certain 400 foot wide right-of-way granted to the Central Pacific Railroad Company by Act of Congress with the centerline of Central Avenue bears South 64°47'14" West a distance of 85.69 feet and North 01°53'06" West a distance of 435.61 feet;

Thence from said **Point of Beginning** along said Congressional Grant right-of-way line, North 64°47'14" East a distance of 183.64 feet;

Thence leaving said Congressional Grant line southerly 52.88 feet along the arc of a 312.96 foot radius curve to the right through a central angle of 09°40'52" and being subtended by a chord which bears South 13°33'10" East for 52.82 feet;

Thence South 18°23'36" East a distance of 56.82 feet to a point situate on the aforementioned northerly right-of-way line of Fourth Street;

Thence along said right-of-way line northwesterly 198.61 feet along the arc of a 1035.00 foot radius curve to the left through a central angle of 10°59'41" and being subtended by a chord which bears North 82°09'56" West for 198.30 feet to the Point of Beginning and containing 0.210 gross acres of land, more or less.

Carl R. C.de Baca L.S. 5854
License Expires 12-31-04

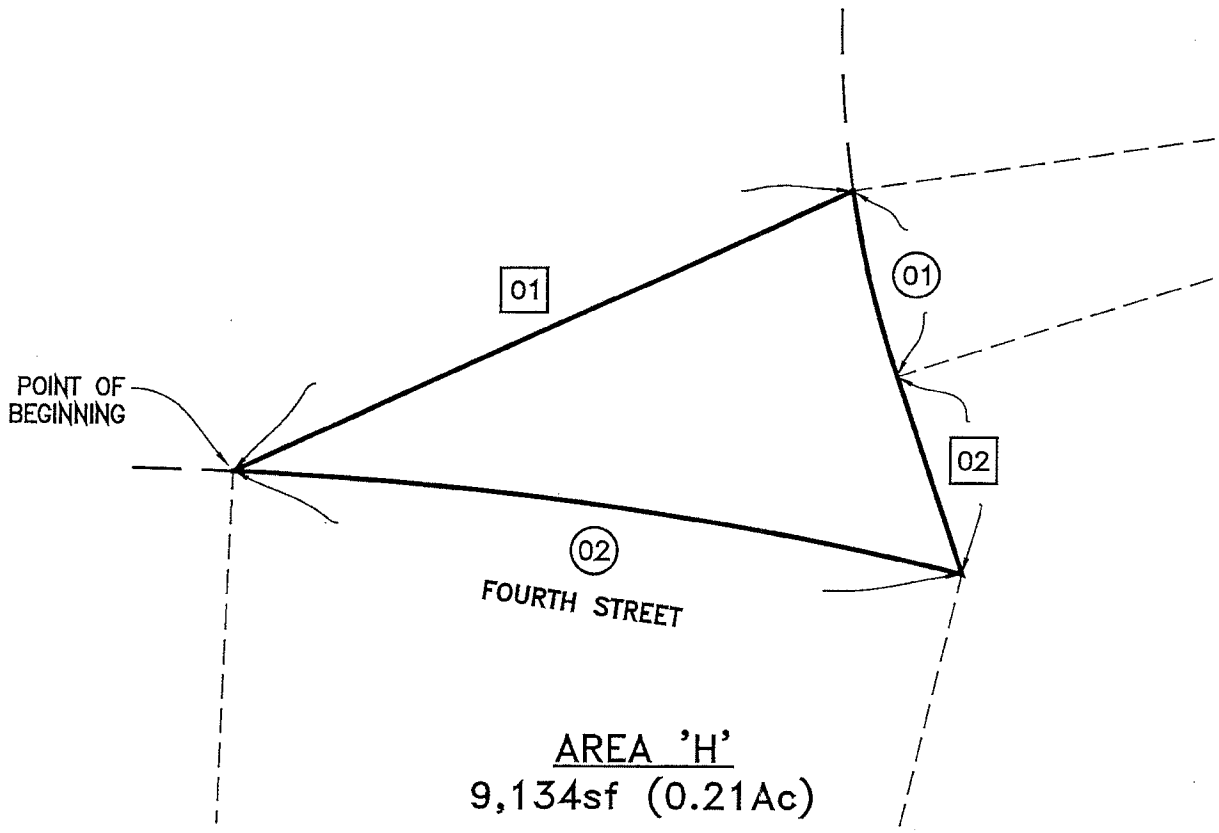
Prepared by:
NOLTE Associates, Inc.
Sacramento, California

CURVE TABLE

SYM	RADIUS	DELTA	LENGTH	CHORD	LENGTH
01	312.96'	09°40'52"	52.88'	S13°33'10"E	52.82'
02	1035.00'	10°59'41"	198.61'	N82°09'56"W	198.30'
–					

LINE TABLE

SYM	COURSE	LENGTH	SYM	COURSE	LENGTH
01	N64°47'14"E	183.64'	02	S18°23'36"W	56.82'
–			–		
–			–		



SCALE: 1"=50'

RESOLUTION _____

AUTHORIZING THE MAYOR TO SIGN A LAND USE COVENANT WITH THE DEPARTMENT OF TOXIC SUBSTANCES CONTROL RESTRICTING THE USE OF THE TRACY TRANSIT STATION PROPERTY

WHEREAS, The Tracy Transit Station was built on the site of the former Tracy Rail Yard, and the land was contaminated with hazardous materials; and

WHEREAS, The contamination of the property was remediated according to the Removal Action Work Plan which was overseen by the Department of Toxic Substances Control; and

WHEREAS, The Department of toxic Substances Control has determined that a covenant is necessary in order to protect present or future human health or safety or the environment; and

WHEREAS, The covenant lists certain restrictions to the property where the Tracy Transit Station is located and will be recorded with the County of San Joaquin.

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby authorizes the Mayor to sign a Land Use Covenant with the Department of Toxic Substances Control restricting the use of the Tracy Transit Station Property.

* * * * * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

March 20, 2012

AGENDA ITEM 1.E

REQUEST

APPROVAL OF A RESOLUTION SELECTING HEWLETT PACKARD AS THE SUPPLIER OF NEW DESKTOP COMPUTER SYSTEMS THROUGH THE CALIFORNIA STRATEGIC SOURCING INITIATIVE (CSSI) COMPETITIVE BID PROGRAM PURSUANT TO TRACY MUNICIPAL CODE SECTION 2.20.220

EXECUTIVE SUMMARY

Staff recommends selecting Hewlett Packard as the supplier of new desktop computers through the competitively bid California Strategic Sourcing Initiative (CSSI) contract. Replacement of the existing computers will be done in two phases. Phase 1 will begin this fiscal year and will consist of replacing computers at the Police Department. Funding in the amount of $120,000 has already been budgeted for this phase. In phase 2 we will be replacing desktop computers for the rest of the City. Phase 2 will happen in fiscal year 2012-2013 and budgeting for this will occur as part of the normal CIP budget process.

DISCUSSION

The City's current desktop computers from Hewlett Packard are now over 5 years old and are quickly becoming inadequate to meet the current City computing requirements. We typically replace computers every 3 years after the manufacturer's warranty expires. Due to budget constraints, we have been able to extend the life of these computers an additional two years by doing things such as adding additional memory, etc. However, we are now at a point where it is no longer cost effective to continue to upgrade and replacements are necessary.

Staff has researched a variety of desktop computer systems and has determined that Hewlett Packard offers the best product and support to meet the City's computing needs. We have had excellent success on both the hardware and support side with Hewlett Packard over the last 6 years. This was something we did not have with our previous vendors.

Purchasing of these computers would typically be put out to bid. However, Tracy Municipal Code section 2.20.220 allows the City to procure equipment in conjunction with "cooperative purchasing agreement(s) or programs entered into between the City and the State, County, or other public agencies situated within the State". This section also provides that the "formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement or program". In addition, the CSSI contract allows us to purchase standard configurations for 3 years, thus enabling us to standardize on a small number of models.

STRATEGIC PLAN

Approval of this item pertains to one of the City Council's Strategic Plans – Organizational Efficiency Strategy – Goal #4 – Ensure long term viability and enhancement of the City's workforce – specifically item 4c – Implement Citywide standards and technologies to enhance workforce productivity.

FISCAL IMPACT

$120,000 (from the Equipment Replacement Fund) has already been budgeted for in FY 11-12 as part of the normal CIP budget process. Phase 2 in FY 12-13 will also be budgeted as part of the normal budget process.

RECOMMENDATION

It is recommended the City Council by resolution approve the purchase of Hewlett Packard computers through the California Strategic Sourcing Initiative contract.

Prepared by: Matt Engen, IT Manager
Approved by: Zane Johnston, Finance & Administrative Services Director

RESOLUTION _____

APPROVING THE SELECTION OF HEWLETT PACKARD AS THE SUPPLIER OF NEW DESKTOP COMPUTER SYSTEMS THROUGH THE CALIFORNIA STRATEGIC SOURCING INITIATIVE (CSSI) COMPETITIVE BID PROGRAM PURSUANT TO TRACY MUNICIPAL CODE SECTION 2.20.220

WHEREAS, The City's current desktop computers from Hewlett Packard are now over 5 years old and are quickly becoming inadequate to meet the current City computing requirements, and

WHEREAS, Staff has researched a variety of desktop computer systems and has determined that Hewlett Packard offers the best product and support to meet the City's computing needs, and

WHEREAS, Purchasing of these computers would typically be put out to bid. However, Tracy Municipal Code section 2.20.220 allows the City to procure equipment in conjunction with "cooperative purchasing agreement(s) or programs entered into between the City and the State, County, or other public agencies situated within the State". This section also provides that the "formal contract and bidding procedures to be followed in such cases shall be those specifically enumerated in the voluntary cooperative purchasing agreement or program". In addition, the CSSI contract allows us to purchase standard configurations for 3 years, thus enabling us to standardize on a small number of models, and

WHEREAS, $120,000 (from the Equipment Replacement Fund) has already been budgeted for in FY 11-12 as part of the normal CIP budget process and Phase 2 in FY 12-13 will also be budgeted as part of the normal budget process;

NOW, THEREFORE, BE IT RESOLVED, That City Council approve the purchase of Hewlett Packard computers through the California Strategic Sourcing Initiative contract.

* * * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

March 20, 2012

AGENDA ITEM 1.F

REQUEST

APPROVE AMENDMENT ONE TO AN EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST, LLC, RELATED TO THE POTENTIAL DEVELOPMENT OF APPROXIMATELY 628 ACRES OF THE CITY-OWNED HOLLY SUGAR PROPERTY

EXECUTIVE SUMMARY

The City entered into an Exclusive Negotiating Rights Agreement (ENRA) with Tracy's California Blast, LLC, on April 29, 2011, following City Council direction on April 11, 2011. The purpose of the ENRA was to provide both Tracy's California Blast, LLC (TCB), an opportunity to undertake evaluation of the development potential of the property, to submit development applications to the City, and to actively pursue and continue processing those applications for a motorsports park and recreation oriented development. The ENRA contains specific terms required of TCB, some of which have not been met within the required time periods. This agenda item relates to amending the existing ENRA with TCB to allow six additional months in order to complete financial verification steps and submit specific applications for potential development.

DISCUSSION

Background on Exclusive Negotiating Rights Agreements with Tracy's California Blast

On March 3, and July 7, 2009, City Council approved two separate ENRAs with Jeff Macey to develop a motorsports park on approximately 300 acres of the City-owned Holly Sugar property north of the Holly Sugar Sports Complex. The first ENRA was for 120 days and the second ENRA was for 180 days, which was extended twice and expired on December 31, 2010. The purpose of these ENRAs was to allow Mr. Macey to form a development team and legal entity capable of developing the project and the opportunity to further refine his development proposal. Those ENRAs expired. However, during that timeframe Mr. Macey formed a new legal entity, Tracy's California Blast, LLC (TCB). In response to this, the City Council approved a third ENRA on April 19, 2011, with TCB.

The new development entity, TCB, proposed to expand on the original motorsports park concept by approximately 300 additional acres. New development ideas included expanded commercial and other recreational uses on a total of 628 acres, with a continued focus on a motorsports park. The location of the 628 acres under consideration within this ENRA is located in the vicinity of Corral Hollow Road and Holly Drive, as shown on Attachment A.

After the formation of TCB, City staff was also informed that the president of TCB was no longer Jeff Macey and that Jim Rogers would be the project proponent. Over the last couple of years, during the timeframes of all three ENRAs, City staff has participated in dozens of internal meetings as well as meetings with Jeff Macey and Jim Rogers in an effort to render the project feasible.

Since entering into this latest ENRA, the project proponent has modified its ideas from a primarily motorsports park concept into a proposal substantially expanded from the original concept contemplated in the ENRA.

Term of ENRA

The current ENRA with TCB has a term of three years (to April 29, 2014) subject to completion of certain actions or milestones agreed to by the City and TCB. TCB is in default of Sections 4 and 6 of the ENRA relative to submitting development applications and providing financial statements to verify their ability to fund the entitlement process and to fund construction of the first phase of the 628 acre project, which includes the motorsports park component. Requiring early-stage developer financial review and verification for such a project, particularly when the project involves the potential sale or lease of public land, is common practice. In cases where the project may involve subsidies or other public financial obligations, as may be the case with this project, financial verification becomes even more critical to ensuring the project is realized.

As stated in Section 6 of the ENRA, TCB's financial statements and verification were due by August 29, 2011 (Attachment B is the ENRA with TCB), and although staff made multiple attempts to assist TCB to be in compliance with the requirement for financial verification, as of the writing of this staff report, the City's financial consultant has not received any financial information from TCB.

In addition to meeting with TCB on numerous occasions, the City issued a series of letters dated September 19, 2011, October 6, 2011, and November 15, 2011, informing TCB about the requirement, identifying the default, and offering assistance to cure the default.

Request for Extended Timelines for two ENRA Requirements

Jim Rogers, who is now the CEO of TCB, has asked for an extension of the time period to complete both requirements:

- financial verification (Section 6 of the ENRA); and.
- items identified in Section 4 of the ENRA which require submittal of development applications for a General Plan Amendment, Specific Plan (zoning), and Annexation to the City.

Staff recommends a six month extension (until September 20, 2012) to complete both items.

Exhibit C to the staff report is the February 13, 2012 request of Jim Rogers to amend the ENRA to allow for additional time to complete Sections 4 and 6 of the ENRA.

Staff Suggested Amendment to the ENRA

The ENRA as originally signed is between the City of Tracy and TCB, with Jeff Macey signing as president of TCB. As mentioned earlier, Jim Rogers is now the CEO of TCB.

Staff recommends amending Section 19 (Signatures) of the ENRA to list Jim Rogers as the authorized signatory of the ENRA. Staff further recommends amending Section 11 (Notices) to remove Jeff Macey and add Jim Rogers as the party to receive notices under the ENRA.

STRATEGIC PLAN

This agenda item is related to the Economic Development Strategic Plan because it relates to continuing efforts to bring potential jobs and sales tax generating uses to the community, as well as additional recreational amenities.

FISCAL IMPACT

There is no fiscal impact to the City's General Fund. Tracy's California Blast LLC, paid an initial fixed fee of $25,000 and entered into a Cost Recovery Agreement to cover initial staff time on this project. For consideration for the three-year term, Tracy's California Blast LLC has paid $1,500 per month for exclusive rights to negotiate with the City.

RECOMMENDATION

Staff recommends that City Council, by resolution, amend the Exclusive Negotiating Rights Agreement with Tracy's California Blast, LLC to allow an additional six months' time to complete items under Sections 4 and 6 of the ENRA.

