

Tuesday, August 21, 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, “One Book, One San Joaquin Month,” Stockton-San Joaquin County Public Library

1. CONSENT CALENDAR

- A. Minutes Approval
- B. Authorize the Conveyance of Vacated Right of Way of Old Naglee Road to the Department of Transportation, State of California (Caltrans), and Authorize the Mayor to Sign a Quitclaim Deed, and Further Authorize the City Clerk to File the Quitclaim Deed With the San Joaquin County Recorder
- C. Approve a Union Pacific Railroad (UPRR) Company Supplemental Agreement to Reconstruct the Corral Hollow Road At-Grade Railroad Crossing North of Byron Road at Mile Post 80.60, on the Tracy Subdivision for the Corral Hollow Road Widening from Eleventh Street to Grant Line Road Project – CIP 73102, and Authorization for the Mayor to Execute the Agreement
- D. Acceptance of the Grantline Road and Whispering Wind Drive – Bike Lane Striping Project - CIP 78113, Completed by Chrisp Company of Fremont, California, and Authorization for the City Clerk to File the Notice of Completion
- E. Approval of Permit for the Consumption of Alcoholic Beverages on City Streets for the Following Events: Tracy Chamber of Commerce “Dry Bean Festival” on September 8-9, 2012, Tracy City Center Association “Fall Wine Stroll” on September 29, 2012, and the City of Tracy “Girls Night Out” Event on October 26, 2012
- F. Authorization to Upgrade Thirty Existing In-Car Digital Camera Systems With L3 Communications Mobile-Vision, Inc. in the Amount Not to Exceed \$150,000 and Authorizing the Mayor to Sign the Professional Services Agreement
- G. Acceptance of the Design and Installation of the Civic Center Solar Panel Project – CIP 71068, Completed by Renewable Integrator, Inc., of Tracy, California, and Authorization for the City Clerk to File the Notice of Completion
- H. Approve a Settlement Agreement and Mutual Release Between the City of Tracy and First Class Trucking Company for Their Business Relocation Expenses and Loss of Business Goodwill in the Amount of \$135,000, Arising from the City’s Purchase of the Real Property Located at 2370 E. Grant Line Road
- I. Award a Construction Contract to Sierra Valley Construction of Roseville, California, for the Boyd Service Center Building A Renovation Project – CIP 71054A, Approval of Amendment 1 to the Professional Services Agreement With BFGC/IBI Architecture Planning, and Authorize the Mayor to Execute the Contract and Amendment

- J. Authorize Appropriation of Funds from the Northeast Industrial (NEI) Area Phase II Roadways Fund 357, to the NEI Area Phase I Roadways Fund 351, CIP 73048 to Complete Portions of the Grant Line Road Widening Project East of MacArthur Drive
 - K. Award a Construction Contract to American Asphalt of Hayward, CA for the Senior Center Recreation Area CIP 78136, and Authorize the Mayor to Execute the Construction Agreement
 - L. Authorize Amendment of the City's Classification and Compensation Plans and Position Control Roster by Establishing a New Classification Specification and Salary Range for the Position of Theatre Operations and Technical Assistant
2. ITEMS FROM THE AUDIENCE
3. PUBLIC HEARING TO CONSIDER THE ALLOCATION OF AN ADDITIONAL \$115,000 OF UNPROGRAMMED COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2012–2013 TO THE LOLLY HANSEN SENIOR CENTER OUTDOOR RECREATION AREA PROJECT - CIP 78136
4. LABOR AGREEMENTS:
- A. ADOPT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND
 - i. THE TRACY POLICE OFFICERS ASSOCIATION (TPOA)
 - ii. THE TRACY POLICE MANAGERS ASSOCIATION (TPMA)
 - B. ADOPT A RESOLUTION
 - i. AMENDING THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF TRACY AND DANIEL G. SODERGREN TO REFLECT AGREEMENT MODIFICATIONS FOR CONSISTENCY WITH OTHER CITY OF TRACY LABOR AGREEMENTS AND COMPENSATION AND BENEFIT PLANS AND AUTHORIZE THE MAYOR TO SIGN THE AMENDMENT
 - ii. AUTHORIZING THE MAYOR TO SIGN THE SECOND AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN RALPH LEON CHURCHILL, JR. AND THE CITY OF TRACY TO DISCONTINUE UNPAID FURLOUGH DAYS AND TO CLARIFY PARTICIPATION IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM
 - iii. AMENDING THE EMPLOYMENT AGREEMENT BETWEEN GARY HAMPTON AND THE CITY OF TRACY TO SERVE AS POLICE CHIEF TO REFLECT (1) A THREE YEAR TERM AND (2) MODIFICATIONS TO THE AGREEMENT FOR CONSISTENCY WITH OTHER CITY OF TRACY LABOR AGREEMENTS AND COMPENSATION AND BENEFIT PLANS

5. APPROVE EXPANSION OF THE SAN JOAQUIN COUNTY ENTERPRISE ZONE BOUNDARIES
6. AUTHORIZE THE APPROPRIATION OF \$1.2 MILLION FROM THE RESIDENTIAL SPECIFIC PLAN (RSP) FUND 345 TO CAPITAL IMPROVEMENT PROJECT (CIP) 73135 FOR CONSTRUCTION OF ROADWAY IMPROVEMENTS AS INCENTIVE TO CERTAIN NEW JOB GENERATING DEVELOPMENT IN THE CITY'S NEI AREA
7. ITEMS FROM THE AUDIENCE
8. STAFF ITEMS
 - A. Follow Up Discussion and Direction to Staff Related to Expanding the Provisions of the Existing Boarding Up of Buildings With Unsecured Openings Ordinance
9. COUNCIL ITEMS
10. ADJOURNMENT

April 3, 2012, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

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Mayor Ives called the meeting to order at 7:16 p.m. and led the Pledge of Allegiance.

The invocation was given by Pastor Jim Bush, Market Place Chaplains USA.

Roll call found Council Members Abercrombie, Elliott, Rickman, Mayor Pro Tem Maciel and Mayor Ives present.

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for April 2012, to David Carter, Public Works Department.

Mayor Ives presented a proclamation to Abhilasha Natarajan, Ann Langley, Debby Ortega, Mike McLelland and Susan Richardson, Tracy Arts League, recognizing April 15-21, 2012 as National Volunteer Week.

Mayor Ives presented a proclamation to Candy Kebe, Law Enforcement Coordinator, City of Stockton, recognizing April 2012 as Sexual Assault Awareness Month.

Mayor Ives presented a proclamation to Valda Van Gelderen and Zona Zaragoza, Donate Life Ambassadors, recognizing April 2012 as Donate Life Month.

1. CONSENT CALENDAR - Following the removal of item 1-D by a member of the audience, it was moved by Council Member Abercrombie and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered. Council Member Rickman abstained from voting on item 1-B.
 - A. Minutes Approval – Regular meeting minutes of December 6, 2011, and January 3, 2012, and closed session minutes of March 20, 2012, were approved.
 - B. Approval of a Deferred Improvement Agreement (DIA), for Pony Up Tracy, LLC., for Removal of the On-Site Temporary Storm Drainage Retention Basin Located Within the California Highway Patrol (CHP) Facility Site, and Authorization for the Mayor to Execute the DIA, and Authorization for the City Clerk to File the DIA With the San Joaquin County Recorder – Resolution 2012-054 approved the agreement. Council Member Rickman abstained from voting.
 - C. Approval of the Final Subdivision Map, Subdivision Improvement Agreement, and Deferred Improvement Agreement for Yosemite Vista Unit 2, Tract 3495, Authorization for the Mayor to Execute the Agreements, and Authorization for the City Clerk to File the Deferred Improvement Agreement With the San Joaquin County Recorder – Resolution 2012-055 approved the map.
 - E. Authorize Amendment of the City's Position Control Roster by Replacing One Vacant Recreation Supervisor Position in the Parks and Community Services Department with One Management Analyst II Position in the Public Works Department – Resolution 2012-056 approved the amendment.

- F. Approve a Roadway Easement and Maintenance Agreement Within the Prime Shine Car Wash Site for Fire Station 1 on Eleventh Street, Authorize the Mayor to Execute the Agreement, and Further Authorize the City Clerk to File the Agreement With the San Joaquin County Recorder – Resolution 2012-057 approved the easement and maintenance agreement.
- G. Approval of Resolution of Intention to Form a Community Facilities District for the Tracy 580 Business Park – Resolution 2012-058 approved the formation of the Community Facilities District.
- D. Authorization to Amend the City's Conflict of Interest Code - Maria Hurtado, Assistant City Manager, presented the staff report. Ms. Hurtado stated that pursuant to the State Political Reform Act, the City's Conflict of Interest Code is required to be amended on a regular basis, and whenever changes to the Code are made. The Code was last updated by Resolution 2011-041, adopted on March 1, 2011.

The proposed amendments include deletion of some positions and the addition and/or title changes to other positions. Appendix 1 includes an explanation of the disclosure category. Appendix II, the Conflict of Interest Code, lists designated positions and the required category of disclosure. Each designated position included in Appendix II is required by Government Code 87200 to file the Fair Political Practices Statement of Economic Interests, Form 700, annually.

Staff recommended that the City Council approve the amendments to the City's Conflict of Interest Code.

Mr. Paul Miles, 1397 Mansfield Street, asked why the Council was not required to fill out Form 700. Mr. Dan Sodergren explained that by statute, elected officials belong to a separate category and are required to fill out the Form 700, Statement of Economic Interests. The proposed amendments are being made to the City's Conflict of Interest Code.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-059 amending the City's Conflict of Interest Code. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Mike Palomino invited Council and residents to the 37th Annual Pancake Breakfast to be held at the Tracy Community Center on Sunday, April 8. The event is being held in memory of Dan Palomino. Mr. Palomino indicated previous breakfasts have raised over \$3,500 for scholarships.

Anne Marie Fuller addressed Council regarding Relay for Life 2012, which will take place in May. Ms. Fuller stated the location has been changed to Kimball High School and that additional information was available from the website www.relayforlife.org/tracy.ca and from the "Datebook" section of the Tracy Press.

Josh Cordero, 1325 Franklin Avenue, addressed Council regarding issues in his neighborhood with high school students speeding, littering, and making rude hand gestures. Mr. Cordero stated he had met with school officials who indicated it was a City issue. Mr. Cordero wanted Council to be aware of his concerns. Mayor Ives referred Mr. Cordero to the Police Chief.

3. PUBLIC HEARING TO AUTHORIZE, BY IMPLEMENTING RESOLUTION, THE ADOPTION OF THE UPDATED DEVELOPMENT IMPACT FEES FOR THE INFILL DEVELOPMENT AREA AND ADOPTING THE APRIL 2012 UPDATE TO THE INFILL FINANCE AND IMPLEMENTATION PLAN - Kuldeep Sharma, City Engineer, presented the staff report. Mr. Sharma stated that the Infill development area includes approximately 312 acres total of land of which 63 acres has already developed, leaving 249 acres. The remainder includes 101 acres of residential, 35 acres of commercial, 97 acres of industrial, and 16 acres of office space.

In October 2001, the Council adopted the original development impact fees for the Infill Development Area. These fees were updated on July 18, 2006. Since that time, several land use changes have occurred. In addition, certain Infill projects funded by development impact fees have been completed with lower than estimated construction costs due to prevailing competitive bidding environment. These changes have resulted in the need for an update of the infrastructure studies serving the Infill area. The update of the infrastructure studies has further resulted in an update of the development impact fees and the Finance and Implementation Plan.

The updated infrastructure studies and development impact fees are for Water, Wastewater, Storm Drainage, Streets and Traffic, Public Buildings and Parks. The development impact fees have been updated in accordance with State law as set forth in Government Code Sections 66000, et. seq., also known as "AB 1600" or the "Mitigation Fee Act". The following table summarizes the proposed updated development impact fees and its comparison with the existing fees:

Infill Development Impact Fees Summary Table for Residential

Fee Category		2006	2012	2006	2012	2006	2012
		LDR		MDR		HDR	
				per DU			
Group 71	Public Buildings	\$2,628	\$3,268	\$1,958	\$2,435	\$1,958	\$2,435
				per DU			
Groups 72 & 73	Streets & Traffic	\$7,005	\$2,700	\$7,005	\$2,700	\$3,362	\$1,296
Group 74¹	Wastewater						
	Corral Hollow	\$9,355	\$9,394	\$7,780	\$7,609	\$6,251	\$6,294
	East Side	\$10,095	\$9,293	\$8,396	\$7,527	\$6,744	\$6,226
	City Core	\$9,051	\$10,125	\$7,527	\$8,201	\$6,048	\$6,784
	MacArthur	\$10,095	\$9,816	\$8,396	\$7,951	\$6,744	\$6,577
Group 75²	Water	\$5,494	\$5,850	\$4,560	\$4,212	\$3,680	\$2,984
Group 76³	Storm Drain	\$4,063	\$1,429	\$2,489	\$949	\$2,054	\$850
Group 78	Parks	\$5,429	\$5,429	\$4,524	\$4,524	\$3,619	\$3,619

Infill Development Impact Fees Summary Table for Non-Residential

Fee Category		2006	2012	2006	2012	2006	2012
		Retail		Industrial		Office	
					per 1000 SF		
Group 71	Public Buildings	\$321	\$469	\$107	\$156	\$534	\$781
					<i>per acre</i>		
Groups 72 & 73	Streets & Traffic	\$147,175	\$50,834	\$43,711	\$25,781	\$90,714	\$35,230
Group 74¹	Wastewater						
	Corral Hollow	\$29,991	\$48,849	\$29,991	\$37,576	\$29,991	\$40,394
	East Side	\$33,934	\$48,324	\$33,934	\$37,172	\$33,934	\$39,960
	City Core	\$28,370	\$52,650	\$28,370	\$40,500	\$28,370	\$43,538
	MacArthur	\$33,934	\$51,043	\$33,934	\$39,264	\$33,934	\$42,209
Group 75²	Water	\$21,811	\$24,334	\$21,811	\$18,251	\$21,811	\$18,251
Group 76³	Storm Drain	\$51,194	\$22,141	\$51,194	\$22,141	\$51,194	\$22,141
Group 78	Parks	NA	NA	NA	NA	NA	NA

The update of these fees was coordinated with representatives of the Infill development community. The updated infrastructure analysis and development impact fee back up information is available for review at the City Engineers office in the Development and Engineering Services Department.

There is no fiscal impact to the General Fund. The developers pay the Development Impact Fees for the construction of infrastructure required to serve the new developments.

Staff recommended Council adopt a resolution authorizing the updated technical studies, the updated development impact fees, and the "2012 Update to the Infill Finance and Implementation Plan."

Mr. Malik indicated this was also part of the City's economic strategy.

Council Member Elliott asked if the primary reductions were a result of applying previous assumptions to actual construction costs. Mr. Sharma stated they were also due to the availability of federal funding. Council Member Elliott asked if the lower fees take into consideration the one time grant funding. Mr. Sharma stated most of the projects have been completed and the majority of the infrastructure completed and paid for, thereby reducing the remaining fees.

Mayor Ives opened the public hearing.

Dale Cose, 17 E. Sixth Street, addressed Council regarding the impact fees. Mr. Cose indicated staff had worked with him to explain the fees. Mr. Cose commended staff for their efforts in explaining it to him and encouraged Council to approve the fees.

As there was no one else wishing to address the Council, the public hearing was closed.

Mayor Ives asked if Council would be considering reductions in other areas. Andrew Malik, Director of Development Services answered yes.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Resolution 2012-060 authorizing updated development impact fees for the infill development area and adopting the April 2012 update to the Infill Finance and Implementation Plan. Voice vote found all in favor; passed and so ordered.

4. ACCEPT A REPORT ON THE CITY'S FIVE-YEAR FINANCIAL PROJECTION - Zane Johnston, Finance & Administrative Services Director, presented the staff report. Mr. Johnston stated that at the February 21, 2012 City Council meeting, the assumptions (both revenue and expenditures) to be included in a 5-year general fund budget forecast were presented to the Council. The five-year General Fund budget forecast includes Fiscal Year (FY) 12-13 through FY 16-17. These assumptions are based on empirical data, established policy, or trend analysis. The Council accepted the report and directed Staff to prepare the subsequent 5-year General Fund forecast based upon these assumptions. It was also decided to prepare a second scenario for the General Fund 5-year forecast to take into account possible changes to the CalPERS employer rate as a result of possible changes to actuarial assumptions being considered by the CalPERS Board of Directors. Following are the assumptions that were used to prepare the 5-year General Fund forecast.

Based on the (1) continued decline in property taxes, as confirmed in the actual decline in property tax revenue in the current fiscal year, (2) remaining foreclosure activity, and (3) typical 2-year lag in property tax revenue as compared to current economic conditions, it is expected that property taxes will decline by 3% in FY 12-13. Because of an anticipated stabilization in home prices the year after, no growth in property taxes is projected for FY 13-14; an increase of 1% is included in FY 14-15 followed by a 2% increase projected in FY 15-16 and another 2% increase projected in FY 16-17.

The City uses MuniServices as its sales tax consulting and auditing firm. MuniServices has provided a 5-year sales forecast for the City's regular sales tax (1 cent) based upon recent trends. This forecast reflects increases of 4.9% in FY 12-13, 4.5% in FY 13-14, 5.9% in FY 14-15, 6.1% in FY 15-16 and 5.7% in FY 16-17.

MuniServices also audits Measure E sales tax data and has prepared a 5-year forecast for this temporary half-cent sales tax. Not all sales transactions subject to the standard 1 cent sales tax are applicable to the City's half-cent temporary sales tax. The most notable exceptions are auto sales in Tracy where the auto is not registered to an owner with a City of Tracy address and internet catalog sales to customers outside of the City of Tracy. MuniServices 5-year forecast for the temporary half-cent sales tax Measure E estimates include a 7.8% increase in FY 12-13, 5% increase in FY 13-14, 5.6% increase in FY 14-15 and a decline of 20.8% in FY 15-16, due to Measure E's sunset period, which ends on March 31, 2016. As such, only $\frac{3}{4}$ of one year's worth of taxes is included

in FY 15/16. Because the temporary sales tax Measure E ends in the later part of FY 15/16, no Measure E revenue is included in FY 16-17. The estimates however, have only been derived from only 2 quarters of actual data from Measure E (quarter ending 6/30/12 and quarter ending 9/30/12).

These three revenue sources (*property taxes, sales taxes and temporary half-cent sales tax Measure E*) are the major General Fund revenue sources. All other revenue sources are assumed to have modest growth ranging in the 2% to 3% range. Some of these other revenue sources are reflective of population and it is not anticipated the City's population will increase substantially during this 5-year forecast.

General Fund expenses are primarily associated with labor cost. For example, Police personnel expenses make up 87% of the Police Department's budget and Fire personnel expenses about 90% of the total Fire Department budget. Given the current status of labor costs, the assumptions that will be included in the five year general fund budget forecast are as follows:

Labor related expenses: It is assumed that:

- No cost of living adjustments will be included during this 5-year period thru FY 16-17;
- 100% of the costs associated with the increase to the City's PERS employer rate will be included as an expense absorbed by the City for each of the five years;
- City continues to pay cost of employee's share of PERS
- The costs associated with increases to the employees' health insurance will reflect the current respective labor contract agreements;
- The costs associated with step increases for employees not currently at Step E will be included in this 5-year forecast;
- The expenses associated with any certifications (i.e. POST), Master Patrol Officer, educational achievements, and others will be included in this 5-year forecast;
- The savings associated with the current unpaid furloughs for non-safety employees as of 6/30/12 will be eliminated and that costs will be reinstated in each of the 5-year budget forecast;

This 5-year general fund budget forecast reflects the organizational changes taken to date (both before and since Measure E). The forecast also includes the most recent steps of (1) a reduction in staff due to the early retirement incentive program, and (2) the compaction of nine City departments into six with the resulting reduction in three department director positions. No additional staff reductions are included in this 5-year general fund budget forecast.

Considering the above, Police and Fire as well as other General Fund expenses would average an increase of about 3% per year during the forecast period.

The analysis indicates that without additional steps to reign in expenses, the City will continue to operate with a deficit of about \$3 million per year even with the temporary sales tax generated by Measure E. When this revenue ends on 3/31/16 the City will be faced with even higher deficits. The current City Council policy concerning budgets (Resolution 2011-094) states as follows:

- Through FY 15/16 the City shall maintain a General Fund reserve of at least 20% of the City's General Fund Operating Budget.

- Reserves may be used to balance the General Fund Operating Budget through FY 13/14. The General Fund Operating Budget to be adopted by City Council for FY 14/15 must be balanced without the use of reserves.

From the analysis, the City would be able to just meet the first budget policy to maintain a General Fund reserve of at least 20% through FY 15/16. The City would have 21% in reserves at the end of FY 15/16. However, the City would not be able to meet the second budget objective which is that reserves can be used through FY 13/14, but beginning with the adoption of FY 14/15 budget the budget must be balanced without reserves. At this point the 5-year projection is that the FY 14/15 budget would not be balanced, instead needing \$3,125,740 in reserves.

The 5-year forecast indicates the City has twin challenges. The first is to meet the Council's budget goal to have a balanced budget with the adoption of the FY 14/15 budget. Given that the revenue assumptions are aggressive (particularly on the property tax side); in order to meet this goal, \$3 million of expenses would need to be further reduced. The second challenge is to ease the City off the need for the temporary taxes generated by Measure E. With the current expense and revenue assumptions, this may not be possible dollar for dollar without affecting essential services. If the goal continues to be to get off Measure E prior to or by the expiration date of the April, 2016, expenses would need to be reduced significantly or additional revenue would need to be identified.

Prior to the passage of Measure E, the City took substantial steps to cut expenses. The City reduced its workforce by 90 full-time positions and began contracting out janitorial and street tree maintenance. This enabled the City to reduce General Fund cash expenditures by \$5 million. In addition, the City also instituted second tier retirement formulas that will reduce expenditures in the long term (10 years or more). After these steps, the City was still left with a structural budget deficit of approximately \$5 million per year – one which could only be addressed through additional cuts to services including those the community might deem as essential or through additional revenues (which Measure E provided).

The City Manager has previously identified a potential course or action to follow over the next few years which could get the City to a position of substantially being able to not rely upon Measure E revenue. This plan was discussed in detail in the City Manager's transmittal letter to the FY 11/12 budget. The following is a chart in this regard, the amounts associated with each step, and a narrative explanation of current status of each of the eight part plan.

	Projected Fiscal Impact	Fiscal Impact as Implemented to Date
1 New labor contracts	\$3,000,000	\$ 0
2 Contracting services	\$ 500,000	\$ 0
3 Changes to organizational structure	\$2,000,000	\$1,600,000
4 Reduce number of departments	\$ 600,000	\$ 600,000
5 Reprioritize existing expenditures	\$0	\$ 0
6 Reduction in non-essential services	\$0	\$ 0
7 Technology	\$ 500,000	\$ 0
8 Improved Economy	<u>\$1,000,000</u>	<u>\$1,000,000</u>
Total	\$7,600,000	\$3,000,000

The City seeks to transition all employees to paying the full share of the employee paid portion of PERS. Currently the City pays this on behalf of the employee as an additional paid benefit. Public Safety Members (sworn Police and Fire) employee share is 9% and Miscellaneous Members (all other members) employee share is 8% (7% for the newest employees hired in Tier 2). If all employees paid their own 9%, 8% or 7%, the City would save \$3,050,000 per year. Currently no City contracts have been negotiated to implement this transition. The Fire, Teamsters and Mid-Manager's MOUs all expired 6/30/11, unrepresented groups have been in limbo. The current Police MOU expires 6/30/12.

Although contracting services were pursued prior to the development of the 8 part plan with the contracting out of janitorial and tree trimming services, additional contracting services have not been pursued as the City has concentrated on labor negotiations for new contracts.

It was anticipated that offering an early retirement incentive would save the City approximately \$2 million per year. Full savings would begin in FY 13-14 as the final retirement date for employees exiting City service under this program will be January 31, 2013. It is expected the City will realize savings of \$2 million per year once all employees have retired; however this \$2 million also includes \$400,000 in savings from two retiring department heads who are part of the following item to reduce the number of City departments. As such, this savings cannot be double counted both here and in the following item. The savings is less than anticipated because not as many employees (working in areas where the request could be granted) opted for the early retirement incentive. There remains a small amount of employee reduction which could occur in specific areas where service levels would not be dramatically affected. However, such action would need to be not voluntary.

A savings of \$600,000 is expected with the reduction of the number of City departments from nine to six. The departments of Economic Development and Development and Engineering Services were merged in FY 11/12 with the departure of the former Economic Development Director. In FY 12/13 two additional director positions will be eliminated as two Department Directors will leave under the early retirement incentive. A new Administrative Services Director will replace the previous directors in Finance and Human Resources as these functions will come under one department. The Parks and Community Services Department (and related Director Position) will be eliminated with its recreation functions going under the direction of the Assistant City Manager and its other functions (transit, airport, facilities) going under the direction of the Public Works Department.

There are three major contributors to the annual growth in City expenses each year, even with no new employees added and no cost of living raises. The first is the increase in prices for commodities the City uses (i.e. fuel, electricity, etc.). These go up with inflation over time. Secondly, the cost of employee benefits increase with time even without adding any additional FTE's (Health benefit cost increases, PERS costs increase, etc.). Lastly, it may be necessary in the future that prior to allocating additional resources to an emerging need or priority service, a reduction on another non-essential service be considered. A concrete example is that when an approval of an expense, like the approval of the expenditures of \$125,000 to the Police Department for their efforts to combat gangs is approved, a reduction in a less essential service, i.e. traffic enforcement or another less priority program could be considered. Given these three contributing factors, no savings can be reported under this category as of yet.

Ultimately to supply City services in a post Measure E Environment may require a discussion related to priority services or an evaluation of the potential for eliminating the most recently added services (which may be considered non-essential). For example, some of the programs listed below were added within the last five years with a significant general fund allocation, prior to the economic downturn and the ongoing structural budget deficit began. One approach could be to re-examine the essentialness of these programs in comparison to "critical" priority services.

Program: General Fund Subsidy

Grand Theatre	\$800,000
Low Income Rate Assistance (LIRA)	\$300,000
Planning Services (Advance & Current Planning)	\$751,000
Mayor's Community Youth Support Network	\$368,000
Addition of Engine 91	\$980,000

Total: \$3,199,000 million

It was anticipated that technology investments might provide as much as \$500,000 per year in savings. The City continues to invest in the use of technology. However, sometimes it is difficult to track a direct dollar savings, instead the City receiving the benefits in greater productivity. Street light upgrades (more efficient bulb types) would fall under this category, but the annual savings may not be enough to justify the large up front capital costs.

Some of the ability for the City to be fiscally sustainable without the need of temporary taxes (Measure E), may come in the form of additional revenue as the economy improves over time. The standard one-cent share of sales tax the City receives peaked in FY 07-08 at \$13.6 million. During the recession this fell to a low of \$9.2 million in FY 09-10. The five-year forecast pegs sales tax once again at approximately \$13.6 million in FY 13-14. This increases to \$14.4 in FY 15-16 and \$15.2 in FY 16-17. As such, the forecast is indicating that an improved economy will provide an additional \$1 million toward the ability to provide for City services without Measure E. But this is just a forecast at this time. Revenues in excess of the City's \$13.6 million peak year (FY 07-08) must actually be received before providing a portion of the Measure E solution in reality. Note also, that property tax will continue to be stagnant during the five year period. If housing prices remain low (as economist predict) but consumer spending returns with an improved economy and jobs market, the City could easily find its standard once-cent sales tax revenue eclipsing its property tax revenue by FY 15-16.

At the February 21, 2012 City Council meeting it was noted that possible action by the CalPERS Board regarding actuarial assumptions could have a significant effect on the cost of providing City services in the future. As a result, Staff suggested the preparation of a second scenario in the preparation of a five-year forecast to include these possible actions. On March 14, 2012, the CalPERS Board of administration approved some of the previous proposals. The Board approved the lowering of the discount rate from 7.75% to 7.50%. The discount rate is calculated based on expected price inflation and real rate of return. It is possible that the rate could further be reduced in future years if actuaries continue to recommend such action. The CalPERS Board also directed its Chief Actuary to analyze and bring back an option for consideration to phase in the increased cost to employers over a two year period.

This discount rate reduction is expected to result in an increase to the CalPERS employer rate of public agency members (such as the City of Tracy) of 2 to 3 percent for Public Safety Plans (Police and Fire) and 1 to 2 percent for Miscellaneous Plans (all other City employees qualifying for PERS retirement – all full time employees and some part-time employees). As such, a second scenario of the five-year forecast has been developed which adds a 3 percent increase to public safety rate broken down into two increases of 1.5 percent in FY 13-14 and 1.5 percent in FY 14-15, and a 1 percent increase in the Miscellaneous plan in both FY 13-14 and 14-15.

This five year projection illustrates that the City still faces a twin challenge during the coming years to meet the Council's budget principal to reach a balanced budget with the adoption of FY 14/15 budget and to wean off Measure E Revenue prior to its expiration date. The previous 8 point plan to address this challenge did not envision the additional significant PERS costs associated with a change to actuarial assumptions. The above scenario could also end up being more challenging if PERS discount rates are lowered again in the future.

There is no fiscal impact associated with acceptance of this report. However, the 5-year Forecast is critical in establishing financial policy.

Staff recommended that the City Council accept the five-year General Fund forecast.

Council Member Abercrombie asked for clarification regarding labor negotiations and the employees' PERS portion. Mr. Churchill indicated some of the items mentioned were probably part of the negotiations.

Council Member Abercrombie referred to page 6 of staff report indicating an addition of Engine 91 is not a non-essential service.

Council Member Elliott referred to the eight point plan asked if there was anything in the future could provide relief. Mr. Churchill indicated additional possibilities exist in contracting out services and that staff will take advantage of any savings that can be made. Mr. Churchill added that part of this was a balancing act and that he was also responsible to taking fear out of the organization. Mr. Churchill stated regarding technology, there have been good efforts, but the ability to quantify savings was difficult.

Council Member Elliott asked if a small reduction in staffing could still occur but would not be voluntary. Mr. Churchill stated that was always an option. Mr. Johnston added it is estimated the City could save approximately \$2 million through early retirements.

Mayor Pro Tem Maciel asked if the City was anticipating any increases in property tax as some of the vacant properties build up. Mr. Johnston stated no and explained that new development provided a slow response on property tax and new development included long lead times.

Mayor Ives asked how much savings could be realized with the PERS action. Mr. Johnston stated approximately \$600,000 per year.

Council Member Rickman stated the Council certainly had its work cut out for them, indicating that economic development should be the main focus.

Mayor Ives invited members of the public to address Council on the item.

Mark Connolly, 121 E. Eleventh Street, provided a handout to Council showing his analysis of the structural deficit.

Robert Tanner, 1371 Rusher, stated he found it disappointing that labor negotiations have been going on for over one year and still there are no contracts. Mr. Tanner stated there were 11 lawsuits against the City that it may or may not win and asked if those losses had been projected. Mr. Tanner stated the City still needs to have a balanced budget which would require cutting to the bone.

Dave Helm asked that Council make sure the City didn't incur any additional expenses, especially when considering capital improvement projects.

Paul Miles stated he did not see how PERS was going to make 7.2. Mr. Miles encouraged the Council to be conservative.

Ryan Gall, Tracy Firefighters Association, addressed Council regarding labor contracts. Mr. Gall state the FFA has all but finalized the fire contract with the transition of the firefighters paying the 9% PERS.

Mayor Ives asked staff if losses from lawsuits were factored into the budget. Mr. Johnston stated there were two types of expenses in the arena of insurance and those are liability claims and workers compensation claims. Mr. Johnston added that the City of Tracy was part of a risk management authority with 50 other cities. Mr. Johnston stated the claims have been manageable while the workers compensation side has gone up. Mr. Johnston indicated the City has to catch up with the charges that are brought into the compensation funds.

Council Member Elliott asked for clarification from Mr. Gall.

Mr. Gall stated that with the uncontrollable costs (PERS, health insurance, etc.) and if step increases were given, they show a .68% increase vs. the 4.2% provided in the budget. Mr. Johnston indicated one of the assumptions of the 12/13 budget is the base budget plus augmentations which the Fire Chief has asked for.

Council Member Elliott indicated there is no change in his resolve to balance the budget.

Mayor Pro Tem Maciel thanked staff for the presentation and stated the Council needs to not lose sight of the goal and to use this as a roadmap to where the City is headed if things are not done now.

Mayor Ives thanked staff and those who provided comments. Mayor Ives indicated the point of this activity is to see where the City is financially. Mayor Ives stated he maintains that the City is in good shape and that the necessary steps will be taken.

The report was accepted.

5. SECOND READING AND ADOPTION OF ORDINANCE 1165 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)

The Clerk read the title of proposed Ordinance 1165.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Abercrombie and seconded by Council Member Elliott to adopt Ordinance 1165. Roll call vote found all in favor; passed and so ordered.

6. ITEMS FROM THE AUDIENCE – None.

7. COUNCIL ITEMS

A. Request Discussion of Issues Related to Charging Development Impact Fees on a Proportional Use Basis Instead of Charging a Per Acre Fee Based on Allowable Uses by City Zoning - Andrew Malik, Development Services Director, presented the staff report. California Government Code requires cities to adopt General Plans as a means to comprehensively plan for future development. The City of Tracy's current General Plan, adopted February 1, 2011, is the principal policy and planning document guiding future development. It provides a vision for the future and establishes a framework for how Tracy should grow and change over the next two decades and beyond. At a policy level, it addresses all aspects of development including land use, transportation, housing, economic development, public facilities, infrastructure, and open spaces, among other topics.

As the City conducted workshops relative to adopting the most recent General Plan, land owners and developers were particularly interested in the land use element. More specifically, the property owners and developers desired to have a wide range of allowable uses within their General Plan designations¹. They wanted to be able to market their property to a number of different clients to enhance their chances for successful development. In fact, this issue was also recently discussed as part of the Downtown Specific Plan in that property owners did not want to have their range of allowable uses restricted. In order to accommodate these requests, a comprehensive strategy and coordinated effort needs to occur linking land use, public facilities (police and fire), infrastructure (wastewater, water, storm drainage and roadways) and, correspondingly, the financing of these improvements.

The City currently coordinates and organizes these efforts through Infrastructure Master Plans and then through a combination of project area Finance and Implementation Plans (FIPs), and ultimately the City's Capital Improvement Program. It is important to note that funding for infrastructure to meet these development demands comes primarily from the development community. There are also instances where federal stimulus or other grants have been secured to cover some infrastructure items (such as a freeway interchange, or a bridge, for example).

Up-Front and Phased Infrastructure Funding

For most development areas of the City, (Northeast Industrial Area (NEI), Industrial Areas Specific Plan (ISP), Tracy Gateway, etc.) there are requirements to advance or front funding for certain infrastructure in order to make sure the necessary infrastructure is in place when building begins. For example, before a new industrial or commercial building is built, the City requires water lines, sewer lines, and roads in place prior to the start of construction. In other instances, certain infrastructure may need to be funded early due to long lead times for construction completion. Wastewater treatment typically falls into this category. Because of the regulatory and construction complexity of expanding the wastewater treatment plant, the expansions are typically phased in over time. Since these phases are funded by the development community, funding is typically required from the developers in advance of developments to complete the construction projects. Assessment Districts and Community Facility Districts (CFD) are the typical financing vehicles used by the City to cover these costs. Keep in mind that the amount of wastewater expansion and phasing is linked back to land use and zoning.

The issue for discussion is whether the City should charge impact fees based on the immediate use of the property, proportional use, instead of charging fees based on allowable uses with the zoning.

The primary concern for both the City and the property owner relative to charging on a proportional use basis is the potential of not being able to fund and provide adequate infrastructure for the property should the initial use of the property be expanded or changed in the future.

There are a number of warehouse industrial buildings that were developed along MacArthur Boulevard in the late 1980's. Most of those property owners paid into Assessment District 84-1 and 87-3 for wastewater and water infrastructure respectively. They paid for wastewater capacity and water supply for a wide range of industrial uses. Over the past 10 years, there have been a number of new tenants (food processors, manufacturers) to this industrial area that now requires more wastewater capacity than the initial warehouse distribution tenant. Because the property owners paid for and the City constructed the capacity to accommodate these uses, they were able to locate the new tenants and the City didn't lose the tenant to another jurisdiction. In other words, if the wastewater impact fees were paid based on a warehouse distribution use 10 years ago and, as such, the wastewater treatment plant or wastewater conveyance facilities were not expanded to accommodate the increased demand, the City may have had to turn away the new industrial tenant.

The same concern applies to commercially zoned property and residentially zoned property. Commercial zoning districts allow for consumer services (e.g. nail salon) as well as restaurants, which have dramatically differing water/wastewater use profiles.

1. *The City Pays for Infrastructure Upfront*

The City could pay for the expansion to the wastewater treatment plant and get reimbursed from property owners as new tenants pay for additional wastewater and water capacity as needed.

Pro:

- Development would pay for only the capacity they use at the time.

Con:

- The City does not have funds to construct the improvement and would need to apply for a State loan, with certain loan guarantees. There could be an impact to the Enterprise and or General Fund should development not occur as predicted.
- The complexity of managing the fee programs on a parcel / use basis throughout the City would be high. Staffing level is a concern.
- The City would still have to plan for a wide range of land uses and conservatively build in room to match development intensity transitions over time.

2. The City Downzones Parcels

The City could downzone parcels to match certain tenants, i.e., warehouse vs. manufacturing or food processing.

Pro:

- Future areas would be specifically zoned and designed for specific uses, which would drive Infrastructure Master Plans to be designed very narrowly, which could reduce the amount of required infrastructure (e.g fewer water tanks, or smaller pump stations.), which in turn could reduce costs of that infrastructure.

Con:

- The City would not be able to attract higher employment tenants if we have reduced capacity and or zoning to the lowest capacity users.
- The property owner may lose out on being able to attract tenants because the range of potential uses would have to be reduced.
- Creates “winners” and “losers” in infrastructure planning.
- Runs contrary to recent efforts to specifically widen the range of various allowed land uses in development areas (City Council approved I-205 Corridor Specific Plan amendment to increase range of allowable uses, and recent discussion with Cordes Ranch Specific Plan owners).
- Creates very expensive future “retrofits” to the infrastructure should high density/intensity opportunities present themselves. For example, a new, high employee user may have to improve a long length of wastewater lines just to be able to operate in an otherwise ideal location. Such improvements have to be done up-front, and are likely prohibitively expensive.

City staff and the development community share a concern for appropriately sized infrastructure. From the City’s perspective, operating under the parameter of maintaining and improving upon the City’s competitive position in the marketplace, staff has been pursuing the dual goals of sizing infrastructure in order to be nimble with development options, and also competitive on Development Impact Fees. This process began at the incipient stages of the Infrastructure Master planning process, where prospective consultants were charged with demonstrating in their interviews how the City could meet these goals in addition to addressing ever-expanding State regulations.

A second, and important method of “staying on top” of these issues has been to have a rigorous dialogue and review by the development community throughout

the entire Master Planning process, from initial discussion on land use intensity, through water and wastewater generation rates, and finally through discussions on phasing and unit costs per given segments of infrastructure. To date, that process has been effective in reducing the definition of what is required for any given infrastructure system.

In addition to the issue of paying impact fees on a proportional use basis, staff has included some information relative to the City's impact fees as they compare to other jurisdictions in the region. In 2008 the San Joaquin Partnership completed a regional impact fee comparison for residential, industrial, office and retail uses. The fee comparison analysis included tri-valley cities as well as a few cities in the Sacramento area.

As evident from the analysis, Tracy's impact fees are near the average for all use categories with the exception of Office and Manufacturing. With regard to these two use categories, there are some nuances to the analysis that would explain the higher numbers. For example, the office fee calculation was based on a commercial / retail parcel near the I-205 area. Our Phase I Gateway office project has much lower impact fees and would score well below the average for this study. As for the manufacturing example, the study assumes a 125,000 s.f. facility with 60% site coverage on 12 acres. Since Tracy's impact fees are based on an acre basis, the fees are overstated by approximately 7 acres. In fact, for this example, the building can be expanded by over 180,000 s.f. and they would not have to pay for any additional impact fees in Tracy. After accounting for these nuances, both categories fall near the average.

In addition to Impact Fees for wastewater, water, roadways and storm drainage, development pays building permit processing fees for new or renovated projects. Both of these fees together form a total building permit fee for development. A regional comparison of these fees is attached to the staff report as Attachment B. There are several examples ranging from a simple water heater replacement to a more extensive building tenant improvement. For all examples listed, Tracy's fees are below the regional average; in most cases, well below.

Staff will continue to work with the development community to monitor and evaluate impact and building permit fee competitiveness in the region. For example, Council recently approved impact fee reductions for roadways in several of our development areas. Staff is also working on additional impact fee reductions for our Infill area, which is tentatively scheduled for Council in April.

Staff is also working on promoting the Statewide Community Infrastructure Program (SCIP) to our development community as a means to help finance the cost of improvements. The SCIP program is an economic development tool for developers to finance their improvements through the sale of tax exempt bonds without the high cost of setting up the assessment district as an individual project themselves. This program was very helpful for the Gateway developers to finance their project improvements currently underway at Eleventh Street and Lammers Road.

Staff recommended that the City continue to administer impact fees based on the underlying zoning of the property and the potential uses available to the property owners.

Council Member Rickman thanked staff for the report and added it was important to be as competitive as possible and business friendly.

Council Member Rickman stated that in order to be competitive in this area Tracy needs to be lower than Manteca. Council Member Rickman referred to impact fees and added small businesses pay the same amount for 1 toilet as does a business with 25 toilets and they cannot compete. Council Member Rickman was concerned that the City rolls out the red carpet for large businesses at the expense of the small business person.

Council Member Abercrombie asked when the comparison was supposed to occur. Mr. Malik stated late this summer. Council Member Abercrombie stated he agreed Tracy needs to focus on our neighbors and be competitive.

Council Member Elliott added that the comparison needs to be against our local neighbors. Council Member Elliott thanked staff for their efforts to ensure that the City is business friendly. Council Member Elliott commented on the fee structure and how it allows some of the costs to be deferred until the buildings are sold or occupied. Council Member Elliott asked why the City can't charge a set fee or a lower mark up which would lower the fees.

Mayor Pro Tem Maciel indicated the City has worked hard to achieve the perception of being easy to work with which has been realized through open dialogue with the business community. Mayor Pro Tem Maciel added his expectation is that staff will continue to work with the community and improve where possible. Mayor Pro Tem Maciel reminded everyone that these fees are part of the City's revenues and that needs to be taken into consideration.

Mayor Ives stated it was important for Council to understand the components of economic development, the role they play, how Tracy compares to other communities, what the partnership is telling us and to continue the collaborative approach. Mayor Ives stated the City doesn't want to lose sight of the "mom" and "pops." Mayor Ives added that in the broad spectrum, if you have the right location, with the right labor and education, and can build at reasonable fees, development will come. Mayor Ives stated he suspects that it will take off in the next few years and added he had received a lot of compliments on the City's fee structure.

Mayor Ives invited members of the public to address Council on the item.

Mike Souza, 105 E. Tenth Street, stated the fees the City charges does make or break a small business. Mr. Souza commended staff for their efforts in the master plan process. Mr. Souza stated further stated that the master plans are based on very conservative assumptions and they need to be kept as realistic as possible and need to get the assumptions right on the front side so they get the benefit instead of just the last developers. Mr. Souza suggested staff continue to work with the development community to get the fees right.

Dave Babcock, project planner for Cordes Ranch, introduced Chuck McCallum of Kier & Wright, who have been working with staff on the master plans which is very encouraging. Mr. McCallum stated he has worked with the development community to try to minimize those fees. Mr. McCallum further stated they have

been looking at effective ways to develop fees and working to bring jobs to Tracy. Mr. McCallum stated he appreciated staff and Council's efforts.

Mr. Malik discussed other mechanisms available for small businesses such as the SCIP program which Gateway has used.

Council Member Rickman indicated he struggles with the small business person who cannot afford the fees for services they will not use. Council Member Rickman suggested staff also work with the small business community.

Mayor Pro Tem Maciel thanked Council Member Rickman for bringing this item to Council and the community.

- B. Consider a Request to Support the American Legion Karl Ross Post 16 "4400 Campaign" Effort to Establish a Memorial in Iraq to Honor America's – Council Member Elliott indicated the request was to support the project to honor America's soldiers and proposed that City Council send a letter in support of the 4400 Campaign.

It was moved by Council Member Elliott and seconded by Council Member Abercrombie that the Council provide support the Karl Ross Post 16 "4400 Campaign" to establish a memorial in Iraq to honor America's fallen soldiers.

Council Member Rickman indicated Council didn't receive clarification on program management fee charges.

Council Member Rickman congratulated Irene Rose who retired last week after 26 years of service with the Police Department.

Mayor Pro Tem Maciel also congratulated Sunny Sanders on her retirement. Mayor Pro Tem Maciel requested updates on previous issues including the sign ordinance for private schools, street lights and technology, as well as an update on the Hembre building.

Mayor Ives indicated he would be in Washington D.C. during the next Council meeting and would like to attend the next CIP workshop tentatively scheduled for April 17, 2012. Mayor Ives asked if the CIP workshop could be rescheduled to a later date. CIP Workshop, Part II, scheduled for April 30, 2012, at 5:00 p.m.

Mayor Ives announced the arrival of Macy Lynn Fredrick.

Council Member Rickman indicated he would like an update regarding a vacant property workshop.

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 9:48 p.m.

The above agenda was posted at the Tracy City Hall on March 29, 2012. The above are summary minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

August 7, 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 Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives present; Council Member Elliott absent. Council Member Elliott arrived at 6:01 p.m.
3. ITEMS FROM THE AUDIENCE – None.
4. CLOSED SESSION -
 - Personnel Matter (Govt. Code section 54957)
 - Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal
 - Position Title: City Manager
5. MOTION TO RECESS TO CLOSED SESSION – Council Member Abercrombie motioned to recess the meeting to closed session at 6:01 p.m. Council Member Rickman seconded the motion. Voice vote found all Council Members Abercrombie, Rickman, Mayor Pro Tem Maciel and Mayor Ives in favor; Council Member Elliott absent. Motion carried 4:0:1.
6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 7:01 p.m. Mayor Ives announced that the Closed Session meeting would be adjourned until after the close of the Regular City Council meeting. The Closed Session was reconvened at 10:03 p.m.
7. REPORT OF FINAL ACTION – None.
8. ADJOURNMENT – Council Member Abercrombie moved to adjourn the meeting. Mayor Pro Tem Maciel seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 10:51 p.m.

The agenda was posted at City Hall on August 2, 2012. The above are action minutes.

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.B

REQUEST

AUTHORIZE THE CONVEYANCE OF VACATED RIGHT OF WAY OF OLD NAGLEE ROAD TO THE DEPARTMENT OF TRANSPORTATION, STATE OF CALIFORNIA (CALTRANS), AND AUTHORIZE THE MAYOR TO SIGN A QUITCLAIM DEED, AND FURTHER AUTHORIZE THE CITY CLERK TO FILE THE QUITCLAIM DEED WITH THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

It is in the best interest of the City to convey the vacated right of way of Old Naglee Road, to eliminate the City's liability of owning real property that is no longer needed by the City for any purpose and will be part of the future improvements for the widening of Grant Line Road/I-205 Interchange. City Council approval of the land conveyance is needed to process and file a Quitclaim Deed in favor of Caltrans.