Exhibit A - Location Map
Exhibit B - Exclusive Negotiating Rights Agreement
Exhibit C – Letter of request from Jim Rogers

Prepared by: Bill Dean, Assistant Director of Development Services

Reviewed by: Maria Hurtado, Assistant City Manager
Andrew Malik, Development Services Director
Rod Buchanan, Parks and Community Services Director
Kevin Tobeck, Public Works Director

Approved by: Leon Churchill Jr., City Manager

City of Tracy
Property Purchased from Holly Sugar

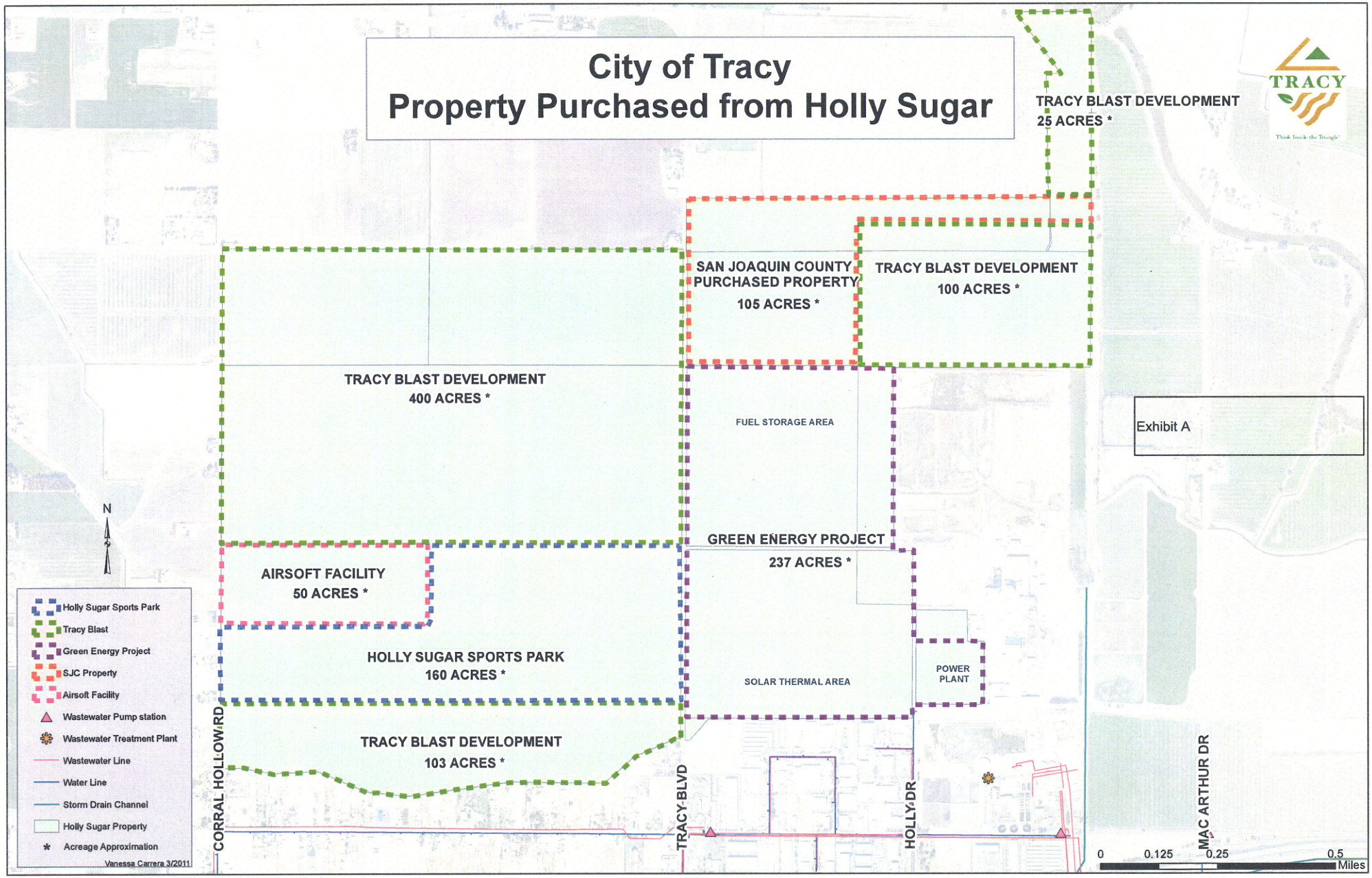


Exhibit A

Exhibit B

FIRST AMENDMENT TO EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT BETWEEN TRACY BLAST DEVELOPMENT, LLC. AND THE CITY OF TRACY

This First Amendment to the Exclusive Negotiating Rights Agreement ("Amendment") is entered into between the City of Tracy ("City"), a California Municipal Corporation, and Tracy Blast Development, LLC (“Tracy Blast”).

RECITALS

A. On April 19, 2011, City and Tracy Blast entered into an Exclusive Negotiating Rights Agreement (ENRA) regarding development of the City-owned Holly Sugar property.

B. The current CEO of Tracy Blast, James Rogers, has requested an extension of time to satisfy two of the milestones set forth in the ENRA.

C. The parties wish to enter into this Amendment regarding that extension.

AGREEMENT

NOW, THEREFORE, the parties agree as follows:

1. Amendment to ENRA Section 4. Section 4 of the ENRA is amended to read as follows:

> “**4. Development applications.** Tracy Blast agrees to undertake evaluation of the development potential of the Property, to submit appropriate and required applications to the City in a timely manner, and to actively pursue and continue processing those applications.
>
> By September 20, 2012, Tracy Blast agrees to prepare and submit development applications for various entitlements for the Property, including but not limited to the following:
>
> - Specific Plan
> - General Plan Amendment
> - Prezoning
> - Annexation
> - Environmental review under the California Environmental Quality Act (CEQA).”

2. Amendment to ENRA Section 6. Section 6 of the ENRA is amended to read as follows:

"6. Financial verification. Before September 20, 2012, Tracy Blast shall allow National Development Council to review sufficient information to verify the financial statements of Tracy Blast, to complete the entitlement process (Specific Plan, General Plan, Annexation, environmental review) and the financial statements for the first phase (motorsports park on approximately 400 acres north of the proposed City sports park). The standard due diligence information and required documents include, but are not limited to:

(a) for each principal of Tracy Blast:
- personal financial statement; and
- federal tax return for the current year and for the prior three years; and
- a signed credit release form.

(b) for investors who may be providing cash:
- their company bank account number as evidence of the cash on hand; and
- a signed general financial release of account information form.

(c) for investors who are not providing cash on hand:
- a legally-binding letter of commitment for the amount, backed up by
- personal financial statements; and
- federal tax returns for the current year and the last three years; and
- a signed credit release form.

(d) Follow-up information as may be required by National Development Council.

There is a 60-day period during which the City performs its financial due diligence regarding the viability of Tracy Blast to undertake the entitlement process, and the first phase, based on the review of financial information in a confidential manner by National Development Council."

3. Amendment to ENRA Section 9. Section 9 of the ENRA is amended to read as follows:

"9. Responsibilities of Tracy Blast: Summary. Following is a list of milestones which Tracy Blast agrees to perform:

ACTIONS/MILESTONES	DEADLINE	ENRA SECTION REFERENCE
Payment of $1500/month (prorated the first month) as consideration for this	5 days after signing ENRA	3

ENRA		
Evaluate and propose feasible alternative sites to CST and to City.	60-90 days after signing ENRA	Recital D 8 14
Payment of $25,000 for City's costs	90 days after signing ENRA	7
Providing requested financial data to National Development Council to verify the financial statements of Tracy Blast for the entitlement process and the first phase. (Confirmation from National Development Council regarding financial viability within 30 days after information provided.)	Before September 20, 2012	6
City Council to consider modification of properties under ENRAs, if reduced CST acreage and/or feasible alternative site(s) exist for CST.	90-120 days after signing ENRA for City approved reduction in CST acreage. For relocated site(s), when the alternative site(s) has been approved by City, acquired, entitled and ready for use.	Recital D 8 14
Demonstrating to City the composition and qualifications of consultant team	120 days after signing ENRA	5
Entering into Cost Recovery Agreement with City	120 days after signing ENRA	7
Submit complete applications to the City for all required entitlements	By September 20, 2012	4
Actively pursue and process the submitted applications	Evaluation every 6 months from signing of ENRA	4
Make payments and deposits under the Cost Recovery Agreement when due.	Ongoing after signing Cost Recovery Agreement.	7

"

4. Amending ENRA Section11. Section 11 of the ENRA is amended to read as follows:

"11. Notices. Any and all notices or other communication required or permitted by this Agreement or by law to be served on or given to either party by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of personal service, when deposited in the United States mail, first class, postage prepaid, addressed to:

City of Tracy
Attn: Maria Hurtado, Assistant City Manager
333 Civic Center Plaza Drive
Tracy, CA 95376

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

Tracy Blast Development, LLC

James B. Rogers, CEO
180 La Montagne Court
Los Gatos, CA 95032"

5. Signatures. The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of Tracy Blast and the City.

City of Tracy By: _____ Brent H. Ives, Mayor Date: _____ Attest: By: _____ Sandra Edwards Title: City Clerk Date: _____ Approved As To Form: By: _____ Daniel G. Sodergren Title: City Attorney Date: _____	**Tracy Blast Development, LLC** By: _____ James B. Rogers, CEO Date: _____

EXHIBIT C

City of Tracy
Mayor/Brent Ives
City Manager/Leon Churchill
Council Members
333 Civic Dr.
Tracy, Ca. 95376

Re: ENRA Tracy's California Blast Inc., (TCBI)

Mayor Ives, Leon Churchill, and Council Members

I wanted to review and restate the thoughts Leon and Brent shared with us last week. The meeting was related to certain terms concerning the TCBI, ENRA.

The extension and terms discussed requested are noted in this letter

EXTENSION

The City will Grant to: TCBI. a 6-month extension of time as it pertains to Item #4 and #6 of the current ENRA. The current ENRA was signed on or about April 29th 2011, by and Between the City and TCBI. The 6-month extension period will begin once the City council ratifies the extension.

NEW ENRA

Upon Satisfactory proof that Items #4 and #6 of the current ENRA are in compliance, the City will agree to grant a new 3-year ENRA to the new Entity that will be formed on behalf of the new investors.

The name of the Development will be changed to reflect the all-new Entity.

The amount of property will be adjusted to include the City owned 105-acre passive recreational park adjoining the Sports field.

The same language concerning the replacement of the CST property will also be included in this new ENRA.

The New ENRA will have a provision to obtain a 3-year farm lease on the subject property.

The new ENRA will also address entering into a long-term lease of the subject property. This lease would commence once the entitlements are in place, to construct and operate the anticipated improvements.

We would also like the City to write a "Welcome letter" to the TCBI team.

This new terms and "Welcome letter" are critical for the success of the project. It helps make investors comfortable with the many studies and financial models of each venue. It will also instill confidence with the investors that they are in a friendly business environment.

It would be unethical for us to risk investor funds; in a project the City does not support.

Specific language will be drafted that will not violate CEQA guidelines.

The Development team has met with many local business owners, farmers, and citizens of Tracy. We have not found anyone not in support of this entire project.

Thank you for your support.

Respectfully,

James B. Rogers, CEO
Tracy's California Blast Inc.
180 La Montagne Ct.
Los Gatos, Ca. 95032

Date 2-13-12

RESOLUTION ____

APPROVING THE FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATING RIGHTS AGREEMENT WITH TRACY'S CALIFORNIA BLAST REGARDING PROPERTY IN THE HOLLY SUGAR AREA

WHEREAS, On April 19, 2011, City and Tracy Blast entered into an Exclusive Negotiating Rights Agreement (ENRA) regarding development of the City-owned Holly Sugar property.

WHEREAS, The current CEO of Tracy Blast, James Rogers, has requested an extension of time to satisfy two of the milestones set forth in the ENRA March 20, 2012 was provided to Tracy's California Blast (Attn: James Rogers, current CEO and Jeff Macey, former President) as provided in the ENRA.

NOW, THEREFORE, The Tracy City Council resolves as follows:

1. Approval of First Amendment. The First Amendment to the Exclusive Negotiating Rights Agreement between Tracy Blast Development, LLC and the City of Tracy is approved.

2. Direction to Staff. The City Staff is directed not to expend staff time on applications, submittals or meetings for the Tracy Blast project until Section 6, Financial Verification, of the Amended ENRA is satisfied.

* * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 20th day of March, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

March 20, 2012

AGENDA ITEM 1.G

REQUEST

ADOPTION OF A RESOLUTION APPROVING A CONTRACT TIME EXTENSION WITH CH2M HILL FOR THE PURPOSE OF CONTINUED GIS TRAINING FOR CITY STAFF AND ADDITIONAL TIME TO COMPLETE THE UTILITY SYSTEM ASSET MANAGEMENT SYSTEM WITHOUT ADDITIONAL COST TO CITY AND AUTHORIZE THE MAYOR TO SIGN THE AMENDMENT

EXECUTIVE SUMMARY

Staff recommends amending the GIS Profession Services Agreement (PSA) with CH2M Hill to allow for a time extension so that additional training can be provided to City staff. In addition, more time is needed to complete the Utility Asset Management System in Public Works. There is no change to the original scope of work and no change to the contract price or budget for this project. This is simply a time extension to the original PSA.

DISCUSSION

In 2008, City Council identified implementation of a Geographic Information System (GIS) as one of the critical infrastructure projects for the City. The Citywide Geographic Information System was planned and implemented from 2009 to 2011. The above implementation schedule is consistent with previous City Council Goal Prioritization Workshops held in 2009. Also, the Citywide GIS project is helping the City to comply with Federal CMOM Regulations related to sewer system management and maintenance.

Currently, the Citywide GIS system is operational and providing critical data and maps to the City staff. Due to the overall complexity of the system and recent upgrades to the software, additional training is needed for City staff to support the system and maximize the use of GIS tools and resources. In addition, since GIS is interconnected with the Public Works CMMS system (and other internal systems), additional time is needed to complete the Utility System Asset Management system.

No additional funds are needed to provide the additional training to staff or to complete the Asset Management Project. Funding will come from a previously approved CIP budget.

Strategic Plan

Approval of this item pertains to one of the City Council's Strategic Pans – Organizational Efficiency Strategy – Goal 3 - Integrate current and new processes and systems into business operations of the City – specifically 3b – Expand GIS usage throughout the City.

FISCAL IMPACT

There is no impact to the General Fund. Citywide GIS is a previously authorized CIP with $1.2 million coming from sewer and water funds and $1.8 million from the City's General Projects Fund (301). This request does not expand the budget or scope for this project; it is simply an extension of time to complete the project

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution approving a contract time extension with CH2M HILL for the purposes of continued GIS training for City Staff and additional time to complete the utility system asset management system without additional cost to the City and authorizing the Mayor to sign the amendment.

Prepared by: Matt Engen, Information Technology Manager
Reviewed by: Zane Johnston, Finance & Administrative Services Director
Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

APPROVING A CONTRACT TIME EXTENSION WITH CH2M HILL FOR THE PURPOSE OF CONTINUED GIS TRAINING FOR CITY STAFF AND ADDITIONAL TIME TO COMPLETE THE UTILITY SYSTEM ASSET MANAGEMENT SYSTEM WITHOUT ADDITIONAL COST TO CITY AND AUTHORIZE THE MAYOR TO SIGN THE AMENDMENT

WHEREAS, In 2008, City Council identified implementation of a Geographic Information System (GIS) as one of the critical infrastructure projects for the City, and

WHEREAS, The Citywide Geographic Information System was planned and implemented from 2009 to 2011 and currently is operational, and

WHEREAS, Due to the overall complexity of the system additional training is needed for City staff to support the system and maximize the use of GIS tools and resources, and

WHEREAS, In addition, since GIS is interconnected with the Public Works CMMS system (and other internal systems), additional time is needed to complete the Utility System Asset Management system, and

WHEREAS, Citywide GIS is a previously authorized CIP with $1.2 million coming from sewer and water funds and $1.8 million from the City's General Projects Fund (301), and

WHEREAS, This request has no impact to the General Fund and does not expand the budget or scope for this project, it is simply an extension of time to complete the project;

NOW, THEREFORE, BE IT RESOLVED, That the City Council approve a contract time extension with CH2M HILL for the purposes of continued GIS training for City Staff and additional time to complete the utility system asset management system without additional cost to the City and authorizing the Mayor to sign the amendment.

* * * * * * * * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the _____ day of _____, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____

Mayor

ATTEST:

_____

City Clerk

CITY OF TRACY
AMENDMENT NO. 21 TO
MASTER PROFESSIONAL SERVICES AGREEMENT NO. CH8

GEOGRAPHICAL INFORMATION SYSTEM (GIS) TRAINING AND UTILITIES ASSET INVENTORY

This Amendment No. 21 amends Amendment 20 to Master Professional Services Agreement CH8 between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and CH2M HILL, Inc., a Florida Corporation, (hereinafter "CONSULTANT").

RECITALS

A. The time frames for CONSULTANT completing its services need to be extended.

B. On March 20, 2012, the City Council authorized the execution of this Amendment, pursuant to Resolution No. 2012-_____.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. INCORPORATION OF PROFESSIONAL SERVICES AGREEMENT. This Amendment 21 hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, as amended from time to time, unless specifically modified by this Amendment 21.

2. TIME OF PERFORMANCE. CONSULTANT's time of performance as set forth in Exhibit "A" to Amendment No. 20 is hereby amended to require CONSULTANT to complete all required services no later than December 30, 2013.

3. SIGNATURES. The individuals executing this Amendment 21 represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment 21 to the Master Professional Services Agreement No. CH8 on behalf of the respective legal entities of CITY and CONSULTANT.

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

CITY OF TRACY

_____
By: Brent H. Ives
Title: MAYOR

Date: _____

Attest:

_____
By: Sandra Edwards
Title: CITY CLERK

Date: _____

Approved As To Form:

_____
By: Dan Sodergren
Title: CITY ATTORNEY

CONSULTANT
CH2M HILL Engineers

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

Date: _____
Fed. Employer ID No.59-0918189

_____
By:

_____
Title

_____
Date

_____
Date

March 20, 2012

AGENDA ITEM 1.H

REQUEST

THE CITY COUNCIL OF THE CITY OF TRACY ACTING AS THE GOVERNING BODY OF THE SUCCESSOR AGENCY FOR THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY APPROVING THE RECOGNIZED OBLIGATIONS PAYMENT SCHEDULE (ROPS)

EXECUTIVE SUMMARY

This action will approve the Recognized Obligations Payment Schedule which lists the various obligations of the former Tracy Community Development Agency which requires payment between January 1, 2012 and June 30, 2012.

DISCUSSION

The State of California through the passage of ABX1 26 dissolved redevelopment agencies effective February 1, 2012 and replaced them with successor agencies. The City of Tracy previously elected to serve as the successor agency for our former redevelopment agency. Previously the City Council approved an Enforceable Obligation Payment Schedule (EOPS) which listed the various financial obligations of the former Tracy Community Development Agency. The law now requires that a Recognized Obligations Payment Schedule (ROPS) be adopted which will list all enforceable obligations proposed for payment between January 1, 2012 and June 30, 2012. Attached is the ROPS for this period. The ROPS will also need to be approved by the Oversight Board of the Successor Agency once all members have been appointed (There is a separate item on the March 20, 2012 City Council agenda regarding the Mayor's appointments to this Oversight Board.)

STRATEGIC PLAN

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

FISCAL IMPACT

There is no impact to the City's General Fund. Recognized obligations are paid from property tax revenue that previously were allocated to the Tracy Community Development Agency. The County Auditor will make these funds available for the obligations.

RECOMMENDATION

It is recommended the City Council adopt the attached resolution approving the Recognized Obligation Payments Schedule of the former Tracy Community Development Agency.

Prepared by: Zane Johnston, Finance & Administrative Services Director
Approved by: Leon Churchill, Jr., City Manager

RESOLUTION _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TRACY, ACTING AS THE GOVERNING BOARD OF THE SUCCESSOR AGENCY FOR THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF TRACY, ADOPTING AN AMENDED ENFORCEABLE OBLIGATION PAYMENT SCHEDULE, APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE

WHEREAS, the California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law (Health and Safety Code Section 33000 et seq.); and

WHEREAS, on January 17, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Tracy (the "City Council") declared that the City of Tracy, a municipal corporation (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Community Development Agency of the City of Tracy(the "Former CDA") effective February 1, 2012; and

WHEREAS, on February 1, 2012, the Former CDA was dissolved pursuant to Health and Safety Code Section 34172; and

WHEREAS, the Dissolution Act provides for the appointment of an oversight board (the "Oversight Board") with specific duties to approve certain Successor Agency actions pursuant to Health and Safety Code Section 34180 and to direct the Successor Agency in certain other actions pursuant to Health and Safety Code Section 34181; and

WHEREAS, on August 1, 2011, the Former CDA adopted its latest enforceable obligation payment schedule (the "RDA EOPS") as required pursuant to Health and Safety Code Section 34169(g); and

WHEREAS, Health and Safety Code Section 34177(a)(1) requires the Successor Agency to amend the CDA EOPS to remove specified agreements and adopt the amended EOPS (the "Amended EOPS") and make associated notifications and distributions; and

WHEREAS, Health and Safety Code Section 34177(l)(2)(A) requires the Successor Agency to prepare a draft recognized obligation payment schedule (the "ROPS") and make associated notifications and distributions; and

WHEREAS, the ROPS and Successor Agency Administrative Budget must be approved by the Oversight Board pursuant to Health and Safety Code Sections 34177(l)(2)(B) and 34177(j), respectively.

NOW, THEREFORE, BE IT RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby authorizes and directs the City Manager or the City Manager's designee, acting on behalf of the Successor Agency, to organize and call the meetings of the Oversight Board, as soon as practicable after the appointment of the Oversight

Board but no later than the date required by Health and Safety Code Section 34179, to facilitate the Oversight Board's approval of the ROPS and Successor Agency Administrative Budget.

BE IT FURTHER RESOLVED that unless and until the City Council, acting as the Governing Board of the Successor Agency, resolves otherwise, the Successor Agency shall be referred to in all its official documents, papers, reports, agreements, deeds, and other written materials, and shall carry out its duties and exercise its rights as the "City of Tracy, acting in its capacity as the Successor Agency of the Community Development Agency of the City of Tracy", or similar wording.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, declares that the assets, obligations, liabilities, and activities of the Successor Agency are and shall remain separate from the assets, obligations, liabilities and activities of the City, and that all costs of, liabilities of, and claims against the Successor Agency and/or the Oversight Board shall be solely the costs and liabilities of the Successor Agency and/or the Oversight Board and shall not be costs of, liabilities of, and/or claims against the City.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency and in conformance with Health and Safety Code Section 34177(a)(1), hereby adopts the CDA EOPS (a copy of which is on file with the City Clerk) as the Successor Agency's Amended EOPS, conditioned on removal from the RDA EOPS of the Invalidated Agreements. As used in this Resolution, "Invalidated Agreements" means those agreements between the Redevelopment Agency and the City that remain invalidated pursuant to Health and Safety Code Section 34178 following the final outcome of (1) all pending and potential statutory amendments to Health and Safety Code Section 34178 or other applicable provisions of the Dissolution Act (including, without limitation, amendments pursuant to SB 654 and AB 1585), and (2) all pending and potential litigation regarding the validity of Health and Safety Code Section 34178 and other applicable provisions of the Dissolution Act (including, without limitation, any such litigation initiated by the City). "Invalidated Agreements" expressly do not include any agreements that are deemed valid following the final outcome of any of the events described in the preceding sentence, and expressly do not include any agreements that are described as being valid pursuant to Health and Safety Code Section 34178(b).

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby approves the ROPS and the Successor Agency Administrative Budget, which contains the Successor Agency Administrative Cost Estimates. Copies of the ROPS Budget are also on file with the City Clerk.

BE IT FURTHER RESOLVED that the City Council, acting as the Governing Board of the Successor Agency, hereby authorizes and directs the City Manager or the City Manager's designee, acting on behalf of the Successor Agency, to file, post, mail or otherwise deliver via electronic mail, internet posting, and/or hardcopy, all notices and transmittals necessary or convenient in connection with the adoption of the Amended EOPS, approval of the ROPS, , and other actions taken pursuant to this Resolution.

BE IT FURTHER RESOLVED that nothing in this Resolution shall abrogate, waive, impair or in any other manner affect the right or ability of the City, as a municipal corporation, to initiate and prosecute any litigation with respect to any agreement or other arrangement between the City and the Former CDA, including, without limitation, any litigation contesting the purported invalidity of such agreement or arrangement pursuant to the Dissolution Act.

BE IT FURTHER RESOLVED, that this Resolution shall take immediate effect upon adoption.

ADOPTED March 20, 2012 by the City Council of the City of Tracy, acting in its capacity as the Successor Agency of the Redevelopment Agency of the City of Tracy, by the following vote, to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

_____
Chair

ATTEST:

_____
Successor Agency Secretary

APPROVED AS TO FORM:

_____
Successor Agency Counsel

Tracy Community Development Agency Reconized Obligation Payment Schedule						Payments Required 1/1/2012 to 6/30/2012
Name of Obligation	Payee	Description	Total	Amount or	Annual	
2003 Tax Allocation Bonds Series A	Bank of New York	Bond Debt of Agency	$30,190,000			$1,494,721.88
2003 Tax Allocation Bonds Series B	Bank of New York	Bond Debt of Agency	$18,525,000			$960,312.50
2008 Lease Revenue Bonds	City of Tracy	Repayment of Agency's share of bonds issued by City	$4,458,550			$400,000.00
Debt/Trustee Fees	Bank of New York	Bond Trustee Expenses			$10,000	$4,770.00
	Wildan	Debt Administrative Expenses				
Property Tax Administration	San Joaquin County				$195,000	$183,558.00
2% Direct Allocation Payments	Banta Elementary	Payments due for FY 10-11			$16	
	Tracy Cemetery				$5,416	
	SJ County Mosquito				$7,681	
	Banta-Carbona Irrigation				$916	
	Naglee-Burke Irrigation				$12,432	
	West Side Irrigation Dist.				$177	
	City of Tracy				$198,898	
Pass Through Payments	County Sup. Of Schools	Payments due for FY 10-11			$25,273	
	Delta Community College				$69,946	
	Jefferson School District				$5,065	
	Tracy Unified School Dist				$485,851	
Agency's Operating Budget	various employees	Personnel Expenses			$345,540	$345,540.00
	various	Contracted Services			$45,950	$45,950.00
	various	Commodities			$1,400	$1,400.00
	City of Tracy	Internal Charges			$15,460	$15,460.00
	various	Other Payments			$19,570	$19,570.00
Agency's Housing Budget	various employees	Personnel Expenses			$359,920	$359,920.00
	various	Contracted Services			$43,550	$43,550.00
	various	Commodities			$3,320	$3,320.00
	City of Tracy	Internal Charges			$22,670	$22,670.00
						$3,900,742.38

Amounts are shown as the total due for all future years of this obligation if this can be calculated at the present time or shown as the most current total for one year if all future obligations of this category cannot be calculated at present

March 20, 2012

AGENDA ITEM 3

REQUEST

PUBLIC HEARING TO CONSIDER A GENERAL PLAN AMENDMENT FROM DOWNTOWN (D) TO COMMERCIAL (C) AND REZONE FROM LIGHT INDUSTRIAL (M-1) TO PLANNED UNIT DEVELOPMENT (PUD) – THE SITE INCLUDES FIVE PARCELS ON THE NORTH SIDE OF W. SIXTH STREET BETWEEN N. "B" STREET AND N. "C" STREET (615 N. "C" ST., 63 W. SIXTH ST., 69 W. SIXTH ST., 77 W. SIXTH ST., AND 99 W. SIXTH ST., TRACY; ASSESSOR'S PARCEL NUMBERS 235-066-08 THRU 12) – THE APPLICANT IS STAN SHORE FOR THE STAN SHORE TRUST

EXECUTIVE SUMMARY

The proposal is to amend the General Plan designation and rezone the one-half block area to allow a wider range of land uses. Staff and the Planning Commission recommend approval.

DISCUSSION

Background and Site Description

The site is located on the north side of W. Sixth Street between N. "B" and N. "C" Streets (Attachment A), adjacent to Tracy's downtown area. The approximately 0.85-acre site contains five parcels, each of which is fully developed.

The western-most parcel, at the northeast corner of W. Sixth Street and N. "B" Street contains the Tracy Delta Solid Waste Management, Inc. Recycle Buy-Back Center. The next parcel to the east contains a single-family home. And the final three parcels each contain a Quonset Hut building. All existing buildings have been in place for approximately 50 to over 100 years.

The site is adjacent to a long-established residential neighborhood to the north and the Union Pacific rail lines to the south. Historically, it has been part of a small, industrial employment area including an Ace Tomato packing facility (now the spice warehouse on the south side of W. Sixth Street), auto services, Tracy Glass Shop (in place for over 65 years), and other businesses.

The General Plan designation and zoning of the site, historically, have been industrial. In 2006, the City Council amended the General Plan designation of the site to Downtown (Attachment B) in anticipation that retail, restaurants, multi-family residential or similar expansions of the downtown would need and seek locations in this vicinity on both the north and south sides of W. Sixth Street. For reference, Attachment F contains the Tracy General Plan descriptions for the Industrial, Downtown, and Commercial land use designations.

The zoning, though, has not yet been changed to be consistent with the General Plan designation and remains Light Industrial (Attachment C).

Proposed General Plan Designation and PUD Zone

Recently, the eastern-most Quonset Hut building (at the northwest corner of W. Sixth Street and N. "C" Street) became vacant. The owner's proposed replacement is an auto service facility. Auto service is not a permitted land use within the Downtown General Plan designation. The owner, therefore, submitted an application to amend the zoning and the General Plan designation to allow auto services and other, related land uses. The proposal is a combination of the owner's original proposal for his own parcel and City staff's recommendation to modify the proposal and expand it to cover the entire site. Staff worked with the applicant to refine the proposed Planned Unit Development (PUD) permitted uses and development standards and has reviewed the proposal with all property owners within the proposed PUD.

The proposal is to adopt a General Plan designation and zoning that are designed to balance the site's (1) historical industrial neighbors, land uses and improvements; (2) proximity to the City's Downtown and long-term vision to support commercial and residential uses in the Downtown area; and (3) opportunities to promote compatibility with the adjacent residential neighborhood.

This proposal would amend the General Plan designation from Downtown to Commercial and change the zoning from Light Industrial to PUD (Attachments D and E). The proposed PUD development plan is an Exhibit to the attached Ordinance.

The proposed PUD would allow the existing businesses to remain (without being nonconforming land uses) and allow similar and a wider range of land uses to replace them in the future, such as business services, auto services, storage, and contract construction.

The proposed PUD would also promote increased activity of commercial uses by allowing such businesses as retail, consumer services, offices, restaurants, and other commercial uses to locate to the site. Over time, the existing, older structures would be able to be replaced with commercial or high-density residential uses, consistent with a long-term vision for the downtown vicinity. Again, existing uses would remain permitted uses with this rezoning.

The proposed PUD contains development standards (unique to this site) to help reduce noise, light and glare, nighttime disturbance or traffic, and other potential impacts on the adjacent residences to the north.

California Environmental Quality Act Documentation

The proposal does not change the development density established by the General Plan for which an Environmental Impact Report (EIR) was certified on February 1, 2011, (State Clearinghouse Number 2008092006). Therefore, in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15183, no further environmental assessment is required.

The project includes a General Plan amendment from Downtown (D) to Commercial (C) and adoption of a PUD Zone to implement the General Plan designation.

CEQA Guidelines Section 15183(i) state that the density is "consistent" if the proposed project "is the same or less than the standard expressed for the involved parcel of the General Plan… for which an EIR has been certified, and that the project complies with the density-related standards contained in that plan or zoning."

The site is designated Downtown in the General Plan for which the EIR was certified. Both the existing Downtown and the proposed Commercial land use designations (including the limitations set by the proposed PUD Zone) have sufficiently similar density standards, in this context, to conclude that the project meets the requirements of CEQA Guidelines Section 15183.