DISCUSSION

The Tracy Community Development Agency (CDA) acquired the right of ways and funded the initial phases of improvements of the Grant Line Road/I-205 interchange. Subsequently, the CDA conveyed the ownership of these lands to the City and authorized the City to construct the interchange improvements. After completion and acceptance of the interchange improvements, the rights of ways were conveyed to Caltrans by grant deed. This land which totals 33,062 square feet (0.76 acres) is a portion of that acquired real estate which is shown in Exhibit A was not conveyed due to ownership concerns. In 2011, the CDA approved a grant deed and property conveyance agreement to convey the ownership of this land to the City of Tracy. The grant deed was recorded on April 4, 2011, as document number 2011-040389 with the San Joaquin County Recorder.

The initial phases of construction of the Grant Line/I-205 interchange are complete and this land will be needed for future phases of construction. At present Caltrans is using the land for storing construction materials and equipment for their ongoing projects along I-205. Since the right of way is not needed by the City for any public improvements and has been vacated for street use purposes, staff recommends that the City convey the land to Caltrans by quitclaiming all rights the City had acquired on this land to Caltrans.

Caltrans has been notified of the proposed conveyance and had responded with a request for the City to sign and file the deed.

FISCAL IMPACT

There is no fiscal impact to the General Fund.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve the conveyance of the vacated right of way of Old Naglee Road to the Department of Transportation, State of California (Caltrans), authorize the Mayor to sign the Quitclaim Deed, and further authorize the City Clerk to file the Quitclaim Deed with the office of the San Joaquin County Recorder.

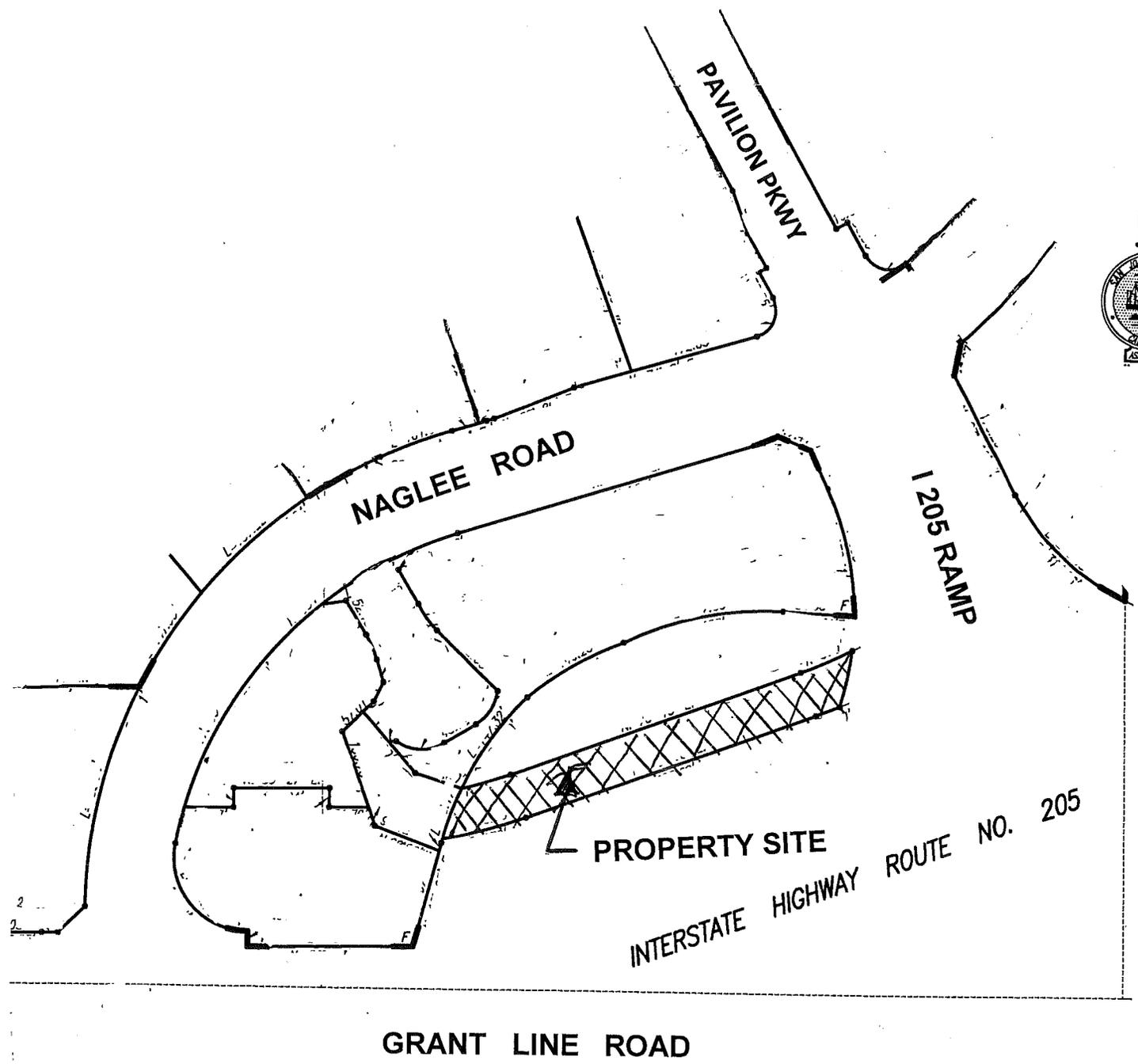
Prepared by: Cris Mina, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

Approved by: Andrew Malik, Development Services Director

Attachment A: Location Map

RIGHT OF WAY CONVEYANCE



VICINITY MAP
(NTS)

RESOLUTION 2012- _____

AUTHORIZING THE CONVEYANCE OF VACATED RIGHT OF WAY OF OLD NAGLEE ROAD TO THE DEPARTMENT OF TRANSPORTATION, STATE OF CALIFORNIA (CALTRANS), AND AUTHORIZING THE MAYOR TO SIGN A QUITCLAIM DEED, AND FURTHER AUTHORIZING THE CITY CLERK TO FILE THE QUITCLAIM DEED WITH THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The Tracy Community Development Agency (CDA) acquired the right of ways and funded the initial phases of improvements of the Grant Line Road/I-205 interchange; and

WHEREAS, The CDA conveyed the ownership of these lands to the City and authorized the City to construct the interchange improvements and after completion and acceptance of the interchange improvements, the rights of ways were conveyed to Caltrans by grant deed; and

WHEREAS This land which totals 3,309 square feet (0.76 acres) is a portion of that acquired real estate which was not conveyed due to ownership concerns; and

WHEREAS, In 2011, the CDA approved a grant deed and property conveyance agreement to convey the ownership of this land to the City of Tracy. The grant deed was recorded on April 4, 2011, as document number 2011-040389 with the San Joaquin County Recorder; and

WHEREAS, The initial phases of construction of the Grant Line/I-205 interchange are complete and this land will be needed for future phases of construction; and

WHEREAS, The right of way is not needed by the City for any public improvements and has been vacated for street use purposes; and

WHEREAS staff recommends that the City convey the land to Caltrans by quitclaiming all rights the City had acquired on this land to Caltrans; and

WHEREAS, Caltrans has been notified of the proposed conveyance and had responded with a request for the City to sign and file the deed; and

WHEREAS, There is no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the conveyance of the vacated right of way of Old Naglee Road to the Department of Transportation, State of California (Caltrans), authorizes the Mayor to sign the Quitclaim Deed, and further authorizes the City Clerk to file the Quitclaim Deed with the office of the San Joaquin County Recorder.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.C

REQUEST

APPROVE A UNION PACIFIC RAILROAD (UPRR) COMPANY SUPPLEMENTAL AGREEMENT TO RECONSTRUCT THE CORRAL HOLLOW ROAD AT-GRADE RAILROAD CROSSING NORTH OF BYRON ROAD AT MILE POST 80.60, ON THE TRACY SUBDIVISION FOR THE CORRAL HOLLOW ROAD WIDENING FROM ELEVENTH STREET TO GRANT LINE ROAD PROJECT – CIP 73102, AND AUTHORIZATION FOR THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The widening of Corral Hollow Road between Eleventh Street and Grant Line Road to six lanes is an approved project and is in the design phase. Construction is tentatively scheduled to start in mid-2015. The existing Union Pacific Railroad (UPRR) crossing located just north of Byron Road requires upgrade to widen this portion of Corral Hollow Road to accommodate bike lanes and sidewalks on both sides of the road. Generally the widening of the street will be in the existing 40-foot median area. At the request of the City, the UPRR has agreed to grant the City additional public access easements to reconstruct the railroad crossing facilities. To initiate the planning, design, and construction of the subject crossing, UPRR has requested that the City of Tracy execute a supplemental agreement to get reimbursement from the City of Tracy for the cost of design and construction of the requested modifications. Approval of this agreement will initiate the design and construction of the UPRR improvements.

DISCUSSION

In the early 1990's, the Southern Pacific Transportation Company (currently Union Pacific Railroad Company) and the City of Tracy entered into an agreement granting the City the rights for construction, use, maintenance and repair of the Corral Hollow Road at-grade public road crossing. The Engineering Division of Development Services is currently in the process of preparing plans and specifications for the widening of Corral Hollow Road between Eleventh Street and Grant Line Road. Construction of this project is tentatively scheduled for 2015.

The existing Union Pacific Railroad (UPRR) at grade crossing on the Tracy Subdivision located just north of Byron Road requires modification and reconstruction to accommodate the street widening of Corral Hollow Road from four to six lanes, including bike lanes and a 16-foot median. The City is also installing a ten-foot sidewalk on both sides of the street within the UPRR right-of-way. At the City's request, UPRR has agreed to reconstruct the at-grade crossing and provided a proposal to perform all necessary work within their right of way at the Corral Hollow Road crossing just north of Byron Road for an estimated cost of \$942,175 (a copy of the agreement is enclosed).

The UPRR scope of the work includes re-laying 480-feet of rail, installation of 152-feet of concrete road crossing panels, 174 cross ties, 2 carloads of ballast and other track and surface materials; installation of automatic flashing light crossing signals with gates, cantilevers, and other signal materials; and engineering at the existing UPRR on Tracy

Subdivision at Mile Post 80.60. This work will be performed in conjunction with the Corral Hollow Road Reconstruction between Eleventh Street and Grant Line Road, CIP 73102.

Reconstruction of this crossing will provide a hard and durable surface to maintain an even crossing surface for a smooth ride across all travel lanes, existing and new.

The UPRR's preliminary cost estimate to furnish all labor, materials, equipment and supervision for the railroad crossing reconstruction is \$942,175. The cost does not include flagging or other protective services provided by the Railroad. The final project cost will be billed to the City upon completion of the project.

Based on past experiences, executing this agreement and the anticipated design work by the railroad is time-consuming and needs to be started now to meet the project schedule. UPRR will design the railroad crossing upgrade and complete the installation of the railroad track and surface material first for a total cost of \$237,582, which is anticipated in FY13-14 before the widening of Corral Hollow Road begins. Installation of the railroad's signals at a cost of \$704,593 will be synchronized and installed during construction of the widening of Corral Hollow Road scheduled for 2015.

To initiate the design work by UPRR, the agreement requires an initial upfront payment in the amount of \$5,950. The remaining payments to UPRR will be made when billed to the City.

FISCAL IMPACT

There will be no fiscal impact to the General Fund. Adequate funding is available from the Corral Hollow Road Widening Project - CIP 73102, to pay for this work.

STRATEGIC PLAN

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

RECOMMENDATION

That City Council, by resolution, approve a Supplemental Agreement with Union Pacific Railroad Company for reconstruction of the Corral Hollow Road at-grade railroad crossing north of Byron Road for the Corral Hollow Road Widening from Eleventh Street to Grant Line Road Project - CIP 73102, and authorize the Mayor to execute the Agreement.

Prepared by: Khoder Baydoun, Associate Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION 2012- _____

APPROVING A UNION PACIFIC RAILROAD (UPRR) COMPANY SUPPLEMENTAL AGREEMENT TO RECONSTRUCT THE CORRAL HOLLOW ROAD AT-GRADE RAILROAD CROSSING NORTH OF BYRON ROAD AT MILE POST 80.60, ON THE TRACY SUBDIVISION FOR THE CORRAL HOLLOW ROAD WIDENING FROM ELEVENTH STREET TO GRANT LINE ROAD PROJECT – CIP 73102, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, In the early 1990's, the Southern Pacific Transportation Company (currently Union Pacific Railroad Company) and the City of Tracy entered into an agreement granting the City the rights for construction, use, maintenance and repair of the Corral Hollow Road at-grade public road crossing; and

WHEREAS, The Engineering Division of Development Services is currently in the process of preparing plans and specifications for the widening of Corral Hollow Road between Eleventh Street and Grant Line Road; and

WHEREAS, The existing Union Pacific Railroad (UPRR) at grade crossing on the Tracy Subdivision located just north of Byron Road requires modification and reconstruction to accommodate the street widening of Corral Hollow Road from four to six lanes, including bike lanes and a 16-foot median; and

WHEREAS, At the City's request, UPRR has agreed to reconstruct the at-grade crossing and provided a proposal to perform all necessary work within their right of way at the Corral Hollow Road crossing just north of Byron Road for an estimated cost of \$942,175; and

WHEREAS, The UPRR scope of the work includes re-laying 480-feet of rail, installation of 152-feet of concrete road crossing panels, 174 cross ties, 2 carloads of ballast and other track and surface materials; installation of automatic flashing light crossing signals with gates, cantilevers, and other signal materials; and

WHEREAS, The UPRR's preliminary cost estimate to furnish all labor, materials, equipment and supervision for the railroad crossing reconstruction is \$942,175. The cost does not include flagging or other protective services provided by the Railroad. The final project cost will be billed to the City upon completion of the project; and

WHEREAS There will be no fiscal impact to the General Fund. Adequate funding is available from the Corral Hollow Road Widening Project - CIP 73102, to pay for this work;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves a Supplemental Agreement with Union Pacific Railroad Company for reconstruction of the Corral Hollow Road at-grade railroad crossing north of Byron Road for the Corral Hollow Road Widening from Eleventh Street to Grant Line Road Project - CIP 73102, and authorizes the Mayor to execute the Agreement.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.D

REQUEST

ACCEPTANCE OF THE GRANTLINE ROAD & WHISPERING WIND DRIVE – BIKE LANE STRIPING PROJECT - CIP 78113 , COMPLETED BY CHRISP COMPANY OF FREMONT, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed construction of the Grant Line Road & Whispering Wind Drive - Bike Lane Striping Project - CIP 78113, in accordance with project plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention.

DISCUSSION

On June 25, 2012, the City Manager, in accordance with TMC 2.20.260, executed the agreement with the lowest monetary bidder Chrisp Company of Fremont, California, in the amount of \$10,534 for the Grant Line Road & Whispering Wind Drive-Bike Lane Striping Project - CIP 78113. Public Contract Code Section 22032 and 22036 allows the public agency to procure informal bids for projects with anticipated costs less than \$45,000.

The scope of work for this project included installation of approximately 7,500 LF of thermoplastic striping bike lane and signs along Grant Line Road between Lincoln Boulevard and Tracy Boulevard, and along Whispering Wind Drive between English Oak Avenue and Tracy Boulevard.

The project plans and specifications were prepared by in-house engineering staff. The project was advertised for informal bids on the City's website and construction builder's exchanges on April 19, 2012, and one bid was received on April 26, 2012. The contractor has completed construction of the project in accordance with plans and specifications. No change orders were issued during construction. Status of budget and project costs is as follows:

• Design and preparation of bid documents	\$ 2,100
• Construction contract Amount	\$10,534
• Inspection	<u>\$ 2,000</u>
Total Project Costs	\$14,634
Budgeted Amount	\$15,000

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

STRATEGIC PLAN

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

FISCAL IMPACT

CIP 78113 is an approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund.

RECOMMENDATION

That City Council, by resolution, accept construction of the Grant Line Road, & Whispering Wind Drive - Bike Lane Striping Project - CIP 78113, completed by Chrisp Company of Fremont, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION 2012- _____

ACCEPTING THE GRANTLINE ROAD & WHISPERING WIND DRIVE – BIKE LANE STRIPING PROJECT - CIP 78113 , COMPLETED BY CHRISP COMPANY OF FREMONT, CALIFORNIA, AND AUTHORIZING FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, On June 25, 2012, the City Manager, in accordance with TMC 2.20.260, executed the agreement with the lowest monetary bidder Chrisp Company of Fremont, California, in the amount of \$10,534 for the Grant Line Road & Whispering Wind Drive-Bike Lane Striping Project - CIP 78113, and

WHEREAS, The contractor has completed construction of the Grant Line Road & Whispering Wind Drive - Bike Lane Striping Project - CIP 78113, and

WHEREAS, No change orders were issued during construction, and

WHEREAS, Status of budget and project costs is as follows:

• Design and preparation of bid documents	\$ 2,100
• Construction contract Amount	\$10,534
• Inspection	<u>\$ 2,000</u>
Total Project Costs	\$14,634
Budgeted Amount	\$15,000

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

WHEREAS, CIP 78113 is an approved Capital Improvement Projects with sufficient funding and there will be no fiscal impact to the General Fund.

NOW, THEREFORE, BE IT RESOLVED, That City Council accept construction of the Grant Line Road, & Whispering Wind Drive - Bike Lane Striping Project - CIP 78113, completed by Chrisp Company of Fremont, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

August 21, 2012

AGENDA ITEM 1.E

REQUEST

APPROVAL OF PERMIT FOR THE CONSUMPTION OF ALCOHOLIC BEVERAGES ON CITY STREETS FOR THE FOLLOWING EVENTS: TRACY CHAMBER OF COMMERCE “DRY BEAN FESTIVAL” ON SEPTEMBER 8-9, 2012, TRACY CITY CENTER ASSOCIATION “FALL WINE STROLL” ON SEPTEMBER 29, 2012, AND THE CITY OF TRACY “GIRLS NIGHT OUT” EVENT ON OCTOBER 26, 2012.

EXECUTIVE SUMMARY

The Tracy Municipal Code provides that 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 Community Facilities Division is coordinating three requests for alcohol permits in conjunction with community events and is seeking Council approval.

DISCUSSION

Tracy Municipal Code Section 4.12.190(d) provides that “[t]he 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.

The Community Facilities Division is coordinating three requests for alcohol permits to allow alcoholic beverages to be served as a component of the following community events: “Dry Bean Festival,” being conducted by the Tracy Chamber of Commerce; “Fall Wine Stroll” being conducted by the Tracy City Center Association; and “Girls Night Out” being conducted by the City of Tracy.

Dry Bean Festival: The Tracy Chamber of Commerce is requesting a permit to serve alcoholic beverages at its event on September 8-9, 2012, 10:00 a.m. to 7:00 p.m., along Central Avenue between 6th and 11th Streets, and along 10th Street between A Street and D Street, and along 9th Street between C Street and D Street, and along 6th Street between C Street and D Street.

Fall Wine Stroll: The Tracy City Center Association is requesting a permit to serve alcoholic beverages at its event on September 29, 2012, 6:00 p.m. to 9:00 p.m. along 10th Street between A Street and Central Avenue, and along Central Avenue from 11th Street to 6th Street.

Girls Night Out – Witches and Broomsticks: The City of Tracy Community Facilities Division is requesting a permit to serve alcoholic beverages at its event on October 26, 2012, 6:00 p.m. to 10:00 p.m. along 7th Street between Central Avenue and C Street.

STRATEGIC PLAN

This agenda item supports the Livability Strategic Priority and specifically implements the following goal and objective:

Goal 2: A city with enticing arts, entertainment, and recreation.

Objective 2c: Increase the number of entertaining, cultural, educational and recreational activities.

FISCAL IMPACT

There is no impact to the General Fund for issuing these permits. All applicable event costs are included in the City Council adopted Fiscal Year 2012/2013 Budget.

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: Tracy Chamber of Commerce “Dry Bean Festival” on September 8-9, 2012; TCCA’s “Fall Wine Stroll” on September 29, 2012; and City of Tracy’s “Girls Night Out” on October 26, 2012.

Prepared by: Vanessa Carrera, Management Analyst II

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 SEPTEMBER 8-9, 2012 (TRACY CHAMBER OF COMMERCE "DRY BEAN FESTIVAL"), ON SEPTEMBER 29, 2012 (TRACY CITY CENTER ASSOCIATION'S "FALL WINE STROLL"), AND ON OCTOBER 26, 2012 (CITY'S "GIRLS NIGHT OUT")

WHEREAS, The Tracy Chamber of Commerce has requested a permit to conduct a special event in the City of Tracy on September 8-9, 2012, that requires the authorization of the City Council to permit the consumption of alcoholic beverages in public places; and

WHEREAS, The Tracy City Center Association (TCCA) has requested a permit to conduct a special event in the City of Tracy on September 29, 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 on October 26, 2012, that requires the authorization of the City Council to permit the consumption of alcoholic beverages in public places; 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 Tracy Chamber of Commerce, and 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 21st day of August, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

August 21, 2012

AGENDA ITEM 1.F

REQUEST

AUTHORIZATION TO UPGRADE THIRTY EXISTING IN-CAR DIGITAL CAMERA SYSTEMS WITH L3 COMMUNICATIONS MOBILE-VISION, INC. IN THE AMOUNT NOT TO EXCEED \$150,000 AND AUTHORIZING THE MAYOR TO SIGN THE PROFESSIONAL SERVICES AGREEMENT

EXECUTIVE SUMMARY

In 2007, staff completed a Request for Proposal (RFP) to purchase and install an in-car digital camera system with the associated server and storage equipment. A total of seven bids were received and reviewed and L3 Communications Mobile-Vision, Inc. was awarded the bid.

The system has served the department over the last five years and has reached the "end of life" for support and maintenance. Over the last two years, staff has experienced the down time and challenges of servicing the aging equipment and technology. The City IT staff have been repairing and sending off DVR units for service, and spending time associated with storing and retrieving videos archived onto DVDs. In addition, the reliability of storing and retrieving video for court presentation has been challenging with the failing server & because the hardware is now considered "end of life", replacement parts are becoming scarce and expensive.

DISCUSSION

L3 Communications Mobile-Vision Inc. has developed an upgrade to its existing system to enhance the overall efficiency, effectiveness, and security of capturing and storing of videos in the field. The upgrade allows the agency to retain about 90% of the existing system, including the in-car cameras, and wiring. The upgrade features will replace the existing microphones with a wireless solution that is much more compact and provides an automatic sync with its associated video. The system will be much more user-friendly, allowing automatic data file transfers that are reliable and secure. In addition, staff estimates a significant time savings spent on storing and retrieving DVD's. The use of enhanced Blu-Ray technologies will decrease the volume of storage needed to archive the thousands of hours of video. Incidental expenses including DVD's, tapes, batteries, and microphone chords will be significantly reduced, and storage space will no longer be an issue.

Staff is requesting that the authorization to upgrade the existing in-car digital camera systems with L3 Communications Mobile-Vision, Inc. Staff is basing this request on the potential cost savings of using the existing camera units. Staff has sought out an alternate of replacing the entire system for two times the cost of the upgrade. The upgrade of the existing system will also be accompanied with a four year warranty for the existing system as well as a credit for swapping out the existing equipment with new hardware.

STRATEGIC PLAN

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

FISCAL IMPACT

The upgrade of the existing in-car camera system has been funded in the fiscal year budget. The 2012-2013 fiscal budget provides funding for this service in the amount of \$150,000 in account number 605-59310-689-E1077 "In-Car Video Systems".

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the upgrade of the existing thirty in-car digital camera systems with L3 Communications Mobile-Vision, Inc. in an amount not to exceed \$150,000.

Prepared by: Lani Smith, Support Operations Manager

Reviewed by: Gary Hampton, Chief of Police

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

**CITY OF TRACY
PROFESSIONAL SERVICES AGREEMENT
WITH L3 COMMUNICATIONS, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT (hereinafter "Agreement") is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and L3 Communications, Inc., a Delaware corporation, (hereinafter "PROVIDER").