For example, both land use designations allow a full range of retail, office, restaurant, and other commercial land uses. Both assume a maximum floor area ratio of 1.0. Both allow high density residential development. However, the Downtown designation allows a density of up to 50 dwelling units per acre, while the Commercial designation allows only up to 25 dwelling units per acre.

The proposed PUD to implement the Commercial designation on the subject property will further limit the development density of the project. The proposed PUD limits noise, roll-up door activity, height, conduct of uses to within buildings, and other activities compared with the potential development density of the site under the existing Downtown designation and the Central Business District Zone, which is used to implement the Downtown designation.

PLANNING COMMISSION ACTION

On February 22, 2012, the Planning Commission conducted a public hearing to review the project. The project applicant and proposed tenant spoke in favor of the proposal. No other parties addressed the Commission. By a vote of five to zero, the Planning Commission recommended that the City Council approve the project.

STRATEGIC PLAN

This proposal supports the Economic Development Strategic Plan, particularly related to Goal 2: downtown revitalization.

FISCAL IMPACT

This agenda item will not require any specific expenditure from the General Fund. Staff costs to process the application are recovered through a Cost Recovery Agreement with the project applicant, the Stan Shore Trust, executed on January 20, 2012.

RECOMMENDATION

Staff and the Planning Commission recommend that City Council take the following action:

1. Approve the General Plan Amendment from Downtown (D) to Commercial (C),
2. Approve the rezoning of the site from Light Industrial (M-1) to Planned Unit Development (PUD) including the Concept, Preliminary and Final Development Plans.

Prepared by: Alan Bell, Senior Planner

Reviewed by: Bill Dean, Assistant DES Director

Approved by: Andrew Malik, Development Services Director
Leon Churchill Jr., City Manager

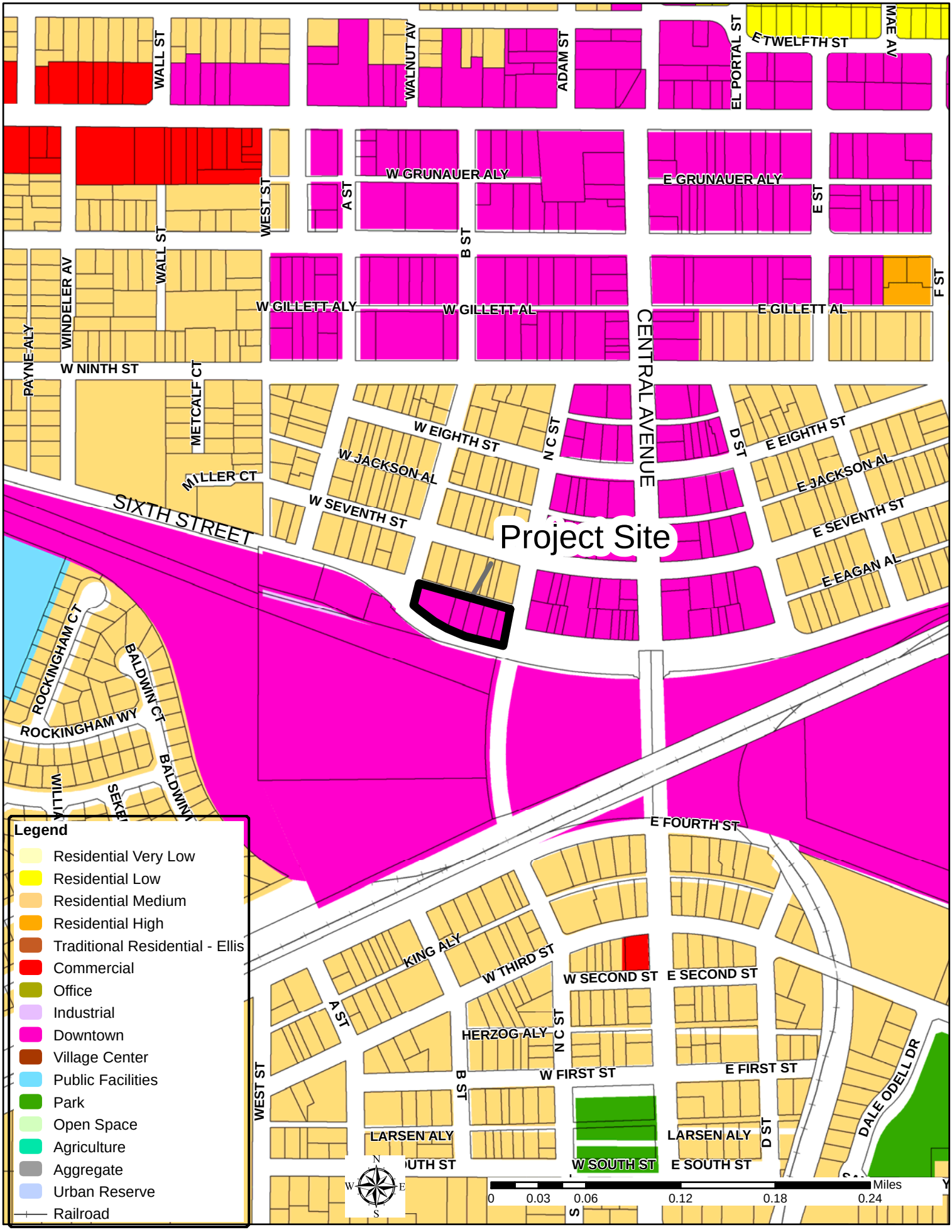
ATTACHMENTS

Attachment A – Project Location Map
Attachment B – Current General Plan Designation
Attachment C – Current Zoning
Attachment D – Proposed General Plan Designation
Attachment E – Proposed Zoning
Attachment F – Tracy General Plan Descriptions for the Industrial, Downtown, and Commercial Land Use Designations

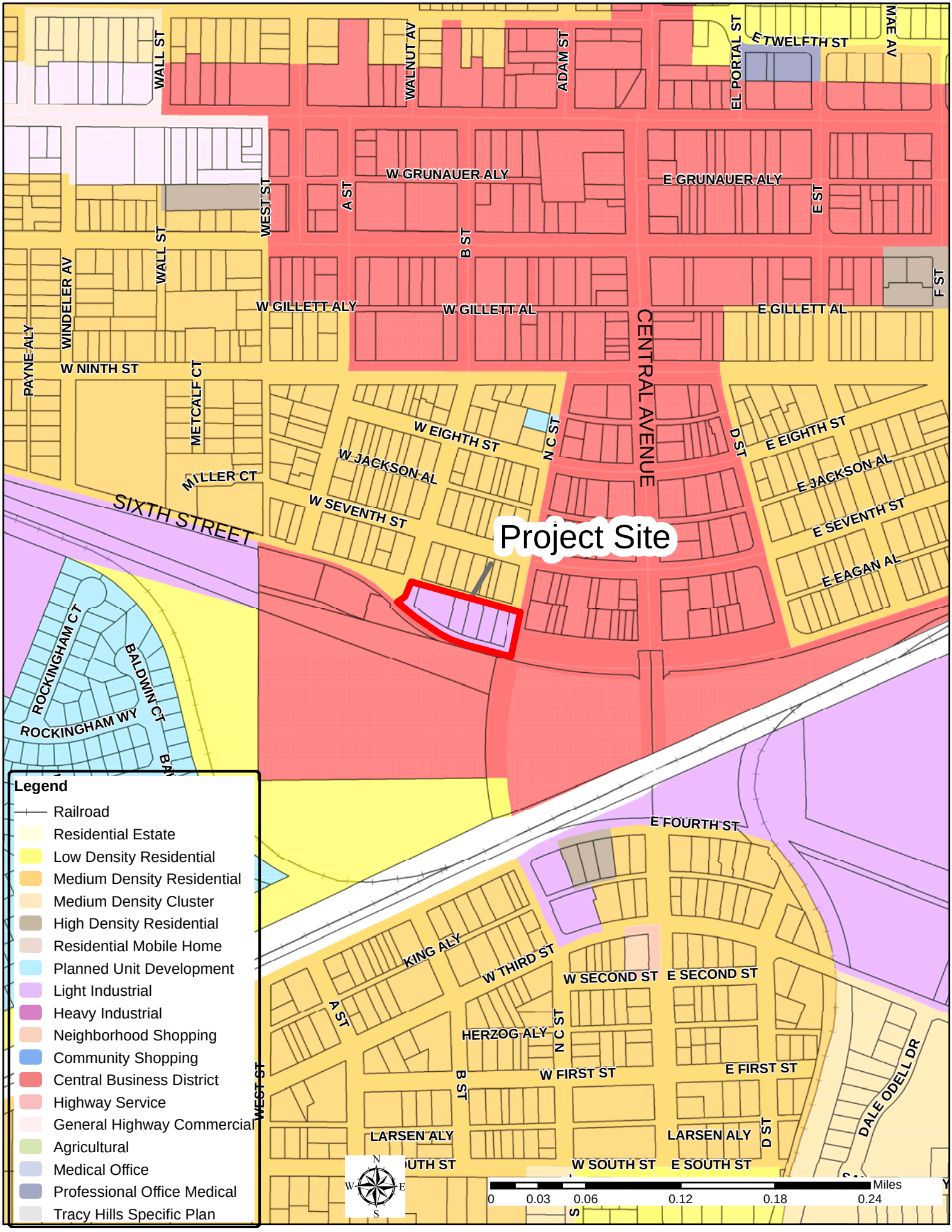
ATTACHMENT A

PROJECT LOCATION
SIXTH STREET PUD

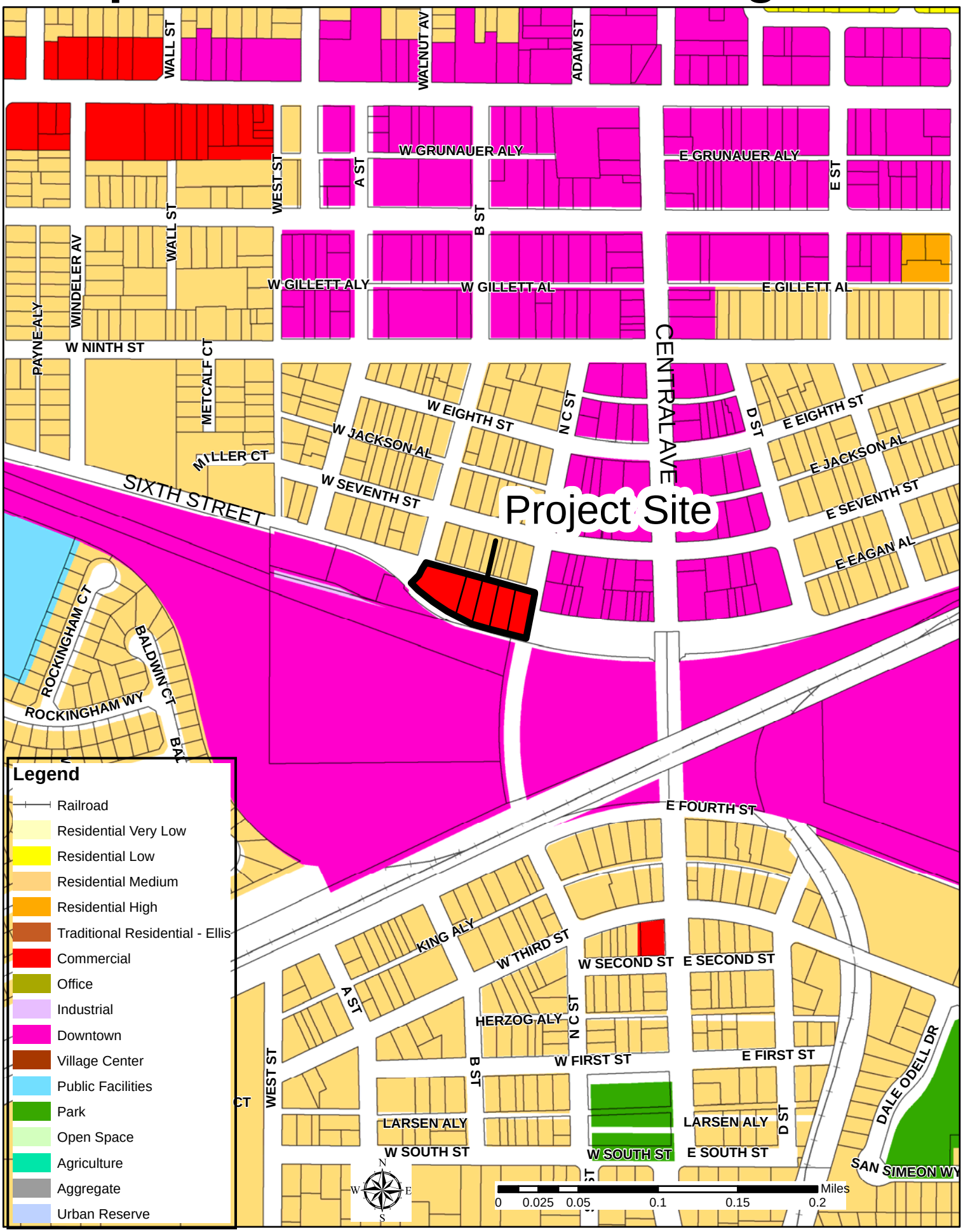
Current General Plan Designation



Current Zoning

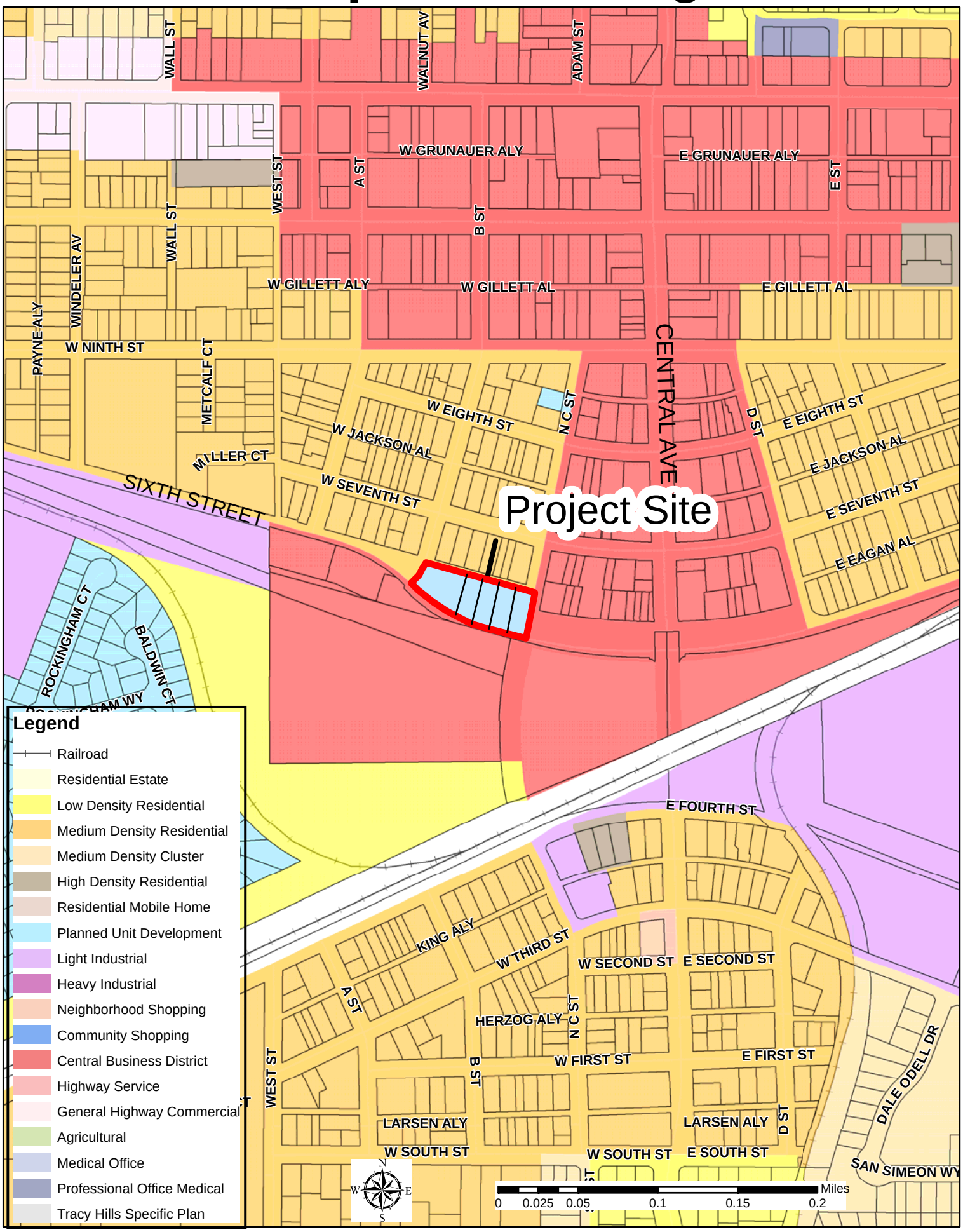


Proposed General Plan Designation



ATTACHMENT E

Proposed Zoning



Tracy General Plan Descriptions for Industrial, Downtown, and Commercial

Industrial (I)

Specific uses allowed in the industrial category range from flex/office space to manufacturing to warehousing and distribution. Industrial parcels should have a maximum FAR of 0.5. Ancillary uses, such as restaurants, consumer services and parks, may be allowed to serve the daily needs of the workers.