RECITALS

- A. In the 2012-13 fiscal year budget, \$150,000 has been designated for the upgrade of the thirty existing in-car digital camera systems. The system has served the department over the last five years and has reached the "end of life" for support and maintenance.
- B. Pursuant to Tracy Municipal Code 2.20.140 (b) (2) the formal request for proposals process is not required because the PROVIDER has an exclusive operating agreement to supply the required maintenance services.
- C. In the 2006-07 fiscal year budget, \$200,000 had been designated for the purchase and installation of in-car digital camera systems and associated server and storage equipment. A "Request for Proposal" (RFP) for the systems and associated equipment was published on September 9, 2006 and September 28, 2006. A total of seven bids were received and opened on October 6, 2006. L3 Communication's bid of \$151,612 was within the budget. The remaining funds in the budget were used to install wireless access points and cabling at the police department. On May 1, 2007, the City awarded the purchase of In-Car Digital Camera Systems to L3 Communications, pursuant to Resolution No. 2007-087.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. **SCOPE OF SERVICES.** PROVIDER shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. The services shall be performed by, or under the direct supervision of, PROVIDER's Authorized Representative: Mike Burridge, VP of Sales. PROVIDER shall not replace any subcontractors or subproviders, without the prior written consent of the CITY.
- 2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. PROVIDER shall commence performance, and shall complete all required services no later than the dates set forth in Exhibit "A."

Any services for which times for performance are not specified in this Agreement shall be commenced and completed by PROVIDER in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the PROVIDER. PROVIDER shall submit all requests for extensions of time to the CITY in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. CITY shall grant or deny such requests at its sole discretion.

3. **INDEPENDENT CONTRACTOR STATUS.** PROVIDER is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. PROVIDER is not CITY's employee and PROVIDER shall have no authority, express or implied, to act on behalf of the CITY as an agent, or to bind the CITY to any obligation whatsoever, unless the CITY provides prior written authorization to PROVIDER. Contractors and PROVIDER are free to work for other entities while under contract with the CITY. Contractors and PROVIDER are not entitled to CITY benefits.
4. **CONFLICTS OF INTEREST.** PROVIDER (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. In the event that PROVIDER maintains or acquires such a conflicting interest, any contract (including this Agreement) involving PROVIDER's conflicting interest may be terminated by the CITY.
5. **COMPENSATION.**
 - 5.1. For services performed by PROVIDER in accordance with this Agreement, CITY shall pay PROVIDER on a time and expense basis, at the billing rates set forth in Exhibit "B," attached hereto and incorporated herein by reference. PROVIDER's fee for this Agreement is Not To Exceed \$150,000. PROVIDER's billing rates shall cover all costs and expenses of every kind and nature for PROVIDER's performance of this Agreement. No work shall be performed by PROVIDER in excess of the Not To Exceed amount without the prior written approval of the CITY.
 - 5.2. PROVIDER shall submit monthly invoices to the CITY describing the services performed, including times, dates, and names of persons performing the service.
 - 5.3. Within thirty days after the CITY's receipt of invoice, CITY shall make payment to the PROVIDER based upon the services described on the invoice and approved by the CITY.
6. **TERMINATION.** The CITY may terminate this Agreement by giving ten days written notice to PROVIDER. Upon termination, PROVIDER shall give the CITY all original documents, including preliminary drafts and supporting documents, prepared by PROVIDER for this Agreement. The CITY shall pay

PROVIDER for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

7. **OWNERSHIP OF WORK.** All original documents prepared by PROVIDER for this Agreement, whether complete or in progress, are the property of the CITY, and shall be given to the CITY at the completion of PROVIDER's services, or upon demand from the CITY. No such documents shall be revealed or made available by PROVIDER to any third party without the prior written consent of the City.
8. **ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
9. **INDEMNIFICATION.** PROVIDER shall indemnify, defend, and hold harmless the CITY (including its elected officials, officers, agents, volunteers, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from or arising out of PROVIDER's performance of services under this Agreement, except for such loss or damage arising from the sole negligence or willful misconduct of the CITY.
10. **BUSINESS LICENSE.** Prior to the commencement of any work under this Agreement, PROVIDER shall obtain a City of Tracy Business License.
11. **INSURANCE.**
 - 11.1. **General.** PROVIDER shall, throughout the duration of this Agreement, maintain insurance to cover PROVIDER, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
 - 11.2. **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
 - 11.3. **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
 - 11.4. **Workers' Compensation** coverage shall be maintained as required by the State of California.
 - 11.5. **Professional Liability** "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of PROVIDER in an amount not less than \$1,000,000 per claim.

- 11.6. **Endorsements.** PROVIDER shall obtain endorsements to the automobile and commercial general liability with the following provisions:
- 11.6.1 The CITY (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- 11.6.2 For any claims related to this Agreement, PROVIDER's coverage shall be primary insurance with respect to the CITY. Any insurance maintained by the CITY shall be excess of the PROVIDER's insurance and shall not contribute with it.
- 11.7. **Notice of Cancellation.** PROVIDER shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty days prior written notice to the CITY should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 11.8. **Authorized Insurers.** All insurance companies providing coverage to PROVIDER shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 11.9. **Insurance Certificate.** PROVIDER shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five days after the execution of this Agreement.
- 11.10. **Substitute Certificates.** No later than thirty (30) days prior to the policy expiration date of any insurance policy required by this Agreement, PROVIDER shall provide a substitute certificate of insurance.
- 11.11. **PROVIDER's Obligation.** Maintenance of insurance by the PROVIDER as specified in this Agreement shall in no way be interpreted as relieving the PROVIDER of any responsibility whatsoever (including indemnity obligations under this Agreement), and the PROVIDER may carry, at its own expense, such additional insurance as it deems necessary.
12. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the PROVIDER's duties be delegated, without the written consent of the CITY. Any attempt to assign or delegate this Agreement without the written consent of the CITY shall be void and of no force and effect. A consent by the CITY to one assignment shall not be deemed to be a consent to any subsequent assignment.

13. NOTICES.

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

To CITY:

**Attn: Lani Smith
Tracy Police Department
1000 Civic Center Drive
Tracy, CA 95376**

To PROVIDER:

**Mike Burrige
Vice President
L3 Communications Mobile
Vision
90 Fanny Road
Boonton, NJ 07005**

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

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

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

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

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

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

18. ENTIRE AGREEMENT. This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed for this project. This Agreement supersedes all prior negotiations, representations, or agreements.

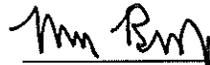
19. **COMPLIANCE WITH THE LAW.** PROVIDER shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
20. **STANDARD OF CARE.** Unless otherwise specified in this Agreement, the standard of care applicable to PROVIDER's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.
21. **SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the PROVIDER and the CITY. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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

CITY OF TRACY

L-3 Communications, Inc.

By: Brent H. Ives
 Title: Mayor


 By: Mike Burrridge
 Title: Vice President

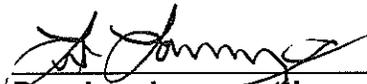
Date: _____

Date: _____

Attest:

Fed. Employer ID No.
 22-2893537

By: Sandra Edwards


 By: Leo Lorenzetti

Title: CITY CLERK

Title: **President**

Date: _____

Date: 8/10/12

Approved As To Form:

By: Daniel G. Sodergren
 Title: CITY ATTORNEY
 Date: _____

EXHIBIT "A"

PROVIDER Statement of Work

**Statement of Work
For Tracy Police Department
Flashback2 In Car Video System
End of Life Upgrade**

**Statement of Work
Flashback2 In Car Video Project**

Contents

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Section 1 Introduction

This Statement of Work (SOW) specifies the work requirements (if any) necessary to successfully upgrade the customers Flashback1 In Car Video hardware, Wireless Network, Servers and Archiving Workstations. It describes the scope of the project, resource requirements and responsibilities, expected deliverables, and acceptance criteria. It also contains several appendixes, including a sample Acceptance Test Plan, product functional descriptions, and minimum computer hardware requirements. Also included is a glossary of terms used in this SOW. Additional appendixes documenting interface Technical Specifications or Professional Service functional descriptions may also be added on a project-by-project basis that are agreed to by both parties. PROVIDER will use this document as the basis for the project-specific Statement of Work document developed for each new project.

Section 2 Project Scope and Definition

This section identifies the elements of the project and will describe the overall project plan. It details the proposed In Car Video system, who is participating in the project and the timeline for the project. Any undocumented specifications not listed as part of the Project Scope within this SOW will require a change order to be processed. A Change Order may impact delivery and financial terms of the contract.

2.1 Project Scope

The Tracy Police Department is purchasing 30 Flashback2 DVR's and back office related equipment from PROVIDER to upgrade their first generation Flashback1 car equipment and backoffice infrastructure. See deliverables and attached quotation for product listing.

2.2 Participating Organizations

*L-3 Mobile Vision
90 Fanny Road, Boonton NJ 07005*

*Tracy Police Department
1000 Civic Center Drive
Tracy, CA 95376-4079*

Project Team

Following is a table listing the project team companies, their overall project role, and their project contact.

Project Role	Company
Prime Contractor – Program Manager;	L-3 Mobile Vision
Tracy Police Department-Project Manager	Tracy Police Department
In Car Video System Provider, and implementation and training services	L-3 Mobile Vision
Hardware Provider	L-3 Mobile Vision
Installer (Server and Archiving workstation)	L-3 Mobile Vision

2.3 Project Location

This project will commence at the Tracy Police Department. Locations are to provide cover for weather conditions, electricity, etc.

2.4 Initial Timeline

Anticipated timeline and start of the project is dependent on receipt of order. It is expected to be started the 6-8 weeks after receipt of Purchase Order and process of order by PROVIDER.. This is solely dependent on receipt of order by PROVIDER.

Section 3 Responsibilities

This section identifies each participating organization's responsibilities as defined within the scope of this project. PROVIDER, the User Agency, the Prime Contractor, and any Subcontractors must ensure their personnel have ample time and resources to meet their respective tasks and assigned responsibilities.

3.1 Tracy Police Department Responsibilities

3.1.1 Work Environment

- Provide access to a safe work area during the evaluation and configuration of all hardware and software.
- Provide access to building or structure where the server (systems) and access points will be installed in according with project timeline requirements.
- Provide appropriate "staff for train the trainer" training.

3.1.2 Program Management

- The Tracy Police Department will assign a single Program/Project Manager who will be the primary point of contact with participating organizations and who can make decisions for the Tracy Police Department.
- The Tracy Police Department Program/Project Manager must ensure that their personnel have ample time, resources, and expertise to meet their respective tasks and responsibilities.

3.1.3 System Installation

- The Tracy Police Department is responsible for installation of all vehicle equipment related to this project. This includes but not limited to Flashback2 DVR's, Microphones, and antennas.
- The Tracy Police Department is responsible for replacement of the wireless access point and/or antennas as required of this project.

3.2 PROVIDER Responsibilities

PROVIDER will provide and coordinate the following:

3.2.1 Program/Project Management

- PROVIDER will assign a Project Manager who will be the primary point of contact with the Tracy Police Department and any PROVIDER Subcontractors throughout the implementation cycle. This individual will have the authority to act on behalf of PROVIDER in fulfilling PROVIDER's commitments set forth in this SOW.
- The assigned PROVIDER Project Manager will be the conduit for resolving all PROVIDER hardware, software and technical issues that arise during the project. Any responsibilities not specifically designated to PROVIDER are the responsibility of the Tracy Police Department.

3.2.2 System Installation and Testing

- PROVIDER will provide server installation, configuration, mounting and system optimization.
- PROVIDER will provide 2 hours of onsite quick training.
- No other services are provided as part of this project.

3.2.3 Training

- PROVIDER will provide the Tracy Police Department 2 hours of onsite quick training. This training will take place onsite during the 1 day of onsite installation.

3.2.4 Customer Support

PROVIDER's Project Manager will review PROVIDER's Customer Support documentation with the Tracy Police Department and inform them of PROVIDER's toll free Customer Support telephone number.

Section 4 Deliverables

This section lists PROVIDER's deliverables to the Tracy Police Department.

The following table outlines the deliverables required for this project:

Deliverable	Size/Quantity
Flashback2 DVR's (upgrade)	30
Flashback2 Voicelink Plus 2 microphone systems	30
EOL DEP Server	1
Archiving workstation and DVD burner	1
Wireless Access Points Antenna Conversions	4
Onsite Server installation, training and optimization	1 days

Section 6 Changes to This Statement of Work

Changes may be made to this Statement of Work document. All changes that will affect the scope of the project, deliverables, established timelines and/or services must be documented in a change order form and executed by the Project Manager of all organizations who signed the original Statement of Work. Any such changes may result in additional costs and project delays as appropriate and delineated on the change order form.

A sample change order form is located within the Appendix section of this SOW.

LIMITED Warranty Statement and Support Overview

PROVIDER warrants the following products for the period indicated from defects in workmanship or materials:

- FLASHBACK In-Car video system hardware and components (1) Year
- CycleVision Motorcycle video system hardware and components (1) Year
- Interview room video system hardware and components (1) Year
- MV-1 Mobile Data Computer system (2) Years
- V-One Integrated Mobile Data Computer system (3 Years)
- MobileVu Display (If purchased separately, (1) Year)
- AlertVu Automatic License Plate recognition hardware and components. (1) Year
- Digital Evidence Management System Software (1) Year
- Digital Evidence Management Hardware Solution (If Applicable) (1) Year
- Primera branded, DVD/Blu-ray Disc publisher (1) Year
- Rimage branded, DVD/Blu-Ray Disc publisher (1) Year

If a valid claim is received within the Warranty Period, at its option and to the extent permitted by law, PROVIDER will either repair the defect at no charge, using new or refurbished replacement parts, or exchange the product with a product that is new or which has been manufactured from new or serviceable used parts and is at least functionally equivalent to the original product. A replacement product or part assumes the remaining warranty of the original product or ninety (90) days from the date of replacement or repair, whichever provides longer coverage for you. The purchaser must return failed component(s) to the factory or a factory-authorized service center. Purchaser is responsible for shipment to PROVIDER and assumes all costs and risks. Return shipment to the Purchaser will be at PROVIDER's risk and expense. Note: PROVIDER's maximum reimbursement for return shipping shall not exceed UPS ground service rates.

Before you ship your product for warranty service, it is your responsibility to keep a separate backup copy of the system configurations and data. PROVIDER is not liable for any damage to or loss of any programs, data, or other information stored on any media. Recovery and reinstallation of system and application software and user data are not covered under this limited warranty.

Warranty excludes labor to diagnose components in vehicle and labor to remove or reinstall components in vehicle. Warranty does not extend to any devices in or of vehicle to which an PROVIDER component is mounted or connected. PROVIDER reserves the right to charge for repairs to correct damage resulting from abuse, improper installation, or extraordinary environmental damage to components during warranty period at rates normally charged for repairing such units not covered under warranty. PROVIDER will not be liable for any direct,

indirect, consequential or incidental damages arising out of the use or inability to use this product.

PROVIDER does not warrant that the operation of the product(s) will be uninterrupted or error-free. As a further limit on warranty, and as an expressed warning, the user should be aware that harmful personal contact may be made with any devices mounted into a motor vehicle in the event of violent maneuvers, collisions, or other circumstances, even though said devices are installed and used according to instructions. Purchaser will determine and accept any risk involved with the installation and use of this product. PROVIDER specifically disclaims any liability for injury caused by contact with its products or components in all such circumstances.

The forgoing warranty is exclusive in lieu of all other warranties of quality, fitness, or merchantability, whether written, oral, or implied. Notwithstanding, if the contractual agreement under which this product has been purchased specifies different terms and conditions, those terms and conditions specified by such contract shall prevail. All maintenance and service will be performed by L-3 Communications Mobile-Vision, Inc., 90 Fanny Road, Boonton, NJ 07005 or, at the customer's choice, by an PROVIDER certified service center. *Note: It is the responsibility of the user to remove and return the component(s) requiring repair.* Warranty repairs require an RA (Return Authorization) number in order to be processed. This can be arranged by calling (800) 336-8475 or by completing a Return Authorization form on PROVIDER's website: www.L-3Com.com/MV

THE LIMITED WARRANTY SET FORTH ABOVE IS PROVIDER'S ONLY WARRANTY IN CONNECTION WITH PROVIDER'S HARDWARE AND/OR SOFTWARE PRODUCTS. ALL OTHER WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED, CONTRACTUAL OR STATUTORY, INCLUDING, BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE ARE SPECIFICALLY EXCLUDED AND DISCLAIMED. IN NO EVENT SHALL PROVIDER'S LIABILITY UNDER THIS WARRANTY EXCEED THE OBLIGATION TO REPAIR OR REPLACE, AT PROVIDER'S DISCRETION, A WARRANTED PRODUCT, AND, WITHOUT LIMITING THE FOREGOING, PROVIDER'S LIABILITY UNDER THIS WARRANTY SHALL NOT EXCEED THE COST OF THE COVERED PRODUCT.

Compliance with U.S. Export Laws & Regulations: When required by law, transactions which are subject to the Export Administration Act, 15 CFR – Export Administration Regulations, Arms Export Control Act, 22 CFR - International Traffic in Arms Regulations, and all other applicable U.S. Import/Export Laws and Regulations shall be adhered to without exception. Buyer shall not forward, redirect or re-export goods, data or information in violation of such laws and regulations. Seller shall be held harmless by Buyer in the event that any regulatory requirement may impact Seller's performance, price or schedule.

Warranty excludes the following:

- Intentional misuse or abuse
- Unauthorized maintenance
- Product or parts that have been modified to alter functionality or capability
- Data recovery resulting from hard drive failure
- Virus damage
- Data Migration

- Operational failure due to network or security changes
- Any networked component not provided by PROVIDER
- UPS Devices
- All consumable items
- Onsite service
- Damage caused by third party products and/or software
- Cosmetic damage that does not affect the functionality of the system
- Damage that occurs in shipment.

VIDEO MANAGEMENT SOFTWARE (if applicable)

PROVIDER warrants its video management system (DES) to be free from operational and material defects and covers all software updates for a period of one (1) year from original "implementation" date (the date that PROVIDER's Support Engineers performed onsite server installation, configuration, and training). If onsite implementation was not purchased with the server (typical of software-only products), the (1) year warranty commences on the original factory ship date. Software-only customers please see "END-USER LICENSE AGREEMENT and Limited Warranty". PROVIDER warrants that its video management systems are adequate in features and functions to facilitate the management of video for law enforcement purposes. PROVIDER will not be liable for any direct, indirect, consequential, or incidental damages arising out of the use or inability to use this product.

VERSION SUPPORT

PROVIDER support the current and last two Major releases of DES and ALPR software products

VIDEO MANAGEMENT HARDWARE (if applicable)

During the warranty period, PROVIDER agrees to repair or replace any video management system component (based on that component's availability) that fails due to defective materials or workmanship. Sole responsibility under this warranty shall be to repair, adjust, or replace (at PROVIDER's option and according to the manufacturer's warranty conditions) any software, equipment, and peripheral that is part of the originally installed system that fails during this period and is not subject to any of the exclusions listed herein. Equipment, peripherals, and software supplied by customer are excluded from coverage. In most instances, server hardware that requires Next Business Day Onsite Service will be coordinated through PROVIDER and provided by Dell Computer. The PROVIDER's Technical Support Engineer will determine if an onsite service technician must be dispatched to support a qualified repair. For Next Business Day Onsite Service, a technician will typically arrive onsite the next business day. Generally, calls received by PROVIDER before 4:00 p.m. local (EST) will qualify for next-business day service, however, PROVIDER has no liability should the provider (DELL) postpone, cancel, or delay the service. In the event that additional parts/resources are required once the onsite technician is at the Customer's site, work may be temporarily suspended until the additional parts/resources arrive.

NON-WARRANTY REPAIR WORK

Note: excludes RIMAGE, PRIMERA and DELL (server and storage) branded products as well as associated network (access points, switches, UPS) equipment. PROVIDER will assist your agency in facilitating repairs for these products through the provider.

The customer may return a product for repair that is not covered by warranty. A standard repair fee, specific to the product, is charged for any product that is repaired outside of the warranty period. Repairs performed on products out of warranty carry a 90-day warranty, which begins the day the repaired item is shipped back to the customer. For items classified as "No Trouble Found" (NTF): the customer is notified if, after examining and testing a returned product, PROVIDER concludes that the product is not defective. The product is returned at the customer's expense and the customer is charged a nominal examination and testing fee (Bench Fee) or the standard repair fee, whichever is less.

SUPPORT

Warranty repairs and support can be arranged by calling (800) 336-8475 between the hours of 8:00 a.m. and 5:00 p.m. EST or via e-mail at DESSUPPORT.MVI@l-3com.com (a valid warranty or extended maintenance agreement is required to receive technical support) where a ticket number will be designated and the issue assigned to a member of the support team. An authorized point-of-contact name and phone number will also be needed in case follow-up information is required. PROVIDER provides on-line diagnosis and support for our Back Office video management systems. Most service requests can be handled through this remote method. If the problem is determined to be related to any of the PROVIDER provided hardware, then PROVIDER will coordinate the service with the appropriate hardware provider and facilitate the fix or replacement. Should an agency not be able to, or prefers not to provide the support necessary for our technicians to repair the equipment remotely, onsite service may be required. PROVIDER does not guarantee a specific response time if onsite service is required. Your organization will be responsible for the cost of onsite service calls performed by PROVIDER. *Please note: PROVIDER will attempt to contact your representative (3) times. If PROVIDER do not hear from your representative 24 hours after PROVIDER place the 3rd call, the issue will be deemed resolved and PROVIDER will close the ticket.*

Note: Some component parts are specifically designed for customer removal and replacement. If during troubleshooting the PROVIDER support engineer determines that a repair can be accomplished with such a part or component, PROVIDER will ship the component part directly to the customer. Unless otherwise noted, service parts will be shipped via ground freight service.

Service Level Objective: While PROVIDER does not guarantee resolution time, PROVIDER strive to resolve all cases in a fast and efficient manner to ensure customer satisfaction.

Non-critical issues will be acknowledged within 1 business hour, Monday-Friday only, excluding holidays. Resolution will begin within 24 hours followed by on-going daily status updates until resolution is confirmed with the POC.

Critical Support issues (Priority 1) will be acknowledged within 1 business hour. Resolution will begin within 4 business hours followed by ongoing daily status updates until the resolution is confirmed with the POC. After-hours requests for critical support will be handled in the same manner. However, response will start within 4 hours of the call.

After hours/Holiday/Weekend support: If the request for a support call is made outside the aforementioned normal hours, a callback will be made no later than the next business day. If you have a Priority 1 issue, you will need to state the issue and severity in your e-mail or voicemail. Your issue will be escalated to the on-call Technical Support Engineer and will be addressed within (4) hours.

Support Classifications

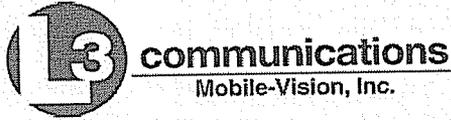
Priority 3 – Product feature and/or administration questions. Low severity.

Priority 2 – Minor feature/product failure, convenient workaround exists. This may require servicing or repair of one or more components. If service or repair is required, PROVIDER will issue an RMA number and instruct your representative to return the defective components to us or a designated service center or third party provider. Advance replacement of components will be at the discretion of PROVIDER.

Priority 1 - Product or major feature failure or data corruption. The system is not operational or useable by your organization. Resolution times may vary depending on the nature of the problem and your representative's availability. PROVIDER will continue to provide updates until the ticket is closed.

END OF DOCUMENT

Exhibit "B" Pricing



Quotation

City of Tracy Police Dept
333 Civic Center Plaza
Tracy, CA 95376

Date: 7/24/2012
Quotation Number: 0108262
Prices Valid Until: 9/22/2012

Page 1

Attention: Carlo-Angelo Fanto

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
	Upgrade Promotoin		
30	MVD-FB2-FB-UPG Upgrade, Flashback 2 System from a Flashback 1	\$ 2,195.00	\$ 65,850.00
30	MVD-FB2-CF8GB Flash Card, 8 GB, Flashback 2	\$ 0.00	\$ 0.00
30	MVD-VISOR2-CARD Visor Card Flashback 2 reference card	\$ 0.00	\$ 0.00
30	MVD-VLP2-FS Assembly, Voice Link Plus 2 Wireless Microphone System with Transmitter w/Belt Clip, Docking Station, 9" & 40" Lapel Microphones	\$ 300.00	\$ 9,000.00
30	MVD-VLP2-CG VLP2 Charging Station with AC Power Adapter	\$ 0.00	\$ 0.00
	Optional Extended Warranty		
30	/EMA STD YR 1 Sales EMA Standard Yr 1	\$ 250.00	\$ 7,500.00
30	/EMA STD YR 2 Sales EMA Standard Yr 2	\$ 300.00	\$ 9,000.00
30	/EMA STD YR 3 Sales EMA Standard Yr 3	\$ 350.00	\$ 10,500.00

Please supply all FB1 serial numbers that you are upgrading to ensure that the free 1 year system warranty is noted in your account.