Industrial uses are located to provide proper truck access, buffering from incompatible uses and proximity with rail corridors and transit links.

Downtown (D)

Tracy's existing Downtown is the cultural and historical heart of the city. The purpose of the Downtown land use designation is to provide specific policy guidance to support and reinforce the role of the downtown area as the heart of the city. Uses allowed in the Downtown designation include a mix of retail, office, high-density residential, cultural and public-serving uses (such as post offices, libraries, places of worship, museums, art centers, parks, plazas or common space for gatherings, day care facilities, medical buildings, fire departments and police sub-stations) arranged in a manner that results in a strong sense of place for Tracy's residents, workers and visitors. Characteristics of the Downtown include a pedestrian-oriented environment, vertical mixed-use development, a diverse mix of public and private uses, streets on a grid or modified grid, multi-modal street design, and direct pedestrian and bicycle connections to residential neighborhoods. Residential development is strongly encouraged in the Downtown and allowed at a density of 15 to 50 units per gross acre. Non-residential (e.g., retail, service commercial and office) may have a maximum FAR of 1.0.

More information on the Downtown can be found in the Community Character Element.

Commercial (C)

The Commercial designation allows for a relatively wide range of uses but focuses primarily on retail and consumer service activities that meet the needs of Tracy residents and employees as well as pass-through travelers. Office uses are allowed in commercially designated areas. Mixed-use development is also permitted in the Commercial designation. Appropriately scaled and designed residential development in the density ranges permitted in Residential High (RH) may be allowed, and other residential densities may be allowed in Com-

mercial districts in Areas of Special Consideration. In addition, parks are allowed in the Commercial designation. Regardless of configuration, there should be an attempt in both locational criteria and design criteria to be as accessible and appealing to the pedestrian as possible to encourage walking and biking. Commercially designated land may have a maximum FAR of 1.0.

Specific categories of commercial activity within this designation include general commercial, regional commercial and highway commercial. The specific location of each type of commercial use will be provided in the zoning code.

General commercial uses include grocery and convenience stores, salons, professional offices, restaurant, fast-food establishments, auto service stations, drug stores, dry cleaners, day care centers, and banks. Adequate access, compatibility with other surrounding uses, and consistent design with the community are all necessary for these uses. They should be located in centralized areas capable of serving the greatest number of households with the least travel distance and best access to alternate modes of transportation and freeways.

Regional commercial uses (such as the I-205 Regional Commercial Area), include factory outlets, discount stores, regional shopping malls, automobile sales, office uses, medical facilities and home improvement centers. These uses should be located in areas with the highest level of automobile access but should also contain a safe pedestrian environment.

Highway commercial uses serve the needs of the traveling motorist and should be located in close proximity to freeway ramps. Appropriate uses include hotels and motels, restaurants, and motor vehicle and gasoline service stations that provide services to the traveling public and allow for convenient freeway access. Since these areas are visible from the interstate and function as gateways to the community, it is important to ensure that they are well designed.

Existing suburban commercial strip development is typically designated as Commercial. As these uses redevelop, they should take on the characteristics of Village Centers and Corridors described in the Community Character Element, including a mix of uses and supporting a vibrant pedestrian environment.

RESOLUTION _____

APPROVING A GENERAL PLAN AMENDMENT FROM DOWNTOWN TO COMMERCIAL FOR PROPERTY LOCATED ON THE NORTH SIDE OF W. SIXTH STREET, BETWEEN N. “B” AND N. “C” STREETS (615 N. “C” ST., 63 W. SIXTH ST., 69 W. SIXTH ST., 77 W. SIXTH ST., AND 99 W. SIXTH ST.)
APPLICANT IS STAN SHORE FOR THE STAN SHORE TRUST
APPLICATION NUMBER GPA11-0006

WHEREAS, Stan Shore, owner of one of the five parcels within the subject property, submitted an application to amend the General Plan designation from Downtown to Commercial, and

WHEREAS, The proposed Commercial General Plan designation will provide increased land use and development opportunities for the existing structures on the site, and

WHEREAS, The proposal will provide for increased commercial and/or high density residential development in keeping with long-term goals of increased business activity near the downtown, and

WHEREAS, The proposal does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and therefore, in accordance with California Environmental Quality Act Guidelines Section 15183, no further environmental assessment is required, and

WHEREAS, The Planning Commission conducted a public hearing on February 22, 2012, and recommended the City Council approve the General Plan Amendment, and

WHEREAS, The City Council conducted a public hearing to review the project on March 20, 2012;

NOW, THEREFORE, BE IT RESOLVED, that the City Council amends the General Plan designation from Downtown to Commercial for the property located on the north side of W. Sixth Street between N. “B” and N. “C” Streets (615 N. “C” St., 63 W. Sixth St., 69 W. Sixth St., 77 W. Sixth St., and 99 W. Sixth St.).

* * * * * * * * * * * *

The foregoing Resolution was adopted by the City Council on the 20th day of March, 2012, by the following vote:

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

_____
Mayor

ATTEST:

_____
City Clerk

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE ZONE DISTRICT OF PROPERTY ON THE NORTH SIDE OF W. SIXTH STREET, BETWEEN N. “B” AND “C” STREETS, FROM LIGHT INDUSTRIAL (M-1) TO PLANNED UNIT DEVELOPMENT (PUD)

WHEREAS, Stan Shore, owner of one of the five parcels within the subject property, submitted an application to amend the zone district of the site from Light Industrial (M-1) to Planned Unit Development (PUD), and

WHEREAS, The proposed PUD Zone is consistent with the Commercial General Plan designation of the site in terms of land use and other relevant elements, and

WHEREAS, The proposed PUD Zone provides increased land use opportunities for the existing structures or for new development of the site, and

WHEREAS, In accordance with Tracy Municipal Code Section 10.08.1830(b)(1), this proposal constitutes the Concept Development Plan of the PUD Zone, and

WHEREAS, The proposal does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and therefore, in accordance with California Environmental Quality Act Guidelines Section 15183, no further environmental assessment is required, and

WHEREAS, The Planning Commission conducted a public hearing on February 22, 2012 and recommended the City Council approve the proposal, and

WHEREAS, The City Council conducted a public hearing to review the project on March 20, 2012;

NOW, THEREFORE, The City Council hereby ordains as follows:

SECTION 1: The zoning map of the City of Tracy is hereby amended to change the zoning on the following parcel from Light Industrial (M-1) to Planned Unit Development (PUD):

Approximately 0.85 acres located on the north side of W. Sixth Street, between N. “B” and N. “C” Streets (615 N. “C” St., 63 W. Sixth St., 69 W. Sixth St., 77 W. Sixth St., and 99 W. Sixth St., Tracy; Assessor’s Parcel Numbers 235-066-08 through 12).

SECTION 2: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 3: This Ordinance shall be published once in the Tri Valley Herald, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

* * * * * * * * * * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 20th day of March 2012, and finally adopted on the _____ day of _____, 2012, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

RESOLUTION _____

APPROVING A PLANNED UNIT DEVELOPMENT PRELIMINARY AND FINAL DEVELOPMENT FOR PROPERTY LOCATED ON THE NORTH SIDE OF W. SIXTH STREET, BETWEEN N. “B” AND N. “C” STREETS (615 N. “C” ST., 63 W. SIXTH ST., 69 W. SIXTH ST., 77 W. SIXTH ST., AND 99 W. SIXTH ST.)
APPLICANT IS STAN SHORE FOR THE STAN SHORE TRUST
APPLICATION NUMBER PUD11-0001

WHEREAS, Stan Shore, owner of one of the five parcels within the subject property, submitted an application to amend the zone district of the site from Light Industrial (M-1) to Planned Unit Development (PUD), and

WHEREAS, On March 20, 2012, the City Council amended the zone district of the site from M-1 to PUD, constituting the Concept Development Plan, and

WHEREAS, The proposed PUD Preliminary and Final Development Plan acknowledges the existing buildings and other on-site improvements and will provide for building permits (in accordance with TMC Section 10.08.1830(b)(1)) for the land uses permitted within this PUD zone district, and

WHEREAS, The Development Standards of this Preliminary and Final Development Plan will help ensure reasonable land use compatibility with the adjacent residential neighborhood to the north of the site, and

WHEREAS, The proposal does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and therefore, in accordance with California Environmental Quality Act Guidelines Section 15183, no further environmental assessment is required, and

WHEREAS, The Planning Commission conducted a public hearing on February 22, 2012 and recommended the City Council approve the PUD Preliminary and Final Development Plan, and

WHEREAS, The City Council conducted a public hearing to review the project on March 20, 2012;

NOW, THEREFORE, BE IT RESOLVED, that the City Council approves the PUD Preliminary and Final Development Plan for the property located on the north side of W. Sixth Street between N. “B” and N. “C” Streets (615 N. “C” St., 63 W. Sixth St., 69 W. Sixth St., 77 W. Sixth St., and 99 W. Sixth St.) as indicated in Exhibit 1.

* * * * * * * * * * * * *

The foregoing Resolution was adopted by the City Council on the 20th day of March, 2012, by the following vote:

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

_____
Mayor

ATTEST:

_____
City Clerk

Sixth Street Planned Unit Development Zone

March 20, 2012

This Planned Unit Development (PUD) is adopted to conform with the City's PUD ordinance, Chapter 10.08, Article 13, by adopting the Concept Development Plan (CDP), Preliminary Development Plan (PDP), and Final Development Plan (FDP).

A. CONCEPT DEVELOPMENT PLAN

I. INTRODUCTION

The CDP establishes the PUD zoning district and includes Section A of this PUD: purpose, property description, and permitted land uses. Section B is the Preliminary Development Plan and includes the development standards and the zoning districts requirements for lot area and width, minimum yards, height, lot coverage, off-street parking, and signs. The existing land uses and approved improvements in place upon adoption of this PUD (March 20, 2012) constitute the Final Development Plan.

II. PURPOSE

The purpose of this Planned Unit Development (PUD) Zone is to implement the Commercial General Plan designation while balancing the site's (1) historical industrial neighbors, land uses and improvements; (2) proximity to the City's Downtown and long-term vision to support commercial and residential uses in the Downtown area; and (3) opportunities to promote compatibility with the adjacent, residential neighborhood.

The combination of Permitted Land Uses and Development Standards, contained herein, are designed to permit a range of land uses to promote job creation, business development, consumer retail and services, and/or multi-family development opportunities while balancing land use compatibility with the adjacent residential neighborhood.

III. PROPERTY DESCRIPTION

The approximately 0.87-acre site is located on the north side of Sixth Street, between North "B" and North "C" Streets, Assessor's Parcel Numbers 235-066-08 thru 12, Exhibit A. It contains five parcels, ranging in size from approximately 6,117 square feet to approximately 13,313 square feet. Three of the parcels each contain a Quonset hut (which, in the recent past, have contained a variety of commercial and light industrial operations), one parcel contains a single-family home, and the final parcel is currently occupied by a recycle/buy-back center with storage building for the local solid waste disposal company.

The site is surrounded by a single-family residential neighborhood to the north and northwest, auto service and Union Pacific rail lines to the south, and commercial property of Downtown Tracy to the east.

The site is surrounded by a mix of land uses and is in transition from its past as a small-scale industrial site to a future with a wider range of land uses supportive of the Downtown and the adjacent residential neighborhood.

IV. PERMITTED LAND USES

The following land uses are permitted uses in this PUD Zone. There are no uses requiring a Conditional Use Permit.

Retail; consumer services (such as hair and nail salons, tanning, etc.); offices; restaurants; multi-family residential (subject to density and design standards of the High Density Residential Zone); places of assembly (such as churches, meeting halls, etc.), schools; day care centers; business services (such as printing, repair shops, household or office equipment and appliance storage and repairs, etc.); automobile sales, repair services, and custom manufacture; veterinary clinics (no kennels or outdoor keeping of animals); merchandise or equipment storage; contract construction (cabinet makers/repair, plumbers, general contractors, etc.).

B. Preliminary and Final Development Plans

The existing improvements within this PUD include the warehouse/storage buildings at 99 W. Sixth Street, a single-family home at 77 W. Sixth Street, a metal Quonset Hut at 69 W. Sixth Street, a metal Quonset Hut at 63 W. Sixth Street, and a metal Quonset Hut at 615 N. “C” Street.

The existing improvements for which building permits have been issued constitute the Final Development Plan for the purposes of TMC Section 10.08.1830.

All new buildings or other improvements that do not have FDP approval shall be consistent with the PDP and shall receive FDP approval prior to the issuance of building permits.

The remainder of this Section B constitutes the PDP.

I. DEVELOPMENT STANDARDS

a. Roll-up doors. Any roll-up, sliding, or door other than an exit door ("man door") on the north side of a building facing toward the adjacent residential property shall be closed during the hours between 9:00 p.m. and 7:00 a.m.

b. Noise. All uses shall be conducted in compliance with the Noise Control Ordinance (beginning at Tracy Municipal Code (TMC) Section 4.12.710) except that, notwithstanding TMC Sections 4.12.750, 4.12.760, and 4.12.770, the one-hour average Sound Level Limit during the hours of between 10:00 p.m. and 7:00 a.m. along this PUD's west, north, and east boundaries, is 55 decibels.

c. Exterior Lighting. All exterior lighting shall be directed down so that the light source or fixture does not shine directly onto adjacent or nearby residential property.

d. Uses to be Conducted within Buildings. All uses within this PUD Zone shall be conducted wholly within a building except such uses and associated improvements (furniture, appliances, cooking equipment, canopies, etc.) which are approved through an FDP or otherwise in accordance with the PUD ordinance (TMC Chapter 10.08, Article 13). Washing and storage of toters and bins; sorting and storage of recycled materials and refuse vehicles; and related operations in association with the refuse container storage and buy-back center operations are permitted outdoors only on the western most parcel of this PUD (99 W. Sixth Street; APN 235-066-12).

e. Special Landscaping. The parcel at 615 N. "C" Street (APN 235-066-08) shall install and maintain a minimum, two-foot wide planter with irrigation and shrubs along its Sixth Street frontage and a portion of N. "C" Street as approved by City of Tracy Variance Application Number 2-94-V on January 19, 1995.

h. General Standards. All new development shall be consistent with the City's Design Goals and Standards and other regulations applied City wide not otherwise addressed herein.

II. LOT SIZE AND WIDTH

There are no lot size or width requirements in this PUD Zone, except that any subdivision or property line change shall be reviewed as part of or otherwise be consistent with an approved FDP.

III. MINIMUM SETBACKS

There are no yard area setback requirements in this PUD Zone.

IV. HEIGHT

The maximum height allowed at the north property line, adjacent to the public alley, is 30 feet. The maximum height increases (above 30 feet) by one foot for each one foot setback from the north property line. Therefore, for example, the maximum height five feet south of the north property line is 35 feet; the maximum height 10 feet south of the north property line is 40 feet.

V. LOT COVERAGE

There is no maximum lot coverage requirement in this PUD Zone.

VI. OFF-STREET PARKING

Tracy Municipal Code Title 10, Article 26 (beginning at TMC Section 10.80.3440), Off-Street Parking Requirements shall apply to this PUD Zone except as modified herein. Where two or more uses that are separate businesses combine their parking into a single parking lot with common ingress and egress, they may receive a 25 percent reduction in the required number of spaces. Any change of use or improvements requiring additional parking spaces shall provide the spaces as required above or pay the Central Business District (CBD) Zone parking in-lieu fee as specified in TMC Section 10.08.3470(c).

VII. SIGNS

All signs within this PUD shall conform to TMC Chapter 10.08, Article 35. Properties in this PUD may utilize signs as permitted in the CBD or GHC zones, however, no freeway or freestanding signs shall be permitted on any property within this PUD.

Attachment A: Project Location

ATTACHMENT A

PROJECT LOCATION
SIXTH STREET PUD

March 20, 2012

AGENDA ITEM 4

REQUEST

DISCUSSION AND DIRECTION REGARDING THE DONATION OF A COMMUNITY SERVICE ORGANIZATION SIGN TO BE LOCATED ON PUBLIC PROPERTY, AND THE ESTABLISHMENT OF REGULATIONS AND MAINTENANCE PROVISIONS FOR SUCH A SIGN

EXECUTIVE SUMMARY

This agenda item is a discussion item for Council to receive information on the proposed sign that would be donated to the City and installed for the purpose of advertising community service organizations. City Council is asked to discuss and consider whether or not it wishes staff to proceed with the tasks needed to accept the proposed donation and thereafter prepare a sign code amendment. Depending on the outcome of this discussion, staff will return to Council on a future agenda with proposed Tracy Municipal Code amendments (sign ordinance amendments), a resolution accepting the donation, conditions of acceptance, and other necessary documentation as required.

DISCUSSION

On behalf of Sunrise Rotary, Mike Souza approached the City with a proposal to donate a sign that would advertise various community service organizations in Tracy (Attachment A). The Sunrise Rotary has proposed that this sign be located in the City's public right-of-way, on West Eleventh Street, in front of the Tracy Sports Complex (Attachment B). The sign would be donated to the City of Tracy.

In order to accept such a donation, the City must consider several things:

- An amendment to the City's Sign Ordinance to allow the sign
- A means of funding for the maintenance of the sign, if it is located on City property as proposed
- A method of determining eligible community organizations to advertise on the sign in the future

Sign Ordinance Amendment

There are currently no regulations within the Sign Ordinance of the Tracy Municipal Code that would allow such a sign to be constructed. In order to allow for the proposed sign to be accepted and constructed, staff would draft a code amendment to establish a definition for community organization signs, determine how many of them would be allowable, and in what locations, and establish regulations for their height, area, ground clearance, permit requirements, etcetera. Staff's initial approach would be to amend the code to allow a single sign, unless City Council directs otherwise. Should Council direct staff to move forward with receiving this donation, staff would return to Council with a proposed ordinance amendment for adoption after Planning Commission review.

Sign Maintenance

The sign is proposed to be located on public property, in the City's right-of-way on the south side of West Eleventh Street, adjacent to the Tracy Sports Complex (Attachment B). If the City accepts this donation, there will be costs for installation (including the potential relocation of landscape and irrigation materials), as well as on-going maintenance costs over time (such a graffiti abatement and restoration/replacement of any portions of the sign that may deteriorate over time). The establishment of a maintenance program, including the funding source should be discussed so that it may be formulated by staff and approved by City Council prior to the installation and acceptance of the proposed sign.

Sign Design and Sign Face Changes

The design of the sign has been modeled after the City's adopted wayfinding program, which specifies sign design, materials and colors (Attachment C). The proposal received by Tracy Sunrise Rotary shows the six organizations that are proposed to be represented on the sign at this time. Should any of those organizations cease to exist in Tracy in the future, Sunrise Rotary asks that the remaining clubs have the authority to determine what new club's logo will be placed on the sign. This is similar to the Veteran's War Memorial, in that the City does not determine which names are to be added to the memorial.

FISCAL IMPACT

The fiscal impact of accepting the proposed donation includes staff time for the preparation of a code amendment and resolution necessary to accept the donation, as well as on-going maintenance (and potential repair and replacement) costs for the lifetime of the sign.

RECOMMENDATION

Staff recommends that City Council discuss the proposed donation of the community service organization sign and direct staff accordingly. A sign ordinance amendment requires Planning Commission review and would be brought to City Council along with a resolution accepting the donation in approximately two months.

Prepared by: Victoria Lombardo, Senior Planner
Reviewed by: Bill Dean, Assistant DES Director
Approved by: Andrew Malik, Development Services Director
Leon Churchill, Jr., City Manager

ATTACHMENTS

Attachment A—Letter regarding service club sign
Attachment B—Elevations and site plan
Attachment C—Wayfinding sign specifications

Tracy Sunrise Rotary

C/O 105 E 10th Street, Tracy, CA 95376

February 16, 2012

Mayor Brent Ives, City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

RE: Service Club Sign

Dear Mayor Ives:

Tracy Sunrise Rotary is working with 5 other Tracy Service Clubs to fabricate and install a sign that identifies the Clubs and when and where we hold our meetings. We would like to install the sign along 11th Street at the Tracy Sports Complex, and donate the sign to the City of Tracy.

I have attached drawings which show the sign, and where we would like to install it. The sign was designed to be consistent with the Primary and Secondary Gateway Sign of the City's recently approved Wayfinding Sign System. The sign incorporates the City's logo, is of similar shape, and uses the same color scheme.

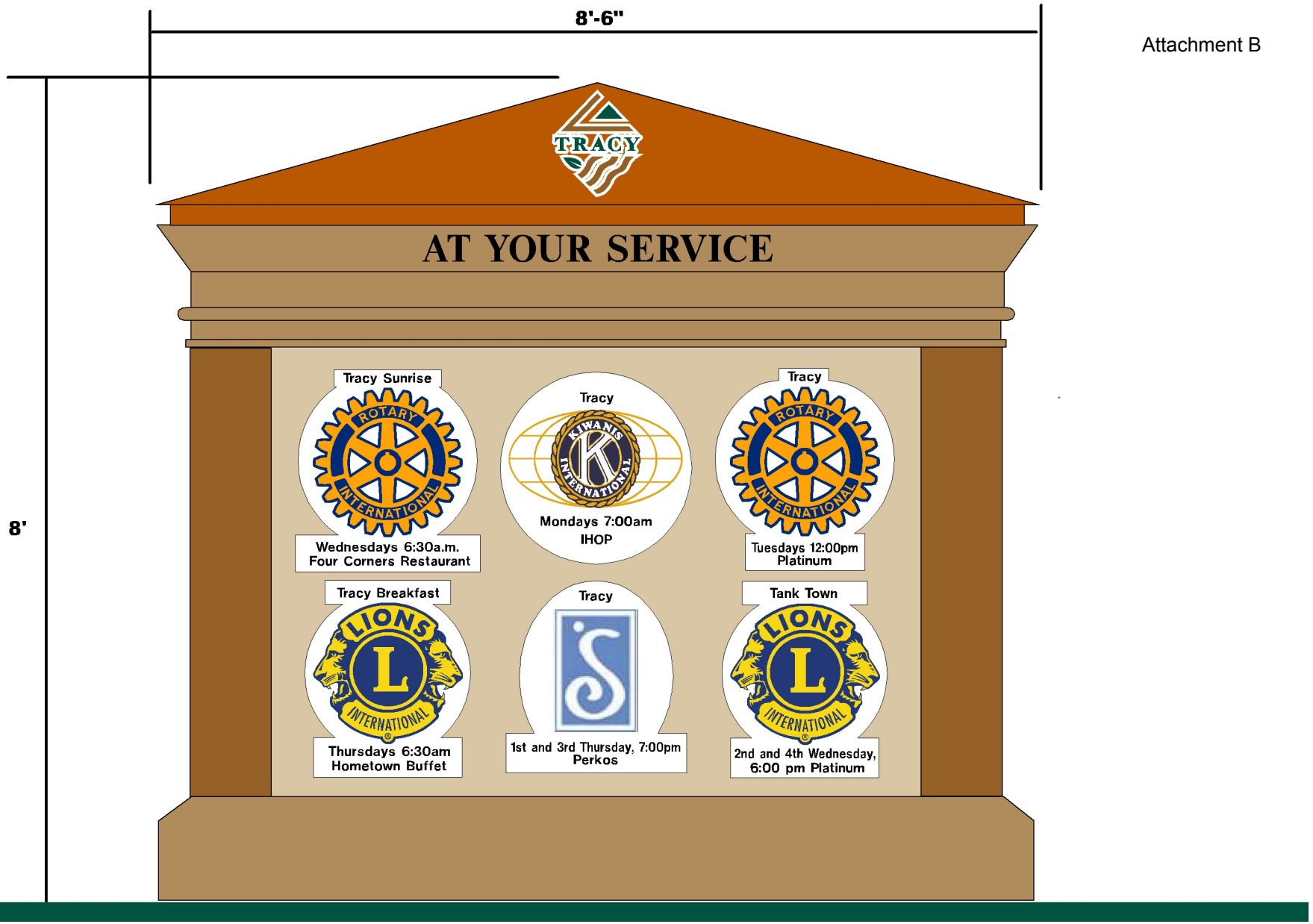
The only condition on the donation we would like to make is that if any one of the original donating Clubs ceases to exist, the remaining Clubs have the right to approve the replacement on the sign.

The impact these six Service Clubs have on our community is extraordinary, and we are an integral part of making Tracy the special place it is. We would be honored if the City would accept this donation and help us tell the community who we are. Thank you.

Sincerely,

A Michael Souza
Community Service Chairman
Tracy Sunrise Rotary

Attachment B



TRACYSIGN INC
Lic # 907315

Customer Approved		3771 w. 11th St. Tracy, Ca. 95304 V 209.835.3464 F 209.835.3471
Landlord Approved		

TRACYSIGN INC
Lic # 907315

Customer Approved		3771 w. 11th St. Tracy, Ca. 95304 V 209.835.3464 F 209.835.3471
Landlord Approved		

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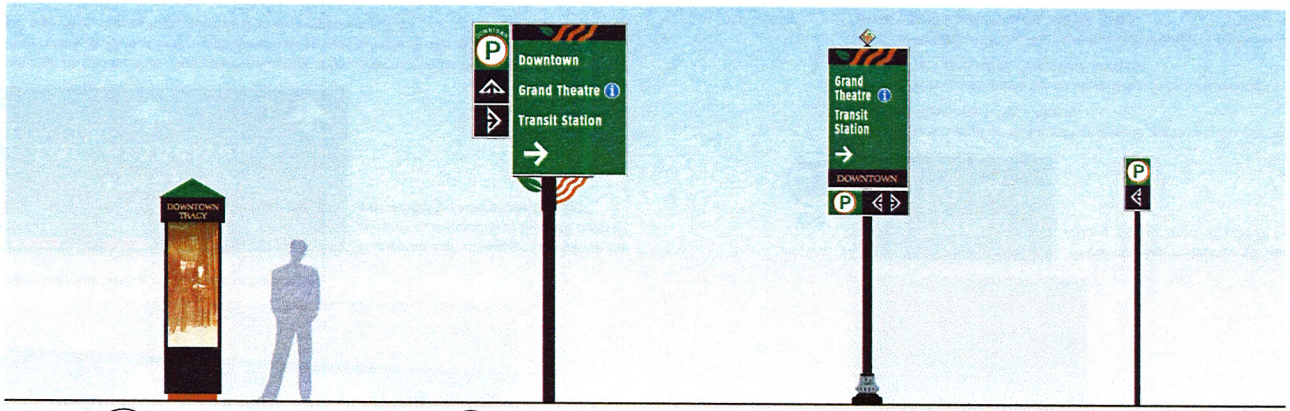
Landlord Approved		

G 1 PRIMARY GATEWAY SIGN MONUMENT STRUCTURE

G 2 SECONDARY GATEWAY SIGN MONUMENT STRUCTURE

B 1 BANNER PROTO-TYPE ELEVENTH STREET

B 2 BANNER PROTO-TYPE DOWNTOWN



K 1 DOWNTOWN KIOSK

T 1 TRAILBLAZER A POST AND PANEL SIGN

PD 1 PARKING DIRECTIONAL TRAILBLAZER 'A' SIGN

T 2 TRAILBLAZER B POST AND PANEL SIGN

PD 2 PARKING DIRECTIONAL TRAILBLAZER 'B' SIGN

PD 3 PARKING DIRECTIONAL STAND-ALONE SIGN

FRAZIER ASSOCIATES
ARCHITECTURE • COMMUNITY DESIGN • WAYFINDING
213 NORTH AUGUSTA STREET, STAUNTON, VA 24401
PHONE 540.886.6730 FAX 540.886.8929
www.frazierassociates.com

TRACY WAYFINDING SIGN SYSTEM

TRACY, CALIFORNIA

REVISIONS

DATE	DESCRIPTION

PROGRESS PRINT
NOT FOR CONSTRUCTION
DATE: DECEMBER 2010

PROJECT NUMBER: 2009.0084	SCALE: AS SHOWN
PROJECT MANAGER: S. HANGER	CHECKED BY:
DRAWN BY: S. HANGER	DATE: 10/29/10

DRAWING TITLE: GENERAL WAYFINDING SIGN SYSTEM

WS1.1

Original sign message before road construction began.

#1

Preferred sign message to replace the current over-head sign located before exit 458B on Interstate 5 West.

The original sign at this location was removed during road construction. It directed motorist to Tracy via Interstate 205; but after road construction was complete, the sign was replaced with the current sign that directs motorists to San Francisco via I-205.

ISSUE: Motorist are directed to Tracy via I-5 South which gives motorist one exit to enter Tracy (Eleventh Street), and this exit brings them through the industrial/commercial corridor into Tracy.

RECOMMENDATION: Update or replace the current sign to include Tracy. The City of Tracy prefers motorists to be directed to enter Tracy via exits off I-205.

Existing sign message on I-205.

#2

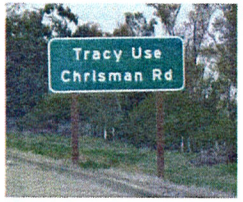
Preferred sign message I-205 West.

#3

Preferred sign message I-205 East.

NOTE:

SEE WS5.2, SIGN LOCATION MAP; FOR INTERSTATES 5, 205, AND 580 SIGN RECOMMENDATION LOCATIONS.



Existing sign message.

#4

Preferred sign message to replace the above sign located on I-580 North.

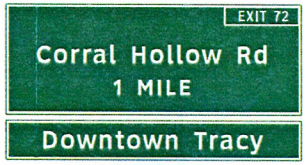
Currently the sign at this location directs motorists to use the Chrisman Road exit into Tracy via I-580 North.

ISSUE: It requires motorist to drive long distances through a rural area and then enter Tracy through an industrial corridor.

RECOMMENDATION: Replace the existing sign with a new sign informing motorists the next 3 exits are for Tracy.

Existing sign messages on I-580 North.

#5



Preferred additions to above signs message I-580 North.

ISSUE: This exit is designated as a secondary gateway into Tracy. Corral Hollow Road is a key route in Tracy's wayfinding sign system and, as such, provides directions to several key destinations within Tracy with the downtown being a primary destination.