Agency responsible to return all VLP1 components on this upgrade. Flashback 1 recorders are not to be returned.

Note: Pricing does not include installation of the ICV's antenna, network wiring or wireless access points where noted.

DELIVERY: 60 Days or Less ARO

CREDIT TERMS: Net 30 Days

OTHER STATE/LOCAL FEES: Not Included

SUBTOTAL:	\$ 101,850.00
Sales Tax (As Required):	\$ 6,224.63
Shipping w/n the continental USA via UPS Ground:	\$ 600.00
TOTAL:	\$ 108,674.63

90 Fenny Road Boonton, NJ 07005 Voice: (800) 336-8475 Fax: (973) 257-3024
E-Mail Address: sales.mvi@L-3com.com Web Page: www.L-3com.com/MV



Quotation

City of Tracy Police Dept
333 Civic Center Plaza
Tracy, CA 95376

Date: 7/24/2012

Quotation Number: 0108261

Prices Valid Until: 9/22/2012

Attention: Carlo-Angelo Fanto

Page 1

QTY	DESCRIPTION	UNIT PRICE	AMOUNT
End of Life Server Solution			
1	LSMVDR610 Server, Rack Rails, 10TB RAID 6 DASD, 8 Core Xenon Processors, 16GB RAM, DVM Server, Storage & Distribution System, Rack Rails Dual 2.4 GHz Quad Core Processors 16GB RAM, 10TB RAID 6 DASD Red Hat v5 Enterprise Linux OS/PostgreSql Database DVD-ROM, Monitor, Keyboard, Mouse, CF Card Reader & port 10/100/1000 Base T Switch	\$ 9,103.00	\$ 9,103.00
1	LSMVDDVDBR141 Workstation, Desktop, 250GB DASD, 2 Core Intel Processors, 2GB RAM, DVD Backup System, 2.8 GHz Dual Core Processor, 2GB RAM, 250GB DASD Windows XP, DVD-RW, Monitor, Keyboard, Mouse, External Blu-Ray Reader, MVI Archiving Software, Blu-Ray Robot w/100 disc capacity, 50 DVD-R Discs, and 50 Blu-Ray discs	\$ 5,287.00	\$ 5,287.00
1	MVD-DES-BTO Load and Set-up of L-3 Application on Client Software at L-3 Depot: Configuration, Set-up and Checkout on Approved Client Hardware	\$ 750.00	\$ 750.00
1	MVD-DET-BT1 1 Day On-Site Installation (full day of install and 2 hour quick training)	\$ 2,950.00	\$ 2,950.00
4	MVD-802.11A-APC 802.11A-Wireless Access Point Conversion Assy	\$ 179.95	\$ 719.80
Extended Warranty R610 Server			
1	/EMA STD YR 1 Sales EMA Standard Yr 1	\$ 4,988.29	\$ 4,988.29
1	/EMA STD YR 2 Sales EMA Standard Yr 2	\$ 4,988.29	\$ 4,988.29
1	/EMA STD YR 3 Sales EMA Standard Yr 3	\$ 4,988.29	\$ 4,988.29
Extended Warranty on BR141 Archiver			
1	/EMA STD YR 1 Sales EMA Standard Yr 1	\$ 984.00	\$ 984.00
1	/EMA STD YR 2 Sales EMA Standard Yr 2	\$ 984.00	\$ 984.00
1	/EMA STD YR 3 Sales EMA Standard Yr 3	\$ 984.00	\$ 984.00
Extended Warranty on 802.11A Access Points			
2	/EMA STD YR 1 Sales EMA Standard Yr 1	\$ 63.60	\$ 127.20
2	/EMA STD YR 2 Sales EMA Standard Yr 2	\$ 63.60	\$ 127.20
2	/EMA STD YR 3 Sales EMA Standard Yr 3	\$ 63.60	\$ 127.20

Note: Pricing does not include installation of the ICV's antenna, network wiring or wireless access points where noted.

DELIVERY: 90 Days or Less ARO

CREDIT TERMS: Net 30 Days

OTHER STATE/LOCAL FEES: Not Included

SUBTOTAL:	\$ 37,108.27
Sales Tax (As Required):	\$ 1,560.06
Shipping w/n the continental USA via UPS Ground:	\$ 100.00
TOTAL:	\$ 38,768.33

90 Fanny Road Boonton, NJ 07005 Voice: (800) 336-8475 Fax: (973) 257-3024
E-Mail Address: sales.mvi@L-3com.com Web Page: www.L-3com.com/MV

RESOLUTION _____

AUTHORIZING UPGRADE OF THE THIRTY EXISTING IN-CAR DIGITAL CAMERA SYSTEMS WITH L3 COMMUNICATIONS MOBILE-VISION, INC. IN THE AMOUNT NOT TO EXCEED \$150,000 AND AUTHORIZING THE MAYOR TO SIGN THE PROFESSIONAL SERVICES AGREEMENT

WHEREAS, the Tracy Police Department has identified the need to upgrade its existing in-car video system to enhance the overall efficiency, effectiveness, & security of capturing and storing of videos in the field, and

WHEREAS, the video system has served the department well for the last five years and has subsequently reached the "end of life" for support and maintenance. Over the last two years, staff has experienced the down time and challenges of servicing the aging equipment and technology, and

WHEREAS, The Tracy Police Department intends to upgrade the existing system with L3 Communications Mobile-Vision Inc., the original vendor, by using 90% of the existing system, and

WHEREAS, the funds were approved by the City Council during the 2012-13 Fiscal Budget as account number 605-59310-689-E1077 "In-Car Video Systems."

NOW THEREFORE BE IT RESOLVED, that the City Council hereby authorizes the upgrade of thirty existing in-car digital camera systems with L3 Communications Mobile-Vision, Inc., in the amount not to exceed \$150,000 and authorizing the Mayor to sign the Professional Services Agreement.

* * * * *

The foregoing Resolution No. _____ 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

AGENDA ITEM 1.G

REQUEST

ACCEPTANCE OF THE DESIGN AND INSTALLATION OF THE CIVIC CENTER SOLAR PANEL PROJECT – CIP 71068, COMPLETED BY RENEWABLE INTEGRATOR, INC., OF TRACY, CALIFORNIA, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

EXECUTIVE SUMMARY

The contractor has completed the design and installation of the Civic Center Solar Panel Project - CIP 71068, in accordance with plans, specifications, and contract documents. Project costs are within the available budget. Staff recommends Council accept the project to enable the City to release the contractor's bonds and retention. This project was funded from an Energy Efficient & Conservation Block Grant (EECBG) from the Department of Energy for \$571,600 to install solar panels on Civic Center buildings per Award No. DE-SC0001645.

DISCUSSION

The City of Tracy received an EECBG grant in the amount of \$571,600 from the Department of Energy for installation of solar panels on civic center buildings. Out of this funding, a total of \$514,440 was allocated for design and construction and the remaining \$57,160 was for the City's project management expenses.

The scope of work included design and construction of the solar panels on the following buildings in the Civic Center area:

- Flat roof areas of the new City Hall and Council Chambers
- Western and southern roof areas of the Police Department building

To achieve maximum energy efficiency and lower maintenance cost, staff received approval from the Department of Energy to change the installation of solar panels from the flat roof of the new City Hall and from the Police Building roof to the following locations:

POLICE BUILDING PARKING LOT

- 3 systems each containing 22 panels of 230watts

Total Wattage/System	22 x 230 = 5060 watts
Total Wattage of PD Lot	3 x 5060 =15,180 watts

BOYD SERVICE CENTER

- Building A (main original DES Building) – 3 systems @ 33 panels of 230 watts
Total Wattage of Building A – 99 x 230 = 22,770 watts
- Building B (main PWD Building) – 3 systems @ 22panels of 230 watts
Total Wattage of Building B – 66 x 230 = 15,180 watts

- Building C (Shop Building) – 3 systems @ 22panels of 230 watts.
Total Wattage of Building C – 66 x 230 = 15,180 watts
- Building D (Warehouse Building) – 3 systems @ 22panels of 230 watts
Total Wattage of Building D - 66 x 230 = 15,180 watts

Staff prepared the project plans and specifications and coordinated with the Department of Energy. After soliciting sealed competitive proposals from qualified contractors, the City Council, On May 17, 2011, awarded the Facility Financing Contract to Renewable Integrator Inc., of Tracy, California, in the amount of \$514,440, for the Civic Center Solar Panel Project – CIP 71068. This was done in accordance with State of California Government Code Section 4217-13 which allows public agencies to enter into Facility Financing Contracts with qualified individuals or firms to develop energy conservation plans and to complete design and construction. Renewable Integrator Inc., has completed this project and installed the solar panels in accordance with the project.

One Change order in the amount of \$9,000 was issued to coordinate with PG&E and file application for rebate associated with the installation of Solar panels. Anticipated rebate amount is \$50,000. No cost change orders were issued due to the change in location of the solar panels as described above.

Status of budget and project costs is as follows:

A. Construction Contract Amount	\$514,440
B. Change Orders	\$ 9,000
C. Design, construction management, inspection, Testing & miscellaneous expenses	\$ 46,643
Total Project Costs	\$570,083
Budgeted Amount	\$571,600

The project has been completed within the available budget, on schedule, per plans, specifications, and City of Tracy standards. With completion of this project, the City anticipates an average reduction of \$3,600 per month on its energy bills.

STRATEGIC PLAN

This agenda item is consistent with the City's environmental sustainability strategy and meets the goals for consumption reduction and provides a sustainability action plan.

FISCAL IMPACT

CIP 71068 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund.

RECOMMENDATION

That City Council by resolution accept the Civic Center Solar Panel Installation Project – CIP 71068, completed by Renewable Integrator Inc., of Tracy, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

Prepared by: Paul Verma, Senior Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION 2012- _____

ACCEPTING THE DESIGN AND INSTALLATION OF THE CIVIC CENTER SOLAR PANEL PROJECT – CIP 71068, COMPLETED BY RENEWABLE INTEGRATOR, INC., OF TRACY, CALIFORNIA, AND AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION

WHEREAS, The City of Tracy received an EECBG grant in the amount of \$571,600 from the Department of Energy for installation of solar panels on civic center buildings, and

WHEREAS, After soliciting sealed competitive proposals from qualified contractors, the City Council, On May 17, 2011, awarded the Facility Financing Contract to Renewable Integrator Inc., of Tracy, California, in the amount of \$514,440, and

WHEREAS, One Change order in the amount of \$9,000 was issued, and

WHEREAS, Status of budget and project costs is as follows:

Construction Contract Amount	\$514,440
Change Orders	\$ 9,000
Design, construction management, inspection, Testing & miscellaneous expenses	<u>\$ 46,643</u>
Total Project Costs	\$570,083

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

WHEREAS, CIP 71068 is an approved Capital Improvement Project with sufficient funding and there will be no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, That City Council accept the Civic Center Solar Panel Installation Project – CIP 71068, completed by Renewable Integrator Inc., of Tracy, California, and authorize the City Clerk to record the Notice of Completion with the San Joaquin County Recorder. The City Engineer, in accordance with the terms of the construction contract, will release the bonds and retention payment.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.H

REQUEST

APPROVE A SETTLEMENT AGREEMENT AND MUTUAL RELEASE BETWEEN THE CITY OF TRACY AND FIRST CLASS TRUCKING COMPANY FOR THEIR BUSINESS RELOCATION EXPENSES AND LOSS OF BUSINESS GOODWILL IN THE AMOUNT OF \$135,000, ARISING FROM THE CITY'S PURCHASE OF THE REAL PROPERTY LOCATED AT 2370 E. GRANT LINE ROAD

EXECUTIVE SUMMARY

Execution of this agreement is for the final close out of the purchase of real property by the City from First Class Trucking Company for the widening of Grant Line Road and extension of Paradise road and pertains to the relocation costs and loss of business goodwill from moving the business to another location.

DISCUSSION

On July 30, 2010, the City purchased the real property located at 2370 E. Grant Line Road, which was the location of First Class Trucking Company, in order to complete the Grant Line Widening between MacArthur Drive and the eastern city limit and the extension of Paradise Road from the existing terminus point to Grant Line Road. First Class Trucking Company moved from Grant Line Road to 400 Gandy Dancer Drive and subsequently made a claim for relocation benefits pursuant to Government Code Section 7260 et seq., and 25 California Administrative Code section 6080 et seq., and for loss of business goodwill pursuant to Code of Civil Procedure section 1263.510.

City staff has negotiated a settlement agreement with First Class Trucking Company resolving all outstanding claims for the remaining relocation expenses and loss of business good will, in the amount of \$135,000. The City used the assistance of an outside attorney, Todd Amspoker of Price, Postel and Prima, experts in eminent domain law, to negotiate this settlement. By negotiating this settlement, the City will save the cost of holding legally required appeal hearing, subsequent attorney's fees, and the potential of having to pay even more than the amount agreed upon, to settle all remaining disputes.

Staff recommends City Council approve the attached Settlement Agreement and Mutual Release.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no impact the General fund. The cost of this agreement will be paid from the approved CIP 73084.

RECOMMENDATION

That City Council, by resolution, approve the Settlement Agreement and Mutual Release for the negotiated amount of \$135,000 and authorize the Mayor to execute the Agreement.

Prepared by: Zabih Zaca, Senior Civil Engineer
Kat Wellman, Deputy City Attorney

Reviewed by: Kul Sharma, City Engineer

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

Attachment: Settlement Agreement

RESOLUTION 2012- _____

APPROVING A SETTLEMENT AGREEMENT AND MUTUAL RELEASE BETWEEN THE CITY OF TRACY AND FIRST CLASS TRUCKING COMPANY FOR THEIR BUSINESS RELOCATION EXPENSES AND LOSS OF BUSINESS GOODWILL IN THE AMOUNT OF \$135,000, ARISING FROM THE CITY'S PURCHASE OF THE REAL PROPERTY LOCATED AT 2370 E. GRANT LINE ROAD

WHEREAS, On July 30, 2010, the City purchased the real property located at 2370 E. Grant Line Road, which was the location of First Class Trucking Company, in order to complete the Grant Line Widening between MacArthur Drive and the eastern city limit and the extension of Paradise Road from the existing terminus point to Grant Line Road; and

WHEREAS, First Class Trucking Company moved from Grant Line Road to 400 Gandy Dancer Drive and subsequently made a claim for relocation benefits pursuant to Government Code Section 7260 et seq., and 25 California Administrative Code section 6080 et seq., and for loss of business goodwill pursuant to Code of Civil Procedure section 1263.510; and

WHEREAS, City staff has negotiated a settlement agreement with First Class Trucking Company resolving all outstanding claims for the remaining relocation expenses and loss of business good will, in the amount of \$135,000; and

WHEREAS, The City used the assistance of an outside attorney, Todd Amspoker of Price, Postel and Prima, experts in eminent domain law, to negotiate this settlement; and

WHEREAS, By negotiating this settlement, the City will save the cost of holding legally required appeal hearing, subsequent attorney's fees, and the potential of having to pay even more than the amount agreed upon, to settle all remaining disputes; and

WHEREAS, There will be no impact the General fund. The cost of this agreement will be paid from the approved CIP 73084.

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the Settlement Agreement and Mutual Release for the negotiated amount of \$135,000 and authorizes the Mayor to execute the Agreement.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.I

REQUEST

AWARD A CONSTRUCTION CONTRACT TO SIERRA VALLEY CONSTRUCTION OF ROSEVILLE, CALIFORNIA, FOR THE BOYD SERVICE CENTER BUILDING A RENOVATION PROJECT - CIP 71054A, APPROVAL OF AMENDMENT 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BFGC/IBI ARCHITECTURE PLANNING, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT AND AMENDMENT

EXECUTIVE SUMMARY

Award of a construction contract to Sierra Valley Construction of Roseville, California, will initiate renovation of the old DES building (Building A) at the Boyd Service Center. The scope of work consists of complete removal of interior, construction of new reception area, plan/mail room, conference room, storage room, break room, individual offices, windows, doors, plumbing, electrical and HVAC. Exterior work includes installation of skylights, entrance canopy, painting and landscaping in accordance with the approved Boyd Service Center Master Plan.

DISCUSSION

The Public Works facilities are located at the Boyd Service Center, east of Tracy Boulevard and south of Sixth Street. Boyd Service Center also houses Tracy Transit and the Building Inspection division.

On October 7, 2008, City Council approved the Public Works Facility Master Plan to complete improvements and upgrade the existing buildings in an orderly manner in various phases as funding becomes available. The master plan recommended the following improvements for the various buildings:

Building A - previous DES building to become Public Works Administration Building
Building B – current PW administration building to be converted to shops and offices
Building C – current shop building to be renovated to include shops and offices

Based on the available budget and priorities, the first phase will be the renovation of Building A; which will enable vacating Building B, with upgrades to Buildings B and C to follow in the future as funds become available.

Renovation of Building A consists of the complete removal of the interior, construction of new reception area, plan/mail room, conference room, storage room, break room, individual offices, windows, doors, plumbing, electrical and HVAC. Exterior work includes installation of skylights, entrance canopy, painting and landscaping.

Plans and specifications were prepared by BFGC/IBI Architecture Planning, of San Jose. The project was advertised for construction bids on June 14, and 21, 2012. A total of seven bids were received on July 24, 2012 as follows:

<u>Contractors</u>	<u>Bid Amounts</u>
Sierra Valley Construction, Roseville CA	\$1,178,672
Diede Construction, Woodbridge CA	\$1,345,000
Menghetti Construction, Modesto CA	\$1,360,000
Marko Construction Group, Fresno, CA	\$1,368,144
Iomlan Construction Services, Turlock, CA	\$1,410,000
SW Allen Construction, Sacramento, CA	\$1,410,255
Younger General Contractors, Rancho Cordova, CA	\$1,571,000

The lowest bid is from Sierra Valley Construction of Roseville, California. The bid analysis indicates that the low bid is responsive and the bidder is responsible. Sierra Valley Construction has good references and has completed similar projects satisfactorily with other public agencies. Services of the project consultant, BFGC/IBI Architecture Planning, are needed for design support during construction of this project and it is necessary to amend their agreement for additional services for an amount not to exceed \$25,000.

The total construction cost of the project and status of funding, if the construction contract is awarded to Sierra Valley Construction, is as follows:

Bid Amount	\$1,178,672
Contingency (20%)	\$ 221,328
Design Cost (outside consultants \$150,250)	\$200,000
Design support during construction	\$25,000
Inspection and Construction management	\$70,000
City-wide management	\$105,000
Total Construction Cost	\$1,800,000

A total of \$1.8 million is available for construction of this project per the City's approved budget. If City Council awards the contract to Sierra Valley Construction, construction will start in September 2012 and will be completed by July 2013, weather permitting.

STRATEGIC PLAN

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

FISCAL IMPACT:

There is no impact to General Fund. This is an approved Capital Improvement Project with sufficient funding to pay for the construction of this project.

RECOMMENDATION:

Staff recommends that City Council by resolution, award a construction contract to Sierra Valley Construction of Roseville, California for construction of the Boyd Service Center Building A Renovation Project – CIP 71054A, in the amount of \$1,178,642,

approve Amendment 1 to the Professional Services Agreement with BFGC/IBI Architecture Planning to provide design support services during construction in the amount of \$25,000, and authorize the mayor to execute the contract and amendment.

Prepared by: Binh Nguyen, Associate Civil Engineer
Zabih Zaca, Senior Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

RESOLUTION 2012- _____

AWARDING A CONSTRUCTION CONTRACT TO SIERRA VALLEY CONSTRUCTION OF ROSEVILLE, CALIFORNIA, FOR THE BOYD SERVICE CENTER BUILDING A RENOVATION PROJECT - CIP 71054A, APPROVING AMENDMENT 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH BFGC/IBI ARCHITECTURE PLANNING, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT AND AMENDMENT

WHEREAS, City Council approved the Public Works Facility Master Plan to complete improvements and upgrade the existing buildings on October 7, 2008; and

WHEREAS, The master plan recommended the following improvements for the various buildings:

- Building A - previous DES building to become Public Works Administration Building
- Building B – current PW administration building to be converted to shops and offices
- Building C – current shop building to be renovated to include shops and offices

WHEREAS, Plans and specifications were prepared by BFGC/IBI Architecture Planning, of San Jose; and

WHEREAS, The project was advertised for construction bids on June 14, and 21, 2012; and

WHEREAS, A total of seven bids were received on July 24, 2012 as follows:

<u>Contractors</u>	<u>Bid Amounts</u>
Sierra Valley Construction, Roseville CA	\$1,178,672
Diede Construction, Woodbridge CA	\$1,345,000
Menghetti Construction, Modesto CA	\$1,360,000
Marko Construction Group, Fresno, CA	\$1,368,144
Iomlan Construction Services, Turlock, CA	\$1,410,000
SW Allen Construction, Sacramento, CA	\$1,410,255
Younger General Contractors, Rancho Cordova, CA	\$1,571,000

WHEREAS, The lowest bid is from Sierra Valley Construction of Roseville, California; and

WHEREAS, The bid analysis indicates that the low bid is responsive and the bidder is responsible; and

WHEREAS, The total construction cost of the project and status of funding, if the construction contract is awarded to Sierra Valley Construction, is as follows:

Bid Amount	\$1,178,672
Contingency (20%)	\$ 221,328
Design Cost (outside consultants \$150,250)	\$200,000
Design support during construction	\$25,000
Inspection and Construction management	\$70,000
City-wide management	\$105,000
Total Construction Cost	\$1,800,000

WHEREAS, A total of \$1.8 million is available for construction of this project; and

WHEREAS, There is no impact to General Fund. This is an approved Capital Improvement Project with sufficient funding to pay for the construction of this project;

NOW, THEREFORE, BE IT RESOLVED, that City Council awards a construction contract to Sierra Valley Construction of Roseville, California for construction of the Boyd Service Center Building A Renovation Project – CIP 71054A, in the amount of \$1,178,642, approves Amendment 1 to the Professional Services Agreement with BFGC/IBI Architecture Planning to provide design support services during construction in the amount of \$25,000, and authorizes the mayor to execute the contract and amendment.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.J

REQUEST:

AUTHORIZE APPROPRIATION OF FUNDS FROM THE NORTHEAST INDUSTRIAL (NEI) AREA PHASE II ROADWAYS FUND 357, TO THE NEI AREA PHASE I ROADWAYS FUNDS 351, CIP 73048 TO COMPLETE PORTIONS OF THE GRANT LINE ROAD WIDENING PROJECT EAST OF MACARTHUR DRIVE

EXECUTIVE SUMMARY:

In order to attract certain job generating developments in the City's NEI area, the widening of the existing Grant Line Road east of MacArthur Drive needs to be completed in a timely manner. Grant Line Road widening is the responsibility of the NEI Phase I developments, however, there are not enough funds to complete the proposed widening at this time. NEI Phase II area has extensively developed and has accrued enough roadway funds which can be appropriated to NEI Phase I to complete the Grant Line Road widening project. The funds collected in NEI Phase II will not be used in the immediate future due to complex roadway improvement projects involving Phase II which require approvals from Caltrans and other agencies. The appropriation of funds as proposed will expedite the Grant Line Road widening improvements without impacting other projects which are the responsibility of NEI Phase II developments.

DISCUSSION

The NEI Phase I and Phase II areas are attracting considerable interest from both industrial and office uses. The existing two lane Grant Line Road configuration east of MacArthur Drive lacks the larger truck movements (STAA truck routes) and is not capable of handling larger volumes of traffic if a large office/industrial development project is located in this area. The widening and improvements of Grant Line Road is funded from NEI Phase I area. The City has already acquired certain rights-of-way for widening this street and is working on acquiring the remaining rights-of-ways. However, there are not enough funds collected from the NEI Phase I area at this time for completion of construction.

The NEI Phase II developments fund construction of major roadway projects and have collected larger funds toward construction of those projects. However, these projects (i.e., I-205/MacArthur Drive improvements) cannot be started for a long period of time due to the lengthy environmental and design approval process from Caltrans and other agencies.

Since the widening of Grant Line Road is beneficial for both Phase I and Phase II developments, it is in the best interest to appropriate funds from NEI Phase II area to NEI Phase I Grant Line Road Widening Project – CIP 73048 to complete construction of the street improvements in a timely manner.

Once enough fees are collected from developments in the NEI Phase I area, the appropriated funds will be transferred back to NEI Phase II for completion of the projects

listed as their responsibility. A total of \$14 million is proposed to be appropriated from NEI Phase II Fund 357 to NEI Phase 1 – CIP 73048 (Fund 351).

The appropriation of these funds will assist the City in its efforts to attract certain job generating developments in the City's NEI area. The feedback received from potential developments strongly indicates the requirement of the completion of the Grant Line Road improvements as a condition of landing such development in that part of the City.

STRATEGIC PLAN

This agenda item is consistent with the City Council adopted policy for Economic Development to provide necessary infrastructure for attracting companies with a large employment base.

FISCAL IMPACT

There is no fiscal impact to the General Fund from the appropriation of the proposed funds as follows:

<u>Appropriated From</u>	<u>Appropriated To</u>	<u>Amount</u>
NEI Phase II Roadway Fund 357	NEI Phase I CIP 73048 Fund 351	\$14 million

RECOMMENDATION

That City Council, by resolution, approve the appropriation of funds from the Northeast Industrial Area Phase II Roadway Fund 357 to the NEI Area Phase I Roadway Fund 351, CIP 73048 to complete portions of the Grant Line Road Widening east of MacArthur Drive.

Prepared by: Kul Sharma, Development Services Assistant Director/City Engineer

Reviewed by: Andrew Malik, Development Services Director

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION 2012- _____

AUTHORIZING APPROPRIATION OF FUNDS FROM THE NORTHEAST INDUSTRIAL (NEI) AREA PHASE II ROADWAYS FUND 357, TO THE NEI AREA PHASE I ROADWAYS FUNDS 351, CIP 73048 TO COMPLETE PORTIONS OF THE GRANT LINE ROAD WIDENING PROJECT EAST OF MACARTHUR DRIVE

WHEREAS, The NEI Phase I and Phase II areas are attracting considerable interest from both industrial and office uses; and

WHEREAS, The existing two lane Grant Line Road configuration east of MacArthur Drive lacks the larger truck movements (STAA truck routes) and is not capable of handling larger volumes of traffic if a large office/industrial development project is located in this area; and

WHEREAS, Widening and improvements of Grant Line Road is funded from NEI Phase I area

WHEREAS, There are not enough funds collected from the NEI Phase I area at this time for completion of construction; and

WHEREAS, The NEI Phase II developments fund construction of major roadway projects and have collected larger funds toward construction of those projects; and

WHEREAS, The widening of Grant Line Road is beneficial for both Phase I and Phase II developments, it is in the best interest to appropriate funds from NEI Phase II area to NEI Phase I Grant Line Road Widening Project – CIP 73048 to complete construction of the street improvements in a timely manner; and

WHEREAS, The appropriated funds will be transferred back to NEI Phase II for completion of the projects listed as their responsibility; and

WHEREAS, The appropriation of these funds will assist the City in its efforts to attract certain job generating developments in the City's NEI area; and

WHEREAS, The feedback received from potential developments strongly indicates the requirement of the completion of the Grant Line Road improvements as a condition of landing such development in that part of the City

WHEREAS, There is no fiscal impact to the General Fund from the appropriation of the proposed funds as follows:

<u>Appropriated From</u>	<u>Appropriated To</u>	<u>Amount</u>
NEI Phase II Roadway Fund 357	NEI Phase I CIP 73048 Fund 351	\$14 million

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the appropriation of funds from the Northeast Industrial Area Phase II Roadway Fund 357 to the NEI Area Phase I Roadway Fund 351, CIP 73048 to complete portions of the Grant Line Road Widening east of MacArthur Drive.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.K

REQUEST

AWARD A CONSTRUCTION CONTRACT TO AMERICAN ASPHALT OF HAYWARD, CA. FOR THE SENIOR CENTER RECREATION AREA CIP 78136, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONSTRUCTION AGREEMENT

EXECUTIVE SUMMARY

Award of a construction contract for the Senior Center Recreation Area will facilitate timely completion and utilization of CDBG funds allocated to this project.

DISCUSSION

The Lolly Hansen Senior Center was dedicated in 1987. Over the years the Senior Center has become heavily used on a daily basis for recreation activities, health & wellness programs and special events. Participants generally have limited or no access to recreation activities and fall into the low or very low income category. The Center lacks a secure, accessible outdoor area where seniors can relax, socialize, and participate in a variety of fitness and recreational activities.

The project involves construction of an ADA accessible outdoor recreation area including fencing, shade structure, tables, seating area, fitness equipment, garden beds, and horseshoe pit.

The project is funded from the Community Development Block Grants (CDBG). With the additional CDBG funding in the amount of \$115,000 allocated and appropriated per another agenda item by the council tonight, a total funding of \$270,606 is available for this project.

Plans and specifications were prepared in-house. The project was advertised for construction bids on May 4 and 11, 2012. A total of five bids were received on May 29, 2012 as follows:

<u>Contractors</u>	<u>Bid Amounts</u>
American Asphalt	\$187,400
Environmental Landscape Solutions	\$207,455
Stockbridge General Contracting	\$226,000
JD General	\$232,450
MCI Engineering	\$238,970

The lowest monetary bid is from American Asphalt of Hayward, California, in the amount of \$187,400. The bid analysis indicates that the low bid is responsive and the bidder is responsible. Status of project funding is as follows:

Design Cost	\$ 22,500
Construction Bid Amount	\$187,400
Construction Management & Inspection (10%)	\$ 18,740

Construction Contingency (20%)	\$ 37,480
Total Project Cost	\$266,120
Available Budget	\$270,606

STRATEGIC PLAN

The agenda item is a routine operational item and is not related to the City Council's strategic plans.

FISCAL IMPACT

There will be no impact to the General Fund. This is an approved Capital Improvement Program project with CDBG funding.

RECOMMENDATION

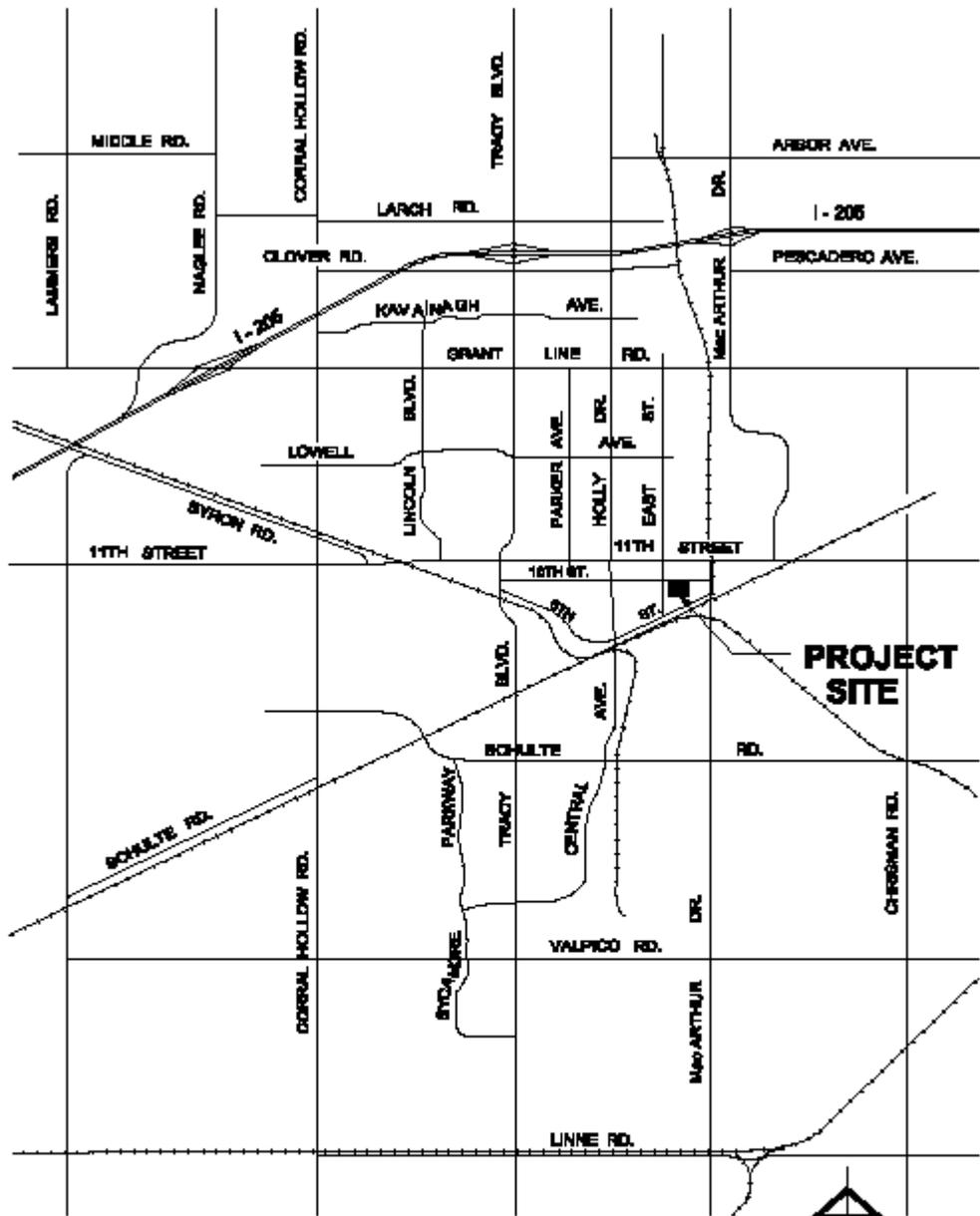
Staff recommends that City Council award a construction contract to American Asphalt for the Senior Center Recreation Area Project – CIP 78136, and authorize the mayor to execute the construction agreement.

Prepared by: Zabih Zaca, Senior Civil Engineer
Binh Nguyen, Associate Civil Engineer

Reviewed by: Kuldeep Sharma, City Engineer

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

Attachment: Vicinity Map



LOCATION MAP
(CITY OF TRACY)



RESOLUTION 2012- _____

AWARDING A CONSTRUCTION CONTRACT TO AMERICAN ASPHALT OF HAYWARD, CA. FOR THE SENIOR CENTER RECREATION AREA CIP 78136, AND AUTHORIZING THE MAYOR TO EXECUTE THE CONSTRUCTION AGREEMENT

WHEREAS, The Lolly Hansen Senior Center was dedicated in 1987; and

WHEREAS, The project involves construction of an ADA accessible outdoor recreation area including fencing, shade structure, tables, seating area, fitness equipment, garden beds, and horseshoe pit; and

WHEREAS, The project is funded from the Community Development Block Grants (CDBG). With the additional CDBG funding in the amount of \$115,000 allocated and appropriated per another agenda item by the council tonight, a total funding of \$270,606 is available for this project; and

WHEREAS, The project was advertised for construction bids on May 4 and 11, 2012. A total of five bids were received on May 29, 2012 as follows:

<u>Contractors</u>	<u>Bid Amounts</u>
American Asphalt	\$187,400
Environmental Landscape Solutions	\$207,455
Stockbridge General Contracting	\$226,000
JD General	\$232,450
MCI Engineering	\$238,970

WHEREAS, The lowest monetary bid is from American Asphalt of Hayward, California, in the amount of \$187,400; and

WHEREAS, The bid analysis indicates that the low bid is responsive and the bidder is responsible; and

WHEREAS, Status of project funding is as follows:

Design Cost	\$ 22,500
Construction Bid Amount	\$187,400
Construction Management & Inspection (10%)	\$ 18,740
Construction Contingency (20%)	<u>\$ 37,480</u>

Total Project Cost	\$266,120
Available Budget	\$270,606

WHEREAS, There is no fiscal impact to the General Fund. This is an approved Capital Improvement Program project with CDBG funding;

NOW, THEREFORE, BE IT RESOLVED, that the City Council awards a construction contract to American Asphalt for the Senior Center Recreation Area Project – CIP 78136, and authorizes the mayor to execute the construction agreement.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

August 21, 2012

AGENDA ITEM 1.L

REQUEST

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLANS AND POSITION CONTROL ROSTER BY ESTABLISHING A NEW CLASSIFICATION SPECIFICATION AND SALARY RANGE FOR THE POSITION OF THEATRE OPERATIONS AND TECHNICAL ASSISTANT

EXECUTIVE SUMMARY

This report recommends the establishment of a new classification specification and salary range for the position of Theatre Operations and Technical Assistant in the Cultural Arts Division.

DISCUSSION

The City remains committed to ensuring that appropriate workforce levels and talent are congruent with ongoing rightsizing and reorganization efforts. As such, the Human Resources Department periodically conducts classification reviews to evaluate impact due to changes that may have resulted from rightsizing and reorganization efforts.

Earlier this year, a classification study determined that the classification specifications of the Gallery Supervisor and the Technical Theatre Supervisor were no longer appropriate. The broad title of Cultural Arts Manager was established to provide flexibility in assigning and sharing management, supervisory, and administrative duties in acknowledgement of increasing programming and operational demands.

Establish Classification Specification and Salary Range: Theatre Operations and Technical Assistant – City Manager's Office/Cultural Arts Division

Traditionally, the Cultural Arts Division facilitates programming and events through the utilization of part-time staffing and the temporary use of staff from other departments. A part-time Arts Education Coordinator was recently hired to handle programming initiatives but a staffing deficit still exists relative to theatre operations; theater operations staff are increasingly difficult to attract and retain. The Division proposes the establishment of the Theatre Operations and Technical Assistant position to aid flexibility in staffing, facilitate stability with higher reliability, and meet the increasing demands of programming and operations at the Grand Theatre.

Classifications similar to the Theatre Operations and Technical Assistant are not available in those cities with which the City of Tracy would normally compare. However, the recommended range is considered appropriate by industry standards for this type of position, supports internal equity, and is in correlation with the salary of mid-range Assistants throughout the City. Therefore, staff recommends that the monthly salary range for Theatre Operations and Technical Assistant position be \$3,604.81 - \$4,381.70 per month.

STRATEGIC PLAN

This agenda item supports the organizational efficiency strategic plan and specifically implements the following goal:

Goal 4: Ensure long-term viability and enhancement of the City's workforce.

FISCAL IMPACT

There is no impact to the General Fund budget for FY 12-13 because the additional cost for this full-time position (\$39,978) will be covered by a budget transfer from the MCYSN budget. General Fund support to the Grand Theatre will however increase by \$39,978 as the cost of creating a full-time Theatre Operations and Technical Assistant position ranges from \$78,785.95 (Step A) to \$90,878.15 (Step E) annually but will offset only by \$51,700 in current expenses for part-time hours.

RECOMMENDATION

That the City Council, by resolution, authorize the Administrative Services Director to amend the City's Classification and Compensation Plans and authorize the Budget Officer to amend the Position Control Roster by approving the establishment of a classification specification and salary range for the Theatre Operations and Technical Assistant position.

Prepared by: Jeffrey Haskett, Cultural Arts Manager – Performing Arts
Arlene Roberts, Human Resources Analyst

Reviewed by: Maria A. Hurtado, Assistant City Manager

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

Attachment: Theatre Operations and Technical Assistant job description

City of Tracy

THEATRE OPERATIONS AND TECHNICAL ASSISTANT

Class Title:	Theatre Operations and Technical Assistant	Class Code:	40XXX
Department:	City Manager's Office	Bargaining Unit:	Technical and Support Services
EEO Code:	80	Effective Date:	09/12
FLSA Status:	Non-Exempt		

DESCRIPTION

Under the direction of the Cultural Arts Manager – Performing Arts, performs functional and technical oversight and assists in the preparation, installation and set-up of scenery, props, sound, lighting and rigging equipment and systems for theater production/shows and events; coordinates day-to-day operations and facility maintenance for the Grand Theatre Center for the Arts.

DISTINGUISHING CHARACTERISTICS

This is a semi-skilled, administrative and technical support job classification within the Cultural Arts Division of the City Manager's Office. Incumbents perform duties related to coordination of facility oversight and maintenance, implementation of safety awareness, volunteer and event scheduling, facilitation of vendor and theater groups, processing of box office activities and ticket sales, and event preparation and production, including set-up, run, and/or strike of shows and events; constructing stage sets and operating stage equipment, lighting and sound systems.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

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

Assists in the preparation, installation and set-up of scenery, props, lighting, sound and rigging systems/equipment for theater productions and special events; adjusts stage scenery and curtains as necessary for various productions.

Serves as technical resource to both City staff and theater groups regarding proper set-up and operation of the theater's lighting, sound and rigging systems/equipment.

Coordinates facility oversight including preparing theater properties and facilities for use, opening and securing the theater before, during and after rehearsals and performances; supports building maintenance staff activities to ensure that properties and facilities are maintained suitably and in order.

Facilitates compliance with stage requirements for all events, adheres to safety policies and procedures, promotes hazard awareness and implements necessary precautions to ensure the safety of all participants; provides lead direction to part time staff and theater volunteers in the safe and proper operation of theater lighting, sound and rigging equipment.

Employs inventory control; tracks and maintains an accurate property management system for tools, materials and equipment, including sound cables and lights needed for theater operations.

Assists the Cultural Arts Manager – Performing Arts with scheduling the utilization of the theater by various groups and organizations; also with overseeing, leading, and scheduling part-time theater staff.

Schedules maintenance and repair of theater equipment and materials; maintains a log of all repairs.

Performs daily box office activities including opening and preparing for sales, processing ticket sales transactions and telephone orders.

Provides customer assistance via telephone, in person, by mail and e-mail; completes forms, catalogs ticket requests, researches and shares event information.

Assists in the recruitment, selection, and preparation of volunteers at the Grand Theatre Center for the Arts; participates in maintaining the volunteer program.

Performs other job duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Technical theater production systems, including audio, video, carpentry/rigging and lighting.

Types and uses of lighting, sound, automated rigging and other stage equipment.

Computerized theater equipment, theater movement systems; set-up and running of digital video presentations.

Electrical theory, sound and lighting effects.

Carpentry, painting and other skills required in set construction; mixing paints and flame retardation of scenery.

Occupational hazards and related safety precautions associated with assigned duties.

Operations, services, and activities of performing arts box office.

Computer programs and databases.

Inventory control.

Methods and techniques of cashiering.

Effective communication techniques.

Ability to:

Operate theater equipment including lighting, sound, and automated rigging systems; operate hand and power tools.

Oversee part-time staff and volunteers.

Perform cashiering and customer service functions, and deal effectively and courteously with the public.

EDUCATION AND EXPERIENCE

Any combination equivalent to education and experience that would likely provide the required knowledge and abilities would be qualifying. A typical combination is:

Education:

Equivalent to a high school diploma supplemented by specialized courses in theater arts or a related field.

Experience:

Three years of progressively responsible experience in stagecraft, construction of sets, operation of sound and lighting equipment or related area.

SPECIAL REQUIREMENTS

This job requires a Criminal Background check and fingerprinting.

This job requires working a flexible schedule including evenings and weekends as needed.

LICENSES AND CERTIFICATES

Possession of, or ability to obtain and maintain an appropriate, valid California driver's license by date of hire.

TOOLS AND EQUIPMENT USED

Requires frequent use of personal computer and related software programs; calculator, telephone, copy machine and fax machine; theater equipment including lighting, video, rigging and fly systems, electric and non-electric tools.

PHYSICAL DEMANDS

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

This position performs strenuous physical activity for extended periods of time requiring climbing on ladders, catwalks, scaffolding or other equipment at various heights; also using hands to finger, adjust, handle, or operate objects, tools, or controls. The employee must lift and carry equipment weighing up to 50 pounds; must hear and distinguish specific qualities, pitch, tone and volume of theater sound and audiovisual sound; see and distinguish the specific qualities of theater and audio-visual light, tones, hues and colors.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job in a theatre environment.

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

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.

This job description does not constitute an employment agreement between the City of Tracy and the employee and is subject to change by the City as the needs of the City and/or the requirements of the job change.

RESOLUTION _____

AMENDING THE CITY'S CLASSIFICATION AND COMPENSATION PLANS AND POSITION CONTROL ROSTER BY ESTABLISHING A NEW CLASSIFICATION SPECIFICATION AND SALARY RANGE FOR THE POSITION OF THEATRE OPERATIONS AND TECHNICAL ASSISTANT

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

WHEREAS, The City has completed classification reviews to establish a new classification specification, and

WHEREAS, It is necessary to amend the City's Classification and Compensation Plans and the Position Control Roster as follows:

Establish Classification and Compensation:
Theatre Operations and Technical Assistant; Cultural Arts Division - Performing Arts
Salary Range: \$3,604.81 - \$4,381.70

NOW, THEREFORE, BE IT RESOLVED, That the City Council authorizes the Administrative Services Director to amend the City's Classification Plan for the established classification; and

BE IT FURTHER RESOLVED, that the Budget Officer is authorized to amend the Compensation Plan and the Position Control Roster to reflect the approved changes.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 21st day of August, 2012 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 3

REQUEST

PUBLIC HEARING TO CONSIDER THE ALLOCATION OF AN ADDITIONAL \$115,000 OF UNPROGRAMMED COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2012–2013 TO THE LOLLY HANSEN SENIOR CENTER OUTDOOR RECREATION AREA PROJECT - CIP 78136

EXECUTIVE SUMMARY

Request that City Council allocate an additional \$115,000 of unprogrammed Community Development Block Grant (CDBG) funds for Fiscal Year 2012–2013 to the Lolly Hansen Senior Center Outdoor Recreation Area Project - CIP 78136.

DISCUSSION

Lolly Hansen Senior Center Outdoor Recreation Area Project

The Lolly Hansen Senior Center was dedicated in 1987. The Senior Center is heavily used on a daily basis for recreation activities, health & wellness programs and special events. Participants generally have limited or no access to recreation activities and fall into the low or very low income category. The Center lacks a secure, accessible outdoor area where seniors can relax, socialize, and participate in a variety of fitness and recreational activities.

The Lolly Hansen Senior Center Outdoor Recreation Area Project - CIP 78136, involves construction of an ADA accessible outdoor recreation area including fencing, a shade structure, tables, seating area, fitness equipment, planting beds, and horseshoe pit.

Allocation of CDBG Funds

Community Development Block Grant (CDBG) funds are allocated to cities and counties by the United States Department of Housing and Urban Development (HUD) for use in projects, programs, and services that demonstrate a benefit to low and moderate income individuals and families.

For FY 2011-2012, City Council allocated \$70,000 in CDBG funds for the Senior Center Outdoor Recreation Area project. However, the City's approved allocations are based on a preliminary estimate of the City's actual allocation. The final figures sometimes vary from the preliminary estimates. For FY 2011-2012, the HUD budget for CDBG programs was cut significantly. This affected the City's overall allocation, which resulted in reductions to some of the projects. The actual final CDBG allocation for the Senior Center project was \$52,606 for FY 2011-2012. These funds are currently still remaining. The County recently accepted an extension request to use these funds during FY 2012-2013. Additionally, during FY 2011-2012, the City allocated \$13,000 in General Fund money to cover overhead expenses on the project, which cannot be reimbursed by CDBG funds.

For FY 2012-2013, City Council approved an additional \$90,000 in CDBG funds for the Senior Center project, which brought the total project budget to \$155,606.