RECOMMENDATION: Add signs to downtown Tracy below the existing signs for Corral Hollow Road.

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TRACY WAYFINDING SIGN SYSTEM

TRACY, CALIFORNIA

REVISIONS

DATE	DESCRIPTION
	PROGRESS PRINT NOT FOR CONSTRUCTION
	DATE: DECEMBER 2010

PROJECT NUMBER: 2009.0084	SCALE: AS SHOWN
PROJECT MANAGER: S. HANGER	CHECKED BY:
DRAWN BY: S. HANGER	DATE: 10/29/10

DRAWING TITLE: INTERSTATE SIGN RECOMMENDATIONS

WS1.2

March 20, 2012

AGENDA ITEM 5

REQUEST

MAYOR APPOINTMENT OF TWO INDIVIDUALS TO THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF TRACY

EXECUTIVE SUMMARY

The California state legislature enacted Assembly Bill x1 26 (the "Dissolution Act") to dissolve redevelopment agencies formed under the Community Redevelopment Law. The California Supreme Court in its decision in *California Redevelopment Association v. Matosantos*, issued December 29, 2011 (the "Supreme Court Decision"), declared the Dissolution Act to be constitutional. Under the Dissolution Act, all California redevelopment agencies were dissolved effective February 1, 2012, and various actions are now required by successor agencies to unwind the affairs of all former redevelopment agencies.

DISCUSSION

On January 17, 2012, City Council adopted a resolution accepting for the City the role of successor agency (the "Successor Agency") to the Redevelopment Agency of the City of Tracy (the “Redevelopment Agency”). An oversight board (the "Oversight Board"), consisting of seven members representing the County of San Joaquin, the City, and various education and special districts must be formed by May 1, 2012 to approve and direct certain actions of the City as Successor Agency.

The appointment qualifications for the seven members of the Oversight Board, set forth in Health and Safety Code Section 341790, are as follows:

- One member appointed by the county board of supervisors.

- One member appointed by the mayor.

- One member representing the employees of the former redevelopment agency, appointed by the Mayor, from the recognized employee organization representing the largest number of former redevelopment agency employees employed by the successor agency at that time.

- One member appointed by the largest eligible special district, by property tax share, with territory in the territorial jurisdiction of the former redevelopment agency. It has been determined that the Mosquito and Vector Control agency is the largest special district, and Chet Miller has been appointed with John Stroh serving as alternate.

- One member appointed by the county superintendent of education (if elected) or the county board of education (if the county superintendent is appointed) to represent

schools. James C. Thomas, Deputy Superintendent Business Services, has been appointed.

- One member appointed by the Chancellor of the California Community Colleges to represent community college districts in the county.

- One member of the public appointed by the county board of supervisors.

The Oversight Board's primary purpose is to review the actions of the City, as Successor Agency, in its efforts to wind-down the affairs of the former Redevelopment Agency. The Dissolution Act authorizes the Oversight Board to determine whether contracts, agreements or other arrangements between the former RDA and private parties should be terminated or renegotiated to reduce the Successor Agency's liabilities and to increase net revenue to the taxing entities. Oversight Board members have conflicting fiduciary responsibilities to both the holders of enforceable obligations and to the taxing entities (including those that they represent) that benefit from distributions of property tax and other revenue maintained by the County Auditor Controller. The actions and determinations of the Oversight Board are subject to the review and oversight of the Department of Finance and may be subject to disapproval or modification.

A majority of the total membership of the Oversight Board constitutes a quorum for the transaction of business by the Oversight Board, and a majority vote of the total membership is required for actions by the Oversight Board. The Oversight Board is deemed a local entity for the purposes of the Brown Act, the Public Records Act and the Political Reform Act of 1974.

The Mayor has the power to appoint two of the members to the Oversight Board; one of the members must represent the employees of the former redevelopment agency of the City of Tracy and the other selection is at the Mayor's discretion. Upon review, the mid manager's bargaining unit was the largest employee organization represented within the former Redevelopment Agency. Therefore, the Mayor's appointment could come from any employee that is currently a member of the mid manager's bargaining unit of the City of Tracy. Attached is a list of all positions within the mid manager's bargaining unit (Attachment A).

If any of the positions on the Oversight Board are not filled by the May 1, 2012, the Governor may appoint persons to a position that remains unfilled on May 15, 2012 or remains vacant for more than 60 days.

FISCAL IMPACT

Appointment of members to the Oversight Board has no direct fiscal impact on the City General Fund. Members of the Oversight Board are not compensated or reimbursed for their services to the Oversight Board. The City, as Successor Agency, is charged with providing the staff support necessary to assist the Oversight Board perform its duties and responsibilities. The City, as Successor Agency, is required to pay for all of the costs of meetings of the Oversight Board.

State legislation has limited the City to $250,000 to cover administrative expenses of successor agency activities. It is anticipated that the City's expense in this regard will exceed the $250,000 maximum and therefore any amounts over this will be a General Fund expense.

STRATEGIC PLAN

This item is not directly related to the Council's strategic priorities.

RECOMMENDATION

That the Mayor appoint two individuals to the Oversight Board of the Successor Agency of the City of Tracy.

Prepared by: Andrew Malik, Development Services Director

Approved by: Leon Churchill, Jr., City Manager

ATTACHMENT A

MID MANAGER BARGAINING UNIT

Accounting Officer
Animal Services Supervisor
Assistant City Clerk
Assistant Civil Engineer
Associate Engineer
Associate Planner
Budget Officer
Building Official
Communications Unit Supervisor
Community Preservation Manager
Crime Scene Unit Supervisor
Cultural Arts Manager - Performing Arts
Cultural Arts Manager - Visual Arts
Economic Devel Management Analyst
Facilities Maint Superintendent
Information Technology Specialist
Management Analyst I
Management Analyst II
PW Maint & Operations Superintendent
Records Unit Supervisor
Recreation Services Program Manager
Senior Accountant
Senior Engineer
Senior Planner
Supervising Building & Fire Inspector
Utilities Laboratory Supervisor
Utility Lines Maintenance Superintendent
Water Plant Superintendent
WW Operations Superintendent

RESOLUTION _____

APPOINTING TWO INDIVIDUALS TO THE OVERSIGHT BOARD OF THE SUCCESSOR AGENCY OF THE CITY OF TRACY

WHEREAS, On January 17, 2012, City Council adopted a resolution accepting for the City the role of successor agency to the Redevelopment Agency of the City of Tracy, and

WHEREAS, An oversight board, consisting of seven members representing the County of San Joaquin, the City, and various education and special districts must be formed by May 1, 2012 to approve and direct certain actions of the City as Successor Agency, and

WHEREAS, The Oversight Board's primary purpose is to review the actions of the City, as Successor Agency, in its efforts to wind-down the affairs of the former Redevelopment Agency, and

WHEREAS, The Mayor has the power to appoint two of the members to the Oversight Board; one of the members must represent the employees of the former redevelopment agency of the City of Tracy and the other selection is at the Mayor's discretion, and

WHEREAS, Appointment of members to the Oversight Board has no direct fiscal impact on the City General Fund;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor appoints _____ and _____ to serve on the Oversight Board of the Successor Agency.

* * * * * * * * * * * * *

The foregoing Resolution was adopted by the City Council on the 20th day of March, 2012, by the following vote:

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

_____
Mayor

ATTEST:

_____
City Clerk

March 20, 2012

AGENDA ITEM 6

REQUEST

DISCUSSION AND DIRECTION RELATED TO CITY'S PRIORITIES FOR PUBLIC BENEFIT AMENITIES IN DEVELOPMENT AGREEMENTS, AFFIRMATION THAT A SWIM CENTER REMAINS A PRIORITY, AND DISCUSSION ON GUIDELINES FOR DEVELOPMENT AGREEMENT NEGOTIATIONS

EXECUTIVE SUMMARY

This agenda item requests City Council discussion and direction on the City's priorities for public benefit amenities that should be pursued by City staff in Development Agreement (DA) negotiations, and affirmation that a Swim Center remains a priority. Staff is also seeking discussion and direction on whether the City's adopted Procedures and Requirements for the Consideration of DAs should be amended to include general negotiating parameters.

DISCUSSION

Council Direction Requested on City Priorities for Public Benefit Amenities Derived Through DAs

Over the years, public benefits derived from providing vesting rights and other benefits to developers via DAs has varied with City needs and priorities. The Tracy Sports Complex on 11th Street is an example of a public benefit achieved under a DA. Recently, a Swim Center was selected by City Council as a preferred public benefit for the community.

Public benefits through DAs can take several forms. Typically, negotiations will take into account the nature of the request from the developer, the current market conditions that influence the developer's ability to provide public benefit, and the scaling of these two parameters together. Attached to the staff report is the Draft list of Capital Improvement Projects that will be discussed at an upcoming City Council budget-related agenda item that identify possible projects that could become pursued through DAs (Attachment A: Draft CIP Projects List).

Staff seeks direction from Council that the Swim Center remains a priority, and seeks further direction on what additional amenities, if any, are City priorities.

Council Direction Requested on DA Negotiating Parameters

Because of the complexity of developing projects, and phasing and costs of infrastructure, and (for residential projects) the limitations of building permits over time under the City's Growth Management Ordinance (GMO), project proponents can seek to use a DA to provide as much certainty in development as possible, which is understandable. This can, however, lead to DA terms that could create a priority of one development over another. Staff is seeking Council direction on whether or not to establish DA negotiating parameters. Currently, the City's adopted Procedures and Requirements for the Consideration of DAs (DA Procedures) require basic project

information and basic information related to the terms of DAs (Attachment B are the City's Adopted DA Procedures). Additionally, the DA Procedures require that an applicant first receive Council direction to negotiate prior to moving forward.

The DA Procedures could be amended to require additional information throughout the DA process related to proposed DA terms, such as the following criteria for evaluating public benefits that could be derived from a DA :

1. Fiscal Impacts related to receiving, operating, or maintaining the public benefit under consideration;
2. Explanation of public utility requests (if any), including potential value and outcomes of such requests;

Based on Council's direction, staff could return with revised DA Procedures at an upcoming Council agenda. Particular care would be given to the general DA Negotiating Parameters so they do not create a scenario where one developer/project is unfairly placed before another; where projects should conform to Council approved General Plan and GMO; and where the City's growth management philosophy of "everyone moves forward" is honored.

STRATEGIC PRIORITY

This item is not directly related to the Council's strategic plans.

FISCAL IMPACT

There is no impact to the General Fund as a result of this report.

RECOMMENDATION

Staff recommends that City Council discuss and provide direction to staff related to City's priorities for public benefit amenities in development agreements, affirmation that a Swim Center remains a priority, and discussion on guidelines for development agreement negotiations.

Prepared by: Bill Dean, Assistant DES Director

Reviewed by: Maria Hurtado, Assistant City Manager
Andrew Malik, Development Services Director

Approved by: Leon Churchill, Jr., City Manager

Attachment A: Draft CIP Projects List
Attachment B: City's adopted DA Procedures

ATTACHMENT A

DRAFT

CITY OF TRACY - CIP PRIORITY RANKING - FISCAL YEAR 12-13

#	Ranking	Project Name	CIP #	Prior Yr Funding	F301 $$ Required	Accumulative F301 Total	Other $$ Required	Total
1.	1.	New Fire Stn 92-Banta, E of GLR	71062	Y	$1,086,800	$1,086,800	$0	$1,086,800
2.	2.	Park Renovations-Tracy Ball Park	78053	Y	$3,935,000	$5,021,800	$0	$3,935,000
3.	3.	Park Renovation - Dr Powers Prk	78PP-079	N	$1,252,000	$6,273,800	$0	$1,252,000
4.	4.	Bikeway Impvs-Future Ph's, 4 Yr	78PP-096	N	$190,000	$6,463,800	$400,000	$590,000
5.	5.	Park Revitalization - Future Ph's	78PP-108	N	$325,000	$6,788,800	$0	$325,000
6.	6.	Dr Powers Prk-Pool Demolition	78PP-136b	N	$393,500	$7,182,300	$0	$393,500
7.	7.	Demolition Bessie Building	78PP-134	N	$118,500	$7,300,800	$0	$118,500
		UNFUNDED PROJECTS						
8.	8.	Park Renovation-Lincoln Prk,Ph II	78PP-139	N	$304,000		$0	$304,000
9.	9.	Airport Hydrants	79PP	N	$76,000		$0	$76,000
10.	10.	New Gymnasium/Multi-Purp Fac	78PP-118	N	$3,600,000		$7,188,500	$10,788,500
11.	11.	Recarpting/Repainting Police Fac	71PP-045	N	$168,000		$0	$168,000
12.	12.	Restroom at El Pescadero Park	78PP-126	N	$349,500		$0	$349,500
13.	13.	Restroom Repl - McDonald Park	78PP-141	N	$476,200		$0	$476,200
14.	14.	New Animal Shelter	71064	Y	$3,212,500		$0	$3,212,500
15.	15.	Wooden Play Structure-Hoyt Prk	78PP-138	N	$304,000		$0	$304,000
16.	16.	Airport Impmts - FY12	77PP-072	N	$210,000		$0	$210,000
17.	17.	Sanitary Improvements-Airport	77PP-060	N	$291,400		$0	$291,400
18.	18.	Expansion Of Public Works Fac	71054	Y	$706,400		$0	$706,400
19.	19.	Police Firearms Training Facility	71PP-074	N	$586,250		$0	$586,250
20.	20.	New Radio Tower - FS96	71PP-076	N	$74,500		$0	$74,500
21.	21.	Scoreboard Repl-Sports Cmplx	78PP-119	N	$39,000		$0	$39,000
22.	22.	Airport Land Acquisition	77PP-025	N	$471,000		$21,378,000	$21,849,000
23.	23.	Handball Court - McDonald Park	78PP-140	N	$20,700		$0	$20,700
24.	24.	Retrofit Water Towers	71027	N	$400,400		$0	$400,400
		PROJECTS NOT RANKED **						
25.		Automatic Doors City Hall	71070	N	$20,000		$50,000	$70,000
26.		ADA Compliance-City Bldgs,4 Yr	71PP-001	N	$32,400		$200,000	$232,400
27.		Police Technical Facility	71PP-003	N	$1,214,000		$0	$1,214,000
28.		Police Facility Remodeling	71PP-065	N	$1,516,800		$0	$1,516,800
29.		Expansion Pub Wks Fac - Ph 2	71PP-072	N	$7,845,000		$0	$7,845,000
30.		Public Safety Training Facility	71PP-075	N	$15,725,000		$0	$15,725,000
31.		ADA Door Mods/Supp Srv Bldg	71PP-077	N	$24,700		$126,300	$151,000
32.		Street Lights Conversion/Citywide	72081	N	$2,756,000		$0	$2,756,000
33.		11th St Beautification/CHR-MAC	73PP-126	N	$2,400,000		$1,191,000	$3,591,000
34.		Directional Signs on I205	73PP-127	N	$450,000		$0	$450,000
35.		FBO Facility-Main Airport Area	77PP-026	N	$5,569,000		$35,000	$5,604,000

CITY OF TRACY - CIP PRIORITY RANKING - FISCAL YEAR 12-13

#	Ranking	Project Name	CIP #	Prior Yr Funding	F301 $$ Required	Accumulative F301 Total	Other $$ Required	Total
36.		FBO Facility-South Hangar Area	77PP-027	N	$3,108,000		$0	$3,108,000
37.		Upgrade Tracy Blvd, S of Linne	77PP-029	N	$2,943,000		$0	$2,943,000
38.		Repairs FBO Building	77PP-030	N	$1,337,000		$0	$1,337,000
39.		Aquatics Center - Ellis Area	78054	Y	$10,000,000		$0	$10,000,000
40.		Bycycle Motorcross Track	78PP-124	N	$381,300		$0	$381,300
41.		Skate Park - 2nd Location	78PP-125	N	$293,700		$0	$293,700
42.		Bikeway Rehab - Various Locs	78PP-135	N	$32,500		$145,000	$177,500
43.		Dr Pwrs Prk Imps-Aquatics Cntr	78PP-136a	N	$5,386,000		$0	$5,386,000
44.		Dr Powers Prk-Water Play Area	78PP-136c	N	$2,700,000		$300,000	$3,000,000
45.		Holly Sugar Yth Sports Prk-Ph II	78PP-137	N	$3,800,000		$3,809,000	$7,609,000
46.		Downtown Landmark Sculpture	78PP-145	N	$220,000		$0	$220,000
47.		Asset Management Plan	79PP-051	N	$350,000		$0	$350,000
48.		Public Safety Radio Tower	71050	Y	$1,682,000		$0	$1,682,000
				TOTALS	$88,377,050		$34,822,800	$123,199,850

** Reasons Projects Not Ranked:

1) Another funding source could be explored
2) Restrictions to funding source
3) Not cost effective to be phased
4) Work already in progress
5) Project priority changed

DRAFT

RESOLUTION 2004-368

REPEALING RESOLUTION NO. 90-355 AND ESTABLISHING REVISED PROCEDURES AND REQUIREMENTS FOR THE CONSIDERATION OF DEVELOPMENT AGREEMENTS

WHEREAS, On September 4, 1990, pursuant to authorization granted in Government Code sections 65864 et seq., the City Council adopted Resolution No. 90-355 establishing procedures and requirements for consideration of development agreements; and

WHEREAS, the City Council wishes to revise the procedures and requirements for future applications.