For the Senior Center project, staff has estimated that an additional \$115,000 in CDBG funds will be necessary to complete the project as planned, for a total project budget of \$270,606. The City currently has approximately \$322,938 of unprogrammed CDBG funds for FY 2012-2013 that can be used in the allocation of the additional \$115,000 for the Senior Center project. These unprogrammed funds are the result of the following: (1) \$274,618 of FY 2012-2013 CDBG funds that were allocated by Council for a Small Business Incubator project but was withdrawn because the County advised that it would not be accepted by HUD without a fully developed business plan and that even then, the application would be heavily scrutinized and likely rejected; and (2) \$58,513 of FY 2012-2013 CDBG funds that were allocated by Council for Administration but was later reduced to \$10,000 because the County advised that was the most that would be accepted by HUD, leaving \$48,513 in unprogrammed funds. If City Council approves this recommended allocation of an additional \$115,000 for the Senior Center project, the remaining unprogrammed funds would total \$207,938.

In addition to the remaining unprogrammed funds, the City has approximately \$298,691 of unspent funds from past years Downtown Sidewalk and Alley projects. For the remaining unprogrammed funds and unspent funds, staff will conduct a mid-year allocation process, as advised by the County, with the CDBG application process to begin in September of this year. The total funding availability for this mid-year allocation will be approximately \$506,629. The County has also informed the City that HUD may reduce these unprogrammed and unspent funds in November because of the large unused balance. It is imperative that the City act quickly to allocate/reallocate these funds to shovel ready (or close to shovel ready) projects in the near future or risk losing the funds.

STRATEGIC PLAN

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

FISCAL IMPACT

There will be no impact to the General Fund, except for the \$13,000 that was previously allocated in FY 2011-2012, as described above. The project was previously allocated a total of \$142,606 in CDBG funds. With City Council's approval of this agenda item, funding for the project would be increased by an additional \$115,000 of CDBG funds for FY 2012-2013. CIP 78136 is an approved Capital Improvement Program project for FY 2012-2013.

RECOMMENDATION

Staff recommends that City Council, by resolution, allocate an additional \$115,000 of unprogrammed CDBG funds for FY 2012-2013 to the Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136.

Agenda Item 3
August 21, 2012
Page 3

Prepared by: Scott Claar, Associate Planner

Reviewed by: Bill Dean, Assistant Development Services Director

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

RESOLUTION 2012- _____

ALLOCATING AN ADDITIONAL \$115,000 OF UNPROGRAMMED COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS FOR FISCAL YEAR 2012-2013 TO THE LOLLY HANSEN SENIOR CENTER OUTDOOR RECREATION AREA PROJECT, CIP 78136

WHEREAS, Community Development Block Grant (CDBG) funds are allocated to cities and counties by the United States Department of Housing and Urban Development (HUD) for use in projects, programs, and services that demonstrate a benefit to low and moderate income individuals and families; and

WHEREAS, The Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136, was allocated \$52,606 in CDBG funds for FY 2011-2012; and

WHEREAS, The County of San Joaquin has accepted an extension request by the City for the use of these funds during FY 2012-2013; and

WHEREAS, During FY 2011-2012, the City allocated \$13,000 in General Fund money to cover overhead expenses on the project, which cannot be reimbursed by CDBG funds; and

WHEREAS, The Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136, was allocated \$90,000 in CDBG funds for FY 2012-2013, which brought the total project budget to \$155,606; and

WHEREAS, Based on the five construction bids received in May of 2012, staff has estimated that an additional \$115,000 in CDBG funds will be necessary to complete the project as planned, for a total project budget of \$270,606; and

WHEREAS, The City currently has approximately \$322,938 of unprogrammed CDBG funds for FY 2012-2013 that can be used in the allocation of the additional \$115,000 for the Senior Center Outdoor Recreation Area Project, CIP 78136; and

WHEREAS, The City Council conducted a public hearing on August 21, 2012 to consider the allocation of an additional \$115,000 of unprogrammed CDBG funds for FY 2012-2013 to the Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136; and

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy does hereby award an additional \$115,000 of Community Development Block Grant funds to the Lolly Hansen Senior Center Outdoor Recreation Area Project, CIP 78136.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 4.A.(i)

REQUEST

ADOPT THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF TRACY AND THE TRACY POLICE OFFICERS ASSOCIATION (TPOA)

EXECUTIVE SUMMARY

The Memorandum of Understanding between the City of Tracy and the Tracy Police Officers Association (TPOA) expired on June 30, 2012. Representatives from the City and the Tracy Police Officers Association (TPOA) met and conferred in good faith and negotiated a new Memorandum of Understanding. The attached Agreement covers a period of 35 months (three years), effective on August 22, 2012 and expires June 30, 2015.

DISCUSSION

The budget message presented to Council on June 5, 2012, described the City's implementation of an eight-point fiscal strategy over four years in an effort to equal or exceed the revenue coming from Measure E prior to its sunset period on March 31, 2016. This eight-point plan includes: (1) Implementation of technological efficiencies, (2) Improved Economy, (3) Elimination or reduction in non-essential services or duplicated services, (4) Reprioritization of existing expenditures, (5) Continued change to the City's organizational structure, (6) Contracting of services or service redesign, (7) Reduction of number of City departments, and (8) new labor contracts and Compensation and Benefit Plans. Thus far, the City has realized approximately \$3 million in savings and generated \$1 million in increased revenue due to an improved economy by implementing four out of the eight points delineated above in the eight-point plan.

This Tracy Police Officers Association (TPOA) Memorandum of Understanding relates and contributes to one of the City's eight point fiscal strategies: New labor agreements and Compensation and Benefit Plans. It is anticipated that the City will save \$804,792 during the term of this contract and an ongoing annual savings of \$3.4 million after the three year term, if employees of all labor groups pay the full employee contribution for CalPERS benefit.

Three key elements are included in the Tracy Police Officers Association (TPOA) Memorandum of Understanding that contribute to the overall target as described above. These include the following:

1. Shift from City to employee payment of the employee share of CalPERS retirement benefit:

To date, the City of Tracy has paid the full cost of the employee share of the California Public Employees Retirement System (CalPERS) benefit. The City's

goal is to phase in employees paying the full share of the employees' share of the CalPERS benefit, which was previously paid by the City on behalf of the employee as an additional employee benefit. This Tracy Police Officers Association (TPOA) Memorandum of Understanding shifts the share of the payment from the City to the employee increasingly each year over the three year term of the agreement. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for CalPERS benefit, an ongoing annual savings of \$3.4 million dollars can be realized each subsequent year.¹

A one-time allocation of flexible leave hours is offered to employees during the three-year term in exchange for the increase share of employee's contribution for the CalPERS retirement benefit.

The total savings during this three-year term by having each of the 76 employees in this unit contribute to CalPERS is \$1,820,584; an average of \$23,955 per employee. The total cost of flexible leave hours provided back to employees in this unit during this three-year term is \$1,015,792; an average of \$13,366 per employee. The net savings after distribution of flexible leave hours is \$804,792 at the end of the three-year term.

2. Continuation of second tier CalPERS retirement formula:

The City adopted a second tier retirement formula which applies to employees hired on or after July 2, 2010. This 2nd tier will continue with this Agreement. This 2nd tier retirement formula assists with long-term (i.e., ten years or more) efforts to reduce benefit costs. The 2nd tier formula is 3% @ 55, and single highest year.

3. No Cost of Living Adjustments (COLAs):

No Cost of Living Adjustments are offered to employees during the term of this Agreement.

In addition to the three key elements described above, an additional provision of the Tracy Police Officers Association (TPOA) Memorandum of Understanding that should be of note; the increase in the employee contribution to future health care premium increases.

Increase in employee contribution to future health care premium increases:

Each January, adjustments to health care premiums are made depending on the costs. Increases in health care costs continue to rise year after year. Effective

¹ All things considered, the anticipated \$3 million savings assumes no changes to agreement terms during the next round of negotiations.

January 2013, the employee contribution of any future premium is 75% and the City's share is 25% of the total premium increases.

Lastly, there are two additional recommended changes in this TPOA Memorandum of Understanding; the replacement of the Master Patrol Officer (MPO) program with a Corporal Rank program and the increase in the maximum allowable accrual of compensatory time from 120 to 140 hours for Detective assignments. The replacement of the MPO program with the Corporal Rank program will be effective January 1, 2013, once the job specification is completed and approved by Council.

STRATEGIC PLAN

This Tracy Police Officers Association (TPOA) Memorandum of Understanding directly supports the Organizational Efficiency Strategic Priority whose purpose is to strengthen and stabilize our organizational foundation in the key areas of City Council's fiscal policies, customer value, processes and systems, and workforce viability. Specifically, this agenda item relates to:

Goal 1: Advance City Council's fiscal policies

Objective 1a: To change the City's organizational and fiscal structure by completing labor negotiations.

FISCAL IMPACT

No COLA increases are recommended in this Agreement. The total savings during this three-year term by having each of the 76 employees in this unit contribute to CalPERS is \$1,820,584; an average of \$23,955 per employee. The total cost of flexible leave hours provided back to employees is \$1,015,792; an average of \$13,366 per employee. The net savings after distribution of flexible leave hours is \$804,792 at the end of the three-year contract term. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution of the CalPERS benefit, an ongoing annual savings of \$3.4 million can be realized each subsequent year.

RECOMMENDATION

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

Prepared by: Maria A. Hurtado, Assistant City Manager

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

Attachment: Tracy Police Officers Association (TPOA) Memorandum of Understanding

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF TRACY

AND

**TRACY POLICE OFFICERS ASSOCIATION
(TPOA)**

August 22, 2012 Through June 30, 2015



Think Inside the Triangle™

**Human Resources Department
333 Civic Center Plaza
Tracy, CA 95376
(209) 831-6150
www.ci.tracy.ca.us**

TRACY POLICE OFFICERS' ASSOCIATION MOU

AUGUST 22, 2012 – JUNE 30, 2015

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MEMORANDUM OF UNDERSTANDING

Between

CITY OF TRACY

and

TRACY POLICE OFFICERS ASSOCIATION

Effective August 22, 2012 through June 30, 2015

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

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

This Agreement shall be presented to the City Council as the joint recommendations of the undersigned for salary and employee benefit adjustments for the period commencing August 22, 2012 and ending June 30, 2015.

Section 1. Recognition

1.1 Association Recognition

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

Police Corporal – Effective January 1, 2013

Police Officer (Inclusive of Master Patrol Officer, Until Dec 31, 2012)

Police Sergeant (Inclusive of Master Patrol Sergeant, Until Dec 31, 2012)

Police Officer Trainee

1.2 City Recognition

The City Manager or, where the authority has been delegated by the City Manager, the City Manager's representative is the representative of the City of Tracy, hereinafter referred to as the "City".

Section 2. No Discrimination

The City agrees not to discriminate against any employee because of membership in the Association or because of any activities on behalf of the Association. Association activities shall not interfere with the normal operation of the City. Neither the City nor the Association shall discriminate for or against any employee or applicant for employment on account of race, color, creed, national origin, age, sex, sexual orientation, physical or mental disability, which does not prevent an employee from meeting the minimum standards established.

Section 3. Association Security

3.1 Association Dues

The Association shall be entitled to have the regular dues of its members deducted from their paychecks in accordance with the procedures set forth herein.

Employees shall be entitled to have dues deducted by filling out, signing and filing with the City an authorization form provided by the City.

The employee's earnings must be regularly sufficient, after other legal and required deductions are made, to cover the amount of the dues check-off authorized. When an employee, in good standing in the Association, is in a non-pay status, for the full pay period when his/her dues would normally be withheld, no dues deduction will be made to cover that withholding from the current or future earnings; nor will the employee deposit the amount with the City which would have been withheld if the employee had been in a pay status during that period. In the case of an employee who is in a non-pay status during only a part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Association dues.

Dues withheld by the City shall be transmitted monthly to the party designated in writing by the employee organization as the party authorized to receive the funds, at the address specified.

Association shall indemnify, defend, and hold the City harmless against the claims made and any suit instituted against the City on account of check-off of employee organization dues. Any amounts paid in error shall be adjusted in subsequent payment.

3.2 Use of City Facilities and Bulletin Boards

The Association may, with the prior approval of the City Manager, or his/her designee, use the City facilities during non-work hours for meetings of City employees, provided space is available.

The use of City equipment, normally used in the conduct of business meetings, such as desks, chairs, and blackboards, will be made available to the Association.

The Association may use portions of City bulletin boards under the following conditions:

Copies of materials must be sent to the department or division head in charge of the department bulletin board.

All materials must be dated and must identify the organization that published them.

The City reserves the right to determine where bulletin boards shall be placed.

3.3 Meetings

Elected officers may use the time bank defined in Section 4.3, or their own accrued vacation or compensatory time, to attend meetings for the benefit of the Association, with forty-eight (48) hour notice to the Department, providing such absence does not create additional overtime.

Section 4. Association Representatives

4.1 Attendance at Meetings by Employees

Any employee who is directed to attend a meeting, at which one of the issues is the proposed discipline of said employee, shall be entitled to a representative at such meeting; provided, however, such representation shall include no more than one City employee in addition to the employee being disciplined. The City agrees to provide the Association's representative reasonable release time to prepare for grievance or discipline meetings with the City. The limitation of this Section shall apply to employees on paid release time and not to Association staff or witnesses who may be necessary to the meeting.

4.2 Access to Work Locations

Reasonable access to employee work locations shall be granted Association officers and their officially designated representatives, for the purpose of contacting employees concerning business within the scope of representation. Such employees or representative shall not enter any work location without the consent of the Police Chief. Access shall be restricted so as not to interfere with the normal operations of the department or with established security requirements.

Solicitation of membership and activities concerned with the internal management of the Association such as collecting dues, holding membership meetings, campaigning for office, conducting elections and distributing literature shall not be conducted during on-duty hours.

The Association shall designate, in writing to the Personnel Officer, the names of the representatives listed above.

4.3 Donate Compensatory Time

TPOA members may contribute compensatory time to a special account for the use of Association officers or their designee(s). Contributions or use shall be by written authorization of the Association President. Individual officers may use up to, but no more than, thirty-two 32 hours per fiscal year from the special account for attendance at meetings, seminars, etc. on the behalf of the Association. The special account shall accumulate no more than sixty-four (64) hours of compensatory time at any time.

4.4 List of Employees

Up to twice a year and upon request, the City shall furnish to the designated Association representative the names and classifications of employees assigned to classifications in the Association; provided, however, the City shall not be required to provide such information in any format other than one already used by the City.

4.5 Advance Notice

Except in emergency cases, the City will give the Association reasonable advance written notice of any proposed ordinance, resolution, rule or regulation directly relating to matters within the scope of representation. The Association shall be given the opportunity to meet with management representatives prior to adoption.

4.6 Release Time for Representation

Up to four (4) Association representatives shall be released from duty, without loss of compensation or benefits, to participate in meet and confer sessions with the City.

4.7 Investigation of Employee

The City agrees that, except in cases of alleged criminal misconduct, an employee shall be notified, either orally or in writing, within a reasonable time frame, of the initiation, by the City or Department, of any investigation involving the employee and the nature of the complaint and/or conduct under investigation.

4.8 Peace Officers Bill of Rights

The City agrees to adhere to the provisions of the Peace Officers Bill of Rights (POBR) as contained in California Government Code Sections 3300-3311, in all matters in which the provisions of the POBR apply.

Section 5. Salary

5.1 Salary Plan

The semi-monthly salary range for each classification is shown in Exhibit A Salary Schedule.

The rates of pay set forth in this Section represent the standard rate of pay for each classification.

Employees occupying a position in a classification covered by this Agreement shall be paid at a base salary within the range established for that position's classification.

There shall be no Cost of Living Adjustments (COLAs) or equity increases for the employees covered under this Agreement.

5.2 Pay Days

Employees shall be paid twice monthly. Routine paychecks shall be for the purpose of compensating for regular and overtime hours. Other compensation or reimbursement shall be separately identified and shall not include withholding for tax purposes, except as required by law.

All exceptions to pay, such as work in a higher classification, vacation, and sick leave usage shall be processed and paid or reported on the subsequent paycheck.

5.3 Entry Salary

Each new employee shall be paid at the first step at the range for the classification in which he/she is hired. If the employee possesses exceptional training or experience, that employee may start at a step above the first step with the approval of the Police Chief or the City Manager in accordance with the City's Personnel Rules and Regulation.

5.4 Salary Range

Each classification shall have a salary range with pre-established advancement steps within the range.

Salary range adjustments for a classification will not set a new salary anniversary date for employees serving in the classification.

Whenever the schedule of compensation for a classification is revised, the employee shall be paid at the same step in the revised range as the step at which the employee was paid in the previous range.

5.5 Salary Upon Promotion

When an employee is promoted, he/she shall normally receive the first step in the salary range for his/her new position. However, if such step results in a salary increase of less than five percent (5%), he/she shall receive a minimum of five percent (5%) increase, provided that in no event will the new salary be above Step E of the promoted salary range.

5.6 Salary Upon Demotion

When an employee is demoted, that employee's compensation shall be adjusted to the salary, which most closely approximates the employee's salary in the higher classification; in no event shall that new salary be above Step E of the lower classification. If a vacancy exists in a position in a lower classification, an employee who has previously held that vacant position may voluntarily choose to demote to fill the vacancy.

5.7 Work in a Higher Classification

An employee who is assigned to perform the duties of a position in a higher classification shall receive the pay for that higher classification (out of class pay) for all hours so assigned when the employee has worked in that classification for the period of a regularly assigned shift or longer. After making such assignments, the City shall not reassign for the sole purpose of avoiding payments for such higher amounts.

Employees temporarily assigned to a higher classification shall be covered by this Agreement and shall receive the benefits afforded by it except when temporarily assigned to a position that is FLSA exempt, the employee so assigned shall not be entitled to the overtime benefits contained in this agreement. Employees who are appointed to a higher classification, in an acting capacity, will receive a minimum five percent (5%) increase but no less than Step A and no more than Step E of the higher classification. If the five percent (5%) increase causes the salary to fall between two steps, the appointment will be made at the higher step. Details regarding the processing of Personnel Action Forms and effective dates for Out of Class Pay are contained in the Administrative Procedure on Out of Class pay, effective March 1994.

Sergeants: When Sergeants are appointed to fill the duties of a higher classification, compensation will be paid at Step A of the higher classification or at five percent (5%) over the member's current class, whichever is greater, after ten consecutive calendar days of working in the higher classification, retroactive to the first day.

5.8 Retirement Benefits

Employees hired by the City of Tracy on or before July, 1, 2010 and covered by this agreement shall receive CalPERS 3% at 50 and single highest year formula. Employees hired by the City of Tracy on or after July 2, 2010 and covered by this agreement shall receive CalPERS 3% at 55 and single highest year formula.

Employees who receive the CalPERS retirement formula of 3% @ 50, or 3% @ 55 shall share payment of the 9% of salary employee contribution towards employee statutory share of CalPERS retirement as follows:

Fiscal 2012-2013 – Effective the pay period including August 16, 2012, each employee shall pay 3% of salary and the City shall pay 6% of salary to fund the employee contribution for the CalPERS retirement benefit.

Fiscal 2013-2014 – Effective the pay period including July 1, 2013, each shall pay 6% of salary and the City shall pay 3% of salary to fund the employee contribution for the CalPERS retirement benefit.

Fiscal 2014-2015 – Effective the pay period including July 1, 2014, each employee shall pay 9% of salary to fund the entire employee contribution for the CalPERS benefit.

Employee payments of the employee share of the CalPERS retirement benefit cost shall be made as a payroll deduction on a pre-tax basis to the extent allowed by law.

EPMC

In addition, the City provides the Employer Paid Member Contribution (EPMC) to be treated as special compensation for all classifications in the unit for the portion that the City pays towards employee share of CalPERS retirement. Effective the pay period including July 1, 2014, when the employee begins paying the full 9% of the employees share, the City will cease paying towards EPMC.

Retirement Payment

Upon completion of thirteen (13) years of continuous employment with the Tracy Police Department, Police Officers and Sergeants shall be eligible for one (1) month of pay to be paid at the time of retirement from the City of Tracy or upon promotion to a position elsewhere in the City. Employees who terminate employment for other reasons shall not be entitled to the retirement payment.

5.8.1 Flexible Leave Hours (NEW SECTION)

The City shall credit each employee with a block of paid leave hours each fiscal year of this Agreement. These hours shall be labeled Flexible Leave. Each employee may use these leave hours during the fiscal year. Each employee will receive the Flexible Leave hours for that fiscal year on July 1st of each year. Each employee has the option of

using such hours as leave in the same manner as vacation leave, or periodically selling the hours. A code will be set up for each option and employees can note the use of or selling of such hours on each time card throughout the fiscal year. Employees must use the current fiscal year hours by June 15th of each year and cannot carry the hours over to a new fiscal year. If an employee terminates before June 30th of any fiscal year, the employee is only eligible for a proration of hours for the period of July 1st to the date of their termination.

Amount

During fiscal year 2012-2013, each employee shall receive 50 hours of Flexible Leave during the pay period beginning August 16, 2012. During fiscal year 2013-2014, each employee shall receive 100 hours of Flexible Leave during the pay period beginning July 1, 2013. During fiscal year 2014-2015, each employee shall receive 150 hours of Flexible Leave during the pay period beginning July 1, 2014.

The parties acknowledge that the block of paid leave hours labeled Flexible Leave is credited to each full-time, regular employee at the beginning of each fiscal year of this Agreement and ends when the Agreement expires on June 30, 2015.

Sell-Back

An employee may sell-back some or all of the employee's accrued Flexible Leave balance with any pay period during the fiscal year, so long as it does not generate a separate paycheck. If a separate paycheck is desired, the leave hours will be paid on a separate paycheck on June 30th and/or December 15th of each contract year.

City Buy-Back of Accumulated Leave

Should an employee not utilize Flexible Leave as time off during a fiscal year, or should an employee not sell-back his/her Flexible Leave during the fiscal year, the City shall cash-out each employee's Flexible Leave balance at the end of the fiscal year in which it was provided and pay it to the employee. There shall be no carry-over of Flexible Leave hours from one fiscal year to the next, and no Flexible Leave balance shall be allowed to remain after the June 30, 2015 expiration date of this Agreement.

5.9 Advancement (Step Increases)

At the completion (see section 17.2 – entry level officers start at step A and received a step increase after 12 months although their probation does not end until completion of 18 months) of the applicable probationary period of employment, employees appointed to Step A are eligible for a step increase. Additional step increases will be on an annual basis thereafter until the attainment of Step E. All step increases shall be based upon satisfactory performance, as shown from the evaluation by the employee's Supervisor. Denial of step increases shall be based on documented performance evaluations. Increases of more than one step for superior performance may be provided. Recommendation by the Police Chief and approval of the City Manager will be required.

5.10 Establish Corporal Classification (NEW SECTION)

City shall establish a Corporal classification consistent with City's Policies and Procedures by January 1, 2013.

During the first year of the MOU (8/22/12-7/31/13), the City and the TPOA will conduct labor-management committee meetings periodically as needed to meet and discuss implementation and policy issues concerning the Corporal program.

Section 6. Hours of Work

6.1 Workweek

Unless otherwise designated by the Police Chief, the workweek for all Police Unit employees shall be from Sunday through the following Saturday, or halfway through the work day on Friday until halfway through the work day on the following Friday if on a 9/80 workweek. The designated workweek shall remain permanent and may be changed only as a result of major changes in operations, payroll procedures, or as otherwise necessary in order to deliver services as efficiently and economically as possible.

6.2 Detective Standby Duty

Detectives will be assigned to work holidays as part of their regular work schedule and shall receive holiday pay in accordance with this Agreement in the same manner and application as Patrol.

When detectives are assigned standby duty at times other than their normal work hours, the City will provide a City-owned car which may be taken home and driven by the standby detective when called back to work. In addition, each Detective assigned the weekly stand by rotation will be paid sixteen (16) hours of straight-time pay for each week so assigned. In the event an employee assigned Standby is unable to complete the full week so assigned, the pay shall be prorated and the employee who provided the standby coverage shall be paid for the dates served.