NOW, THEREFORE, the City Council of the City of Tracy resolves as follows:

1. Resolution No. 90-355 is repealed in its entirety.

2. The Procedures and Requirements for Consideration of Development Agreements, set forth in Exhibit "A", attached hereto and incorporated herein by this reference, are hereby adopted.

* *

The foregoing Resolution 2004-368 was passed and adopted by the Tracy City Council on the 16th day of November, 2004, by the following vote:

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

Dan Bilbrey
Mayor

ATTEST:

Gaina S Schmidt
City Clerk

ca:dec:general:DA Reso

EXHIBIT "A"

REGULATIONS AND REQUIREMENTS FOR CONSIDERATION OF DEVELOPMENT AGREEMENTS

PART I – APPLICATION

A. Authority for Adoption; Purpose; Consistency with State Law

These regulations are adopted under the authority of Government Code Sections 65864 et seq. The purpose of considering and approving a development agreement is to facilitate large, phased projects for which there is significant private participation in infrastructure, public facilities, open space and amenities and other programs of benefit to the City and its residents. The City of Tracy, at its sole discretion, may enter into a binding agreement with any qualified applicant for the development of property within the City of Tracy pursuant to and in accordance with state law and these regulations and requirements. In any conflict or interpretation issue between these provisions and requirements of state law, state law shall control.

B. Applications

1. All applications for development agreements shall be submitted to the Development and Engineering Services ("DES") Department. The minimum requirements for the application and the information and data are set forth herein. The DES Director may require an applicant to submit such additional information and data as considered necessary to process the application.

2. The application shall include:

   a. signatures of property owner(s);
   b. proposed public benefit offered to the city as an incentive for consideration of the application;
   c. proposed term of development agreement;
   d. a map drawn to scale showing the property for which the development agreement is requested and the property lines for the properties within three hundred (300) feet of the exterior boundary lines of the subject property;
   e. a clear indication of the names of all the streets and of the assessor's parcel numbers (APNs) of each parcel shown on said map;
   f. the names and mailing addresses as listed on the latest assessment roll of the owners of the property shown on the map;
   g. the legal description of the subject property;
   h. the assessor's parcel number or numbers and the street address of the subject property;
   i. the proposed use or uses, density or intensity of use of the property, the maximum height and size of any proposed buildings, the proposed duration of the agreement, and any proposed covenants, conditions and restrictions or tract restrictions; and
   j. a list of other applications filed concurrently with the development agreement application.

3. A separate application shall be filed for each project or property for which a development agreement is requested.

C. Reimbursement of Costs

Each application shall be accompanied by a reimbursement agreement for city recovery of staff time and out-of-pocket costs. A sample reimbursement agreement is attached hereto, and incorporated herein by this reference, as Attachment "1".

D. Qualified Applicants

Only a qualified applicant may file an application to enter into a development agreement. A qualified applicant is a person who has legal or equitable interest in the real property which is the subject of the development agreement. The City Manager, or designee, may require an applicant to submit proof of his or her interest in the real property. The City Manager may also require that all persons having a legal or equitable interest in the real property be made parties to the application and signatories to the development agreement or otherwise assure to the City, in form approved by the City Attorney, that they will be legally bound to comply with the terms and conditions of the development agreement, provided that this requirement shall not apply to owners or claimants of interests in easements, or other interests not deemed material by the City Manager, unless the City Attorney determines that their agreement or undertaking to be bound by the development agreement is necessary for the development agreement to be effective in achieving the City's objectives. The qualified applicant and any successors in interest are hereinafter referred to as "developer," which term shall include the plural in the case of an applicant consisting of more than one party. The City Manager may obtain the opinion of the City Attorney as to the sufficiency of the applicant's interest in the real property to enter into the agreement. The City may require an applicant or agent to submit a title report or other evidence to verify the applicant's legal or equitable interests in the subject property.

E. Qualified Property

The property to be the subject of the development agreement shall be situated within the City limits and shall represent an appropriate parcel or parcels, as to ownership and parcel configuration, size and location, as determined by the City Manager, or designee, to assure the development of the property consistent with the policies, goals, standards and objectives of City's General Plan and City ordinances, laws, rules, regulations and policies pertaining thereto. Property not within the City limits but within the City's sphere of influence may be the subject of a development agreement conditioned upon the annexation of the property to the City within a specified time. With respect to property to be annexed to the City, the content of the development agreement may differ from those otherwise required to the extent deemed warranted by the City under the circumstances.

F. Review of Application

1. The City shall review the application and shall accept it for filing if it is complete and accurate.

2. Staff shall review the application and shall prepare a report and recommendation to the City Council. The Council shall consider the application and determine whether the proposed public benefit warrants undertaking negotiations with the applicant. The Council shall either reject the request or authorize staff to negotiate and process the development agreement application.

PART II - HEARINGS AND OFFICIAL ACTIONS

G. Notice of Hearings

1. Notice of hearings before the Planning Commission and the City Council to consider a development agreement shall be given in the manner provided in Government Code Section 65864 et seq.

2. The public hearing on the development agreement, and the notice thereof, may be combined with the public hearing and notice for an application for rezoning, special permit, subdivision map or other land use entitlement pertaining to the property which is to be subject to the development agreement.

H. Environment Review

A development agreement, if it qualifies as a project under the California Environmental Quality Act and implementing regulations, shall be subject to environmental review as required by applicable law.

I. Planning Commission

The proposed development agreement shall be submitted to the Planning Commission for a public hearing when all of the necessary reports and recommendations are complete. The development agreement may be considered concurrently with other discretionary permits or approvals for the project.

The Planning Commission shall serve as the planning agency on applications as required by Government Code Section 65867, including its consistency with the General Plan, city ordinances and regulations. Planning Commission review shall be limited to land use matters and specifically shall not include fiscal or budgetary implications which shall be the exclusive jurisdiction of the City Council. After a public hearing, noticed in accordance with Government Code Sections 65090 and 65091, has been held by the Planning Commission, it shall render its decision in the form of a written recommendation to the City Council. The report and recommendation shall include proposed findings as required by J (4). The report and recommendation shall be forwarded to the City Council.

J. City Council

1. After its public hearing, the City Council in the exercise of its legislative discretion shall determine whether or not to approve, modify or disapprove the development agreement.

2. Even if the findings set forth in subsection (4) below, can be made, the City Council, in its sole discretion, may deny approval of the development agreement on the grounds that the development agreement is not in the public interest.

3. The City Council may add, modify or delete any provisions of the development agreement as a condition of approval. Such action may, but need not be, referred back to the Planning Commission for its review and recommendation, without the necessity for a further public hearing before the Planning Commission.

4. The Council shall not approve the development agreement unless it make findings that the development agreement:

   a. is consistent with the objectives, policies, general land uses and programs specified in the City General Plan and any applicable community and specific plan;

   b. is in conformity with public convenience, general welfare, and good land use practices;

   c. will not be detrimental to the health, safety, and general welfare of persons residing in the immediate area, nor be detrimental or injurious to property or persons in the general neighborhood or to the general welfare of the residents of the City as a whole;

   d. will not adversely affect the orderly development of property or the preservation of property values; and

   e. is consistent with the provisions of Government Code Sections 65864 et seq.

K. Irregularity in Proceedings

No action, inaction or recommendation regarding the proposed development agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to petition, application, notice, finding, record, hearing, report, recommendation or any matters of procedure whatever unless after an examination of the entire case, including the evidence, the court is of the opinion that the error complained of was prejudicial and that by reason of the error the complaining party sustained

and suffered substantial injury and that a different result would have been probable if the error had not occurred or existed. There is no presumption that error was prejudicial or that injury was done if error was shown.

L. Ordinance Approving the Development Agreement

1. If the City Council approves the development agreement, it shall do so by the adoption of an ordinance setting forth the required findings and authorizing the Mayor to execute the development agreement.

2. After the ordinance approving the development agreement takes effect, the Mayor shall execute the development agreement on behalf of the City. The effective date of the development agreement shall be the effective date of the ordinance approving the agreement.

M. Limitations on Actions

1. No action attacking or otherwise questioning the validity of any development agreement or amendment to a development agreement, or the adoption or approval of such development agreement or amendment, or any of the findings or determinations of the Planning Commission or City Council in connection with such development agreement or amendment, shall be brought at any time after the elapse of sixty (60) days from and after the date of adoption of the ordinance adopting or approving the development agreement or amendment, as the case may be.

2. A development agreement may provide that it constitutes a financing agreement within the meaning and scope of Government Code Section 53511.

PART III- CONTENTS; PERIODIC REVIEW

N. Contents

In addition to the requirements of Government Code Section 65865.2, the following shall be included:

1. Every development agreement shall be for a specified initial term. Such terms may be extended, from time to time, as provided in the development agreement.

2. The development agreement shall specify (in the development agreement itself or by reference to other project approvals) the permitted uses of the property which is subject to the development agreement, the density and intensity of use, the maximum height and size of proposed buildings, provisions for reservation and dedication of land for public purposes, the location of public improvements and other applicable terms and conditions.

3. The development agreement may contain a requirement that construction be commenced within a specified period of time or that the project or any phase thereof be completed within a specified time. If the development agreement expressly does not specify the timing of the commencement or completion of the project, or any phase thereof, the development agreement may specify that it is deemed nevertheless to have dealt with the issue of timing; provided, however, that specific time requirements of any subsequent special permit, subdivision map or other land use entitlement shall govern.

4. The development agreement may contain a hold harmless agreement and an agreement to indemnify the City from suits and actions arising in connection with the development agreement, to the satisfaction of the City Attorney.

O. Periodic Review

The City Manager, or designee, shall on an annual basis and at any other time that the City Manager determines to be appropriate, review the extent of good faith substantial compliance by the developer with the terms and conditions of the development agreement. Such periodic review shall be limited in scope to compliance with the terms and conditions of the development agreement. The costs of notice and related costs incurred by the City for such annual review shall be borne by the developer. Failure of the City to conduct a periodic review shall not constitute a waiver by the City of its rights to enforce the provisions of a development agreement, nor shall a developer have or assert any defense to such enforcement by reason of such failure to conduct a periodic review.

Attachment 1 – Sample Reimbursement Agreement

March 20, 2012

AGENDA ITEM 8.A

REQUEST

APPOINT AN APPLICANT TO THE TRACY ARTS COMMISSION FROM THE COMMISSION'S ELIGIBILITY LIST

EXECUTIVE SUMMARY

There is a vacancy on the Tracy Arts Commission due to Commissioner Sangha's resignation. There is one applicant on the eligibility list, Mr. Taranjit Sandhu, which was created following the last Arts Commission recruitment. Council confirmation of the appointment of Mr. Sandhu to the Tracy Arts Commission is requested.

DISCUSSION

There is one vacancy on the Tracy Arts Commission due to Commissioner Sangha's resignation and appointment to the Planning Commission. Commissioner Sangha resigned from the Arts Commission on March 13, 2012. The last time appointments were made to the Tracy Arts Commission was January 3, 2012. At that time the subcommittee consisting of Mayor Pro Tem Maciel and Council Member Elliott nominated four applicants to fill vacancies on the Arts Commission and recommended one applicant be placed on an eligibility list. The purpose of an eligibility list is to fill vacancies that might occur in the 12 months following the last appointment to the board and/or commission. Council confirmed the subcommittee's nominations and the creation of an eligibility list. Resolution 2004-152 which includes direction on the "Selection Process for Appointee Bodies," is attached.

At this time, Council can either appoint Mr. Sandhu to the Tracy Arts Commission, or direct staff to open a new recruitment. If a new recruitment is opened, Council would need to determine how to proceed with regard to Mr. Sandhu's status.

FISCAL IMPACT

None.

STRATEGIC PLAN

This is a routine operational item and is not related to the City's four strategic plans.

RECOMMENDATION

That Council approves the subcommittee's recommendation to appoint Mr. Sandhu to the Tracy Arts Commission to serve the remainder of former Commissioner Sangha's term which will expire on December 31, 2013.

Prepared by: Carole Fleischmann, Assistant City Clerk
Reviewed by: Maria Hurtado, Assistant City Manager
Approved by: Leon Churchill, Jr., City Manager

RESOLUTION 2004-152

REVISING RESOLUTION NO. 2004-089 ESTABLISHING THE COUNCIL SELECTION PROCESS, AND DEFINING RESIDENCY REQUIREMENTS, FOR APPOINTEE BODIES (GOVERNMENT CODE §54970 ET SEQ. LOCAL APPOINTEE OFFICERS)

WHEREAS, Council Policy D-5 was adopted by Resolution 2002-434 on October 15, 2002, which established a selection process for appointee bodies, and

WHEREAS, A variety of terms are used to define residency for the purposes of eligibility for appointment to various Appointee bodies and a method to verify residency has not been established, and

WHEREAS, Council wishes to define the terms and identify methods by which to verify residency and to incorporate those definitions into the selection process, and

WHEREAS, The definitions established herein shall apply to all boards and commissions to which the City Council appoints members unless the Bylaws of the board or commission specifically define otherwise, and

WHEREAS, Revisions to Resolution No. 2004-089 were considered and approved by the City Council on May 18, 2004 as set forth below.

NOW, THEREFORE, the Tracy City Council hereby resolves as follows:

A. SELECTION PROCESS FOR APPOINTEE BODIES:

1. On or before December 31st of each year, the clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:

   a. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.

   b. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.

   c. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.

2. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final

appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.

3. Appointments shall be made for the remainder of the term created by the vacancy except as follows:

   a. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.

   b. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 3.

4. The council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:

   a. Mayor (or designee) and a selected Council member will review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.

   b. If the interview subcommittee determines there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that occur in the following twelve (12) months.

   c. At the interview subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.

5. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by staff.

6. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

B. DEFINITION OF RESIDENCY REQUIREMENTS:

1. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:

   a. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.

   b. City of Tracy means within the city limits of the City of Tracy.

c. Citizen means a resident of the City of Tracy.

d. Tracy School District means the geographical area served by the Tracy Unified School District.

e. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.

2. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:

a. Voter registration,

b. Current California Driver's License or Identification,

c. Utility bill information (phone, water, cable, etc.),

d. Federal or State tax returns.

3. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.

* * * * * * * * * *

The foregoing Resolution 2004-152 was passed and adopted by the Tracy City Council on the 18th day of May, 2004, by the following vote:

AYES: COUNCIL MEMBERS: HUFFMAN, IVES, TOLBERT, TUCKER, BILBREY

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

Mayor

ATTEST:

City Clerk

ca:dec:general:Policy- Select, Appoint, Residency (Reso rev. 5-18-04)