The Sergeant assigned to the Detective Unit shall be paid Two Hundred Ninety Dollars (\$290.00) per month for standby duties.

Effective upon adoption of this Agreement, Standby Pay shall be issued on the pay check following the pay period in which the standby occurred.

In the event a detective is called back to work at a time other than the regularly scheduled work hours, he/she will be compensated in accordance with the provisions of Section 7 of this Memorandum of Understanding.

6.3 Scheduling of School Attendance

Shift trades between employees, arranged by an employee for the purpose of attending school, will be approved whenever operationally feasible.

6.4 Notice of Schedule Change

The Department shall provide at least forty-eight (48) hours advance written notice to each employee whose regular hours of work are being changed.

Section 7. Overtime Call-Back

7.1 Definition

Overtime is work which is in excess of the regularly scheduled work shift or in excess of one hundred and sixty (160) hours worked per twenty eight (28) calendar day work cycle or in excess of forty (40) hours per work week, which has the approval of the Police Chief or his/her designated representative. Overtime shall also be paid for work performed on the employee's scheduled days off.

7.2 Scheduled and Emergency Overtime

Unless excused by the Police Chief, an employee, upon request, shall not fail or refuse to perform emergency or scheduled overtime. Scheduled means at least twenty-four (24) hours prior notice. A sign-up sheet will be used for scheduled overtime and will go up as soon as the need is known or at least two weeks in advance whenever possible. This sign-up sheet will be taken down 72 hours prior to the overtime shift and the shift will then be assigned. Failure or refusal by the employee, to work overtime in accordance with this provision, shall be grounds for discipline.

7.3 Overtime Compensation

The regular rate of pay is computed by the following formula: monthly salary times twelve (12) months divided by two thousand eighty (2080) hours. Overtime shall be compensated at the rate of one and one-half (1 1/2) times the regular rate of pay if paid, or taken as compensatory time.

7.4 Compensatory Time

The employee, at the employee's option, may request, through the Police Chief, compensatory time off or overtime pay for overtime worked. Use and accrual of compensatory time shall be at the discretion of the Police Chief to assure assignment of adequate personnel to provide and maintain the City services. No employee may accrue more than one hundred twenty (120) hours of compensatory time. The employee shall receive paid overtime for all hours worked in excess of the one hundred twenty (120) hours.

Employees assigned by the Police Chief to a Detective assignment shall be allowed to accrue up to a maximum of one hundred and forty (140) hours of compensatory time during the time period so assigned. Detectives shall receive paid overtime for all hours worked in excess of the one hundred twenty (140) hours.

7.5 Call-Back Pay

Any employee, who is called back to duty, shall be paid at the overtime rate for a minimum of three (3) hours for each call back. In the event that separate call-backs overlap within a three (3) hour period, the employee will be paid for one minimum of three (3) hours at the overtime rate and for any additional hours worked at the overtime rate.

Notwithstanding the above, if the return to work is contiguous with the employee's scheduled work day and the employee is provided with a minimum of four (4) hours advance notice, the employee shall not be paid Call Back Pay but will be paid at the overtime rate for hours worked prior to the start of the employee's regular shift.

7.6 Court Appearances

Employees who are required to testify in court in their official capacity as a police officer within one (1) hour after their scheduled work shift, or conclude the court appearance within one (1) hour before, their scheduled work shift, that is, as an extension of his/her work shift, shall be compensated at the overtime rate for actual time worked and up to one (1) hour waiting time.

Employees who are off duty for more than one (1) hour, or on vacation, compensatory time off, or their regularly scheduled shift off, who are called back to testify in court in their official capacity as a police officer shall be compensated for a minimum of four (4) hours (each call back providing that the call back periods do not overlap) or actual hours worked in excess of four (4) hours, computed at the overtime rate of pay.

Section 8. Differentials

8.1 Special Assignment Pay

Regular Continuous Assignment

Special assignment pay shall be provided in the amount of five percent (5%) for base salary per month for the sworn personnel who are assigned to and perform in the assignments of:

Detective (assigned to General and Special Investigations Unit) *

Field Training Officer**

Professional Standards Officer *

School Resource Officer

Training/Crime Prevention Officer
Administrative Sergeant
Communications Sergeant
Detective Sergeant (assigned to General and Special Investigations Units)
Traffic Safety Unit Sergeant*

Only assignments noted with “” are applicable to Corporals performing those duties.

**In conjunction with the creation of the Police Corporal classification on January 1, 2013, the Field Training Officer special assignment will be eliminated as of 12/31/2012

Short Term Assignments

Additional employees assigned short term Field Training Officer duties, shall receive special assignment pay for those pay periods in which such duties are performed.

K-9 and Motorcycle Assignments

The K-9 officer will provide feeding, grooming and other normal chores associated with maintaining a dog in a clean and healthy environment, in exchange for twelve (12) hours of overtime credited to him/her each month during which he/she is assigned as the K-9 officer.

The motorcycle officer or Police Corporal on a motorcycle special assignment will provide normal maintenance, washing and waxing of his/her assigned motorcycle, in exchange for eight (8) hours of overtime credited to him/her each month, during which he/she is assigned as the motorcycle officer. In addition, the motorcycle officer or Police Corporal on a motorcycle special assignment will transport the motorcycle, during normal work hours, to “the designated vendor” for detailed maintenance and repairs as needed.

Removal from Assignment

The assignment of Officers to any of these special assignments or the removal of Officers from these special assignments shall be based on performance and at the sole discretion of the Police Chief.

8.2 Education Incentive Pay

Police Officers and Police Corporals

The City shall pay a two and one-half percent (2 1/2%) incentive on the existing salary step and range of employees who possess a POST Intermediate Certificate.

The City shall pay a five percent (5%) incentive on the existing salary step and range of employees who possess an Associates of Arts degree in Police Administration, or a related field.

The City shall pay a two and one-half percent (2 1/2%) incentive on the existing salary step and range of employees who possess a POST Advanced Certificate.

Sergeants

The City shall pay five percent (5%) on the existing salary step and range of Sergeants who possess an Associate of Arts Degree or higher degree in Police Administration, or a related field. The City shall pay a two and one half percent (2 ½%) incentive on the existing salary step and range of Sergeants who possess a POST Advanced Certificate.

The City shall pay a two and one-half percent (2 ½%) incentive on the existing salary step and range of Sergeant who possess a POST Supervisory Certificate.

Education incentive pay will be included in the base pay rate for the calculation of overtime and holiday-in-lieu pay. Details regarding procedures for education pay are contained in the Administrative Procedures on Education Incentive Pay.

Section 9. Allowances

9.1 Uniforms – Sworn Personnel

The City shall provide a uniform allowance for new employees and an annual maintenance allowance of nine hundred dollars (\$900.00).

The City shall provide newly assigned motorcycle officers with one new helmet, one leather uniform jacket, one pair of motorcycle boots, two pairs of breeches, two pairs of safety glasses (one clear and one tinted), and one pair of leather riding gloves, in addition to the annual maintenance allowance.

The uniform allowance shall be paid on the regular payday for the pay period that includes June 30, by a separate check.

9.2 Replacement/Repair of Equipment

The City shall pay for the replacement or repair of Association member's uniform and equipment damaged in the line of duty.

9.3 Equipment and Clothing Return

All City furnished equipment and clothing remains in the ownership of the City and must be returned when an employee leaves employment.

9.4 Mileage Reimbursement

An employee who is required to provide transportation for the performance of his/her job shall be compensated at a rate equal to the Internal Revenue Service (IRS) rate. Such reimbursement does not apply to commuting, to or from his/her residence, by an employee.

9.5 Education Reimbursement

An employee who completes a course of study and receives a grade of C or better may be reimbursed, with the prior approval of the Police Chief, for books, supplies and tuition only for courses taken at public colleges or universities in California, up to a maximum of \$1800.00 per fiscal year. Courses taken at any accredited colleges or universities shall be reimbursed at a cost not to exceed the cost of comparable courses offered at the University of California up to a maximum of \$1800.00 per fiscal year. Reimbursement shall be made for courses taken towards an Associate of Arts, Bachelor Degree or Master's Degree in the area of Criminal Science, Psychology, Organizational Management, Public Administration or other curriculum pre-approved by the Police Chief.

For employees who achieve a degree through an accelerated degree program, the employees shall receive reimbursement up to a maximum amount of \$7200.00. Employees who receive such reimbursement agree to remain employed with the City of Tracy for a period of five (5) years, starting on the date program enrollment begins. Failure to complete this service may result in the employee re-paying the City of Tracy a prorated fee, based upon the cost of \$1800.00 per year. Employees who wish to participate in an accelerated program will sign an individual agreement with the City regarding re-payment.

Mileage reimbursement shall only be provided for courses the City directs the employee to attend.

9.6 Credit for Training

The Police Chief, or his/her designee, is responsible for developing employee-training programs. Such training programs may include lecture courses, demonstrations, assignment of reading matter, or other such devices for the purpose of improving the efficiency and broadening the knowledge of municipal employees in the performance of their duties.

Participation in and successful completion of special training courses may be considered in making advancements and promotions. The Police Chief shall file evidence of such activity with the City Manager.

9.7 Bilingual Pay

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

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

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

Section 10. Holidays

10.1 Paid Holidays for Employees on Monday through Friday Work Schedules

Regular full-time employees, except as otherwise provided herein, shall be entitled to observe all authorized holidays at full pay, not to exceed eight (8) hours for any one day.

The following are authorized holidays:

New Year's Day	(January 1)
Martin Luther King, Jr. Day	(3rd Monday in January)
President's Birthday	(3rd Monday in February)
Memorial Day	(Last Monday in May)
Independence Day	(July 4)
Labor Day	(1st Monday in September)
Veteran's Day	(November 11)
Thanksgiving Day	(4th Thursday in November)
Day after Thanksgiving Day	(4th Friday in November)
Christmas Eve	(December 24)
Christmas Day	(December 25)
Floating Holidays (2)	

Saturday and Sunday Holidays

If a holiday should fall on a Sunday, the employee shall be granted Monday as a holiday. If a holiday falls on a Saturday, the employee shall be granted Friday as a holiday.

10.2 Holiday In-Lieu Pay for Employees Working in a Seven (7) Day Operation

Employees shall be credited with six and one-half (6-1/2) holidays for each six (6) months. Employees shall be compensated for holidays not used during a given six (6) month period at the holiday pay rate. Requests for use of holidays shall be subject to Police Chief's approval.

The holiday pay rate shall be calculated as follows:

Annual salary divided by 2,080 hours = Hourly Rate x 8 = Holiday-in-Lieu Pay.

Holiday pay will be paid on separate checks on the regular payday for the pay period that includes June 30 and December 15. Holidays will be paid at the pay rate during the period in which the holidays were earned.

10.3 Proclaimed Holidays

All holidays proclaimed by the Governor of the State of California or the President of the United States shall be granted as holidays. Holiday pay will be paid on separate checks on the regular payday July 15 and December 15.

Section 11. Vacation Leave

11.1 Vacation Schedule

Police Officers

Employees shall be entitled to vacation pay in accordance with the following schedule:

Date of employment through completion of 5th year - 96 hours per year (4 hours per pay period).

6 - 10 years of continuous employment - 144 hours per year (6 hours per pay period).

11 - 15 years of continuous employment - 160 hours per year (6.67 hours per pay period).

16 years or more of continuous employment - eight (8) additional hours per year up to a maximum of twenty-eight (28) days or two hundred and twenty-four (224) hours maximum annual accrual.

Vacation schedule for Sergeants classification will continue as per the Personnel Rules.

11.2 Vacation Accumulation

Earned vacation time may be accumulated, but the employee shall not be allowed to have an accumulation of more than two (2) times the annual accrual credit at any time without prior approval of the City Manager.

In the event, that an employee's scheduled vacation is canceled by the City, for whatever reason, the employee will be granted an additional six (6) months from the time of such cancellation to reschedule vacation without any loss of vacation accumulation.

Employees as of April 1, 2002, who accrue vacation in excess of twenty-eight (28) days or two hundred and twenty-four (224) hours per year, are considered "grandfathered".

Any such employee shall be entitled to continue to accrue the same number of days as he/she accrues as of the date March 31, 2002, but shall not receive increased accrual levels after April 1, 2002.

11.3 Vacation Scheduling

Employees shall schedule a minimum of 80 hours of vacation annually with the approval of the Police Chief. Vacations shall be scheduled for the following year by January 15 of each calendar year. Employees, who have insufficient accrued vacation leave to take eighty (80) hours, may utilize compensatory time or may be advanced up to forty (40) hours of vacation leave upon approval of the Police Chief. Employees may not be advanced said vacation leave if the employee has sold vacation leave hours within the last year. Scheduling shall be based upon department seniority.

Representatives of the Association and the Department will meet to discuss details of the vacation selection system.

11.4 Vacation

No employee may take vacation during his/her first six months of employment. All employees shall be entitled to vacation leave upon completion of six months of employment. The vacation schedule shall be established with primary consideration for the needs of the City, but with as much regard, as possible, for the wishes of the employee. Leave may be taken only after it has been earned, subject to the above restrictions.

11.5 Vacation Pay

Upon termination, an employee shall be paid for vacation earned, but not taken, up to the maximum accrual permitted. If the termination date occurs between the first and the 15th day of the month, the employee will not receive vacation credit or pay for that month. If the termination occurs between the 16th and the 30th day of the month, the employee shall be credited and paid for a full month's vacation earnings.

11.6 Leave Buy-Back

Association members are allowed an optional buyback of accumulated leave. Once per calendar year, they may have the City buy back up to 50 percent of accumulated leave, but not more than the equivalent of one year's earning rate for vacation, floating holiday leave, and compensatory time off. The hourly rate for buy back is the annual salary, divided by the annual hours of work.

Section 12. Sick Leave

12.1 Accrual

All employees shall be eligible to accrue sick leave at the following rates:
Eight (8) hours of full pay sick leave for each month of service during the first twenty (20) years of employment. For the purpose of this section, month of service shall mean consecutive calendar months.

12.2 Approval

Sick leave may be requested and used as approved by the Police Chief. Approved sick leave shall be paid until the employee's accumulated total of sick leave hours has been exhausted. At that time, the employee shall receive no further pay for sick leave.

An employee requesting sick leave should exercise reasonable diligence in notifying the on-duty supervisor prior to the time set for reporting to work. Failure to make reasonable efforts to notify the on-duty supervisor for the use of sick leave, prior to the commencement of the shift for which leave is requested, may result in loss of the sick leave privilege for the subject shift.

12.3 Usage

Sick leave may be requested only in cases of actual personal sickness or disability, medical or dental treatments, or for absences due to serious illness or injury of a member of the employee's immediate family.

Employees may utilize up to one-half (1/2) of their annual accrual of sick leave for the care of their immediate family. Immediate family is defined pursuant to California Law.

12.4 Doctor's Certificate

The City has a legitimate concern in preventing abuse of sick leave use. If the City has a reason to believe that sick leave is being abused, it may request that an absence be verified. The City's right to verify an absence includes the right to require a doctor's excuse at any time. The City may prescribe forms to be used for said verification.

The Police Chief may require a written statement from an attending physician or dentist that an employee is capable and released to return to performance of all duties of his/her position.

12.5 Sick Leave Pay Off

Upon death, the employee's estate shall receive straight-time pay for all accrued sick leave. If an Association Member employee terminates or is terminated for any reason, all accumulated sick leave shall be canceled. Such accumulated sick leave, however, shall be credited to such employee if he/she returns to City employment within two (2) years of such termination.

12.6 Sick Leave Conversion at Retirement

An employee who retires with at least ten (10) years of service may elect to convert all accrued sick leave to a medical insurance bank. The value of the medical insurance bank shall be determined by multiplying the number of accrued sick leave hours by the

employee's hourly rate of pay. The retired employee and his/her dependents shall be entitled to continued group health insurance coverage, dental and/or vision coverage currently in effect, with premiums for such coverage being deducted from the medical insurance bank until said bank is exhausted. Thereafter, the employee and his/her dependents may continue to participate in the City's group health plan, at group rates, provided the City receives the employee's payment for the premium by the 10th of each month for the following month's coverage.

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

12.7 Catastrophic Leave Program

Members of the Association shall be covered by, and eligible to participate in, the City's Catastrophic Leave Program. The Program is described in detail in Personnel Rule 10, Section 15.

Section 13. Workers' Compensation

An employee receiving disability payments under Workers' Compensation Laws shall be entitled to industrial accident leave in accordance with state laws and employment status.

Section 14. Long Term Disability

The City of Tracy will provide PORAC Long Term Disability at \$19.50 to all members of the Tracy Police Officers Association. These members must be actively working and members of PORAC. Any additional costs will be deducted from the employee's checks on an after tax basis.

Section 15. Leaves of Absence

15.1 Approved Absence Without Pay

Upon written request, the City Manager may grant an employee a leave of absence without pay for a definite period not to exceed one (1) year. Failure on the part of the employee absent without pay to return to duty within twenty-four (24) hours after notice of return may be cause for discharge.

A leave of absence without pay, up to three (3) days can be approved by the Police Chief.

The City may pay health benefits, for up to sixty (60) days, for employees on approved leave of absence without pay as a result of illness or injury.

15.2 Bereavement Leave

In the event of a death in the immediate family of an employee, absence, not to exceed five (5) working days, shall be allowed. The employee may, with his/her department head's permission, use vacation, sick leave, or compensatory time, if additional leave is required. Such permission shall not be unreasonably refused.

In the event of the death of a relative, not a member of the immediate family, absence from duty shall not be allowed to exceed one (1) day. Such absences shall not be charged to sick leave. Leave begins on the day of the funeral.

The immediate family of an employee is defined as: Parents, step-parents, parents-in-law, spouse, child, step-child, brother, sister, grandparents; grandchildren, brother/sister in-law son/daughter-in-law, or legal guardian or a person who is at least fifty percent (50%) dependent on an employee.

15.3 Military Leave

- (a) Military leave shall be granted in accordance with provisions of State and Federal laws. All employees entitled to military leave shall give the department head an opportunity, within the limits of military regulations, to determine when such leave shall be granted. An employee on military leave of absence who has been an employee of the City for not less than one year shall be entitled to receive City salary for the first 30 calendar days of such absence. Pay for such purposes shall not exceed 30 days in any one fiscal year.
- (b) An employee returning from military duty shall be entitled to appointment to the same or a corresponding position with full salary and benefits, including within-class-pay step increases as would have been received had the employee remained for that period of time in active service with the City. Application to the City must be made within six months of discharge. An employee returning to employment following military leave shall not be discharged without cause within one year after reinstatement.
- (c) A person employed by the City to fill a position made vacant by an employee on military leave of absence, shall hold the position, subject to being laid off upon reinstatement of said employee to his/her former position. An employee promoted to fill a position made vacant by an employee on military leave, shall hold such position, subject to being reinstated to his/her former position upon return of the employee.

15.4 Maternity Leave

Maternity leave shall be granted in accordance with applicable state and federal laws. A request for maternity leave must be submitted to the City Manager no later than the end of the sixth month of pregnancy.

The City agrees to provide temporary transfer for a pregnant employee to a less strenuous or hazardous position for the duration of the pregnancy: (1) if the employee requests such a transfer and (2) submits verification from her doctor that such reassignment is medically advisable. The type of duty shall be at the discretion of the City and where the transfer can be reasonably accommodated. The City reserves the right to assign the employee to other duties within the City as may be available or as needed.

The City agrees to comply with the provisions of the Family Medical Leave Act and California Family Rights Act.

15.5 Family and Medical Leave Act

The parties acknowledge the applicability of the Family and Medical Leave Act and intend to apply and implement this M.O.U. so as to comply with the Act.

15.6 Jury Duty

All employees shall be entitled to leaves of absence for a reasonable time necessary to appear as a witness in court, other than as a litigant, pursuant to a lawful subpoena, to serve on a jury, or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Such leaves of absence shall be granted, with pay, up to the amount of the difference of the employee's regular earnings and any amount he/she receives for jury or witness fees, with the exception of any mileage allowance, which shall be retained by the employee.

Such leaves of absence shall not be charged against the employee's sick leave or vacation leave.

15.7 Voting Leave

Employees shall be granted sufficient time to vote during municipal, primary, and general elections.

Section 16. Health Insurance

16.1 Medical

16.1.1 Plans Provided.

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

16.1.2 New Employees.

New employees hired on or after September 1, 2006 shall be required to select a medical plan for at least the employee and are not eligible for cash benefits except as may be required by provisions of the IRS regulations covering Flexible Benefits plans.

16.2 Dental

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

16.3 Vision Care

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

16.4 Life Insurance

The City provides Life Insurance in the amount of Fifty Thousand Dollar (\$50,000). This coverage will be mandatory for all TPOA employees. The City will fully pay the premium by adding the actual cost of the premium to the amount provided in the Cafeteria Plan each month.

16.5 Cafeteria Plan

16.5.1. City Contribution.

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

16.5.2 Future Contributions and Cash Out Options.

For employees hired before September 1, 2006, the maximum cash payment shall be set at Nine Hundred and Forty-Three Dollars (\$943.00) per month for employees who do not elect a medical plan. For employees hired on or after September 1, 2006, each employee shall be required to select a medical plan and the cash payment shall be limited to the minimum required by law (if any).

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

Example: "If the Kaiser Family Plan monthly increase is \$100 and the Health Net Family Plan monthly increase is \$125 per month, the average dollar amount for the two plans would be \$112.50. The City's increase contribution will be \$84.38 per month (75% of the premium increase).

For employees who elect two-party or single coverage, the City will also increase the City's contribution to the Cafeteria Plan. The increase shall be limited to the amount necessary to fully cover the plan selected up to a maximum of the dollar amount allocated to employees who elect family coverage. There shall be no increase for employees who do not elect health insurance coverage.

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

16.5.3 Approved Account Uses

The monies in an employee's account shall be used for one or more of the following purposes only: (1) payment of premium charges for the medical insurance program in which the employee is enrolled, (2) payment of premium charges for the dental insurance program in which the employee is enrolled, (3) payment of premium charges for the vision insurance program in which the employee is enrolled, (4) payment of premium charges for life insurance (mandatory).

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

16.5.4 Notification of Changes in Number of Dependents

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

16.5.5 Continuance of Flexible Benefits Plan (IRS Section 125).

The City has implemented an Internal Revenue Code Section 125 Plan to redirect employees' pre-selected amount of base salary to pay employee paid insurance premiums and other approved expenses. The City will not treat these monies as compensation subject to income tax withholding unless the Internal Revenue Service or

the Franchise Tax Board indicates that such contributions are taxable income subject to withholding. Each employee shall be solely and personally responsible for any federal, state or local tax liabilities of the employee that may arise out of the implementation of this section or any penalty that may be imposed therefore.

Section 17. Probationary Period

17.1 Purpose

All new and promoted employees shall serve a probationary period. The probationary period shall be considered the last portion of the selection process. Its purpose is to allow the City Manager or, under his/her direction, the Police Chief, to observe and appraise the conduct, performance, attitude, adaptability and job knowledge of new or promoted employees and to determine whether the employee is fully qualified for the position.

17.2 Initial Probation

The probationary period for new employees with no prior police work experience shall be eighteen (18) months following successful completion of Police Academy training. Eligibility for a merit increase, from Step A to Step B, will occur after twelve (12) months.

The probationary period for new employees with acceptable prior police work experience shall be one (1) year. The Police Chief may extend the probationary period in increments of up to a maximum of six months.

The Police Chief may extend the probationary period in cases of paid medical or workers' compensation leave up to the remaining period left towards completing the original probationary period

An employee who is in a probationary status may be rejected without cause.

17.3 Promotional Probation

The probationary period for promoted employees shall be six (6) months.

An employee, who has gained regular status and, thereafter, accepts a promotion, may be rejected during the probationary period without cause. Said employee shall retain all other rights of a regular employee in the classification held prior to promotion. Those rights can only be affected for cause.

The Police Chief may extend the probationary period in three-month increments, not to exceed one (1) year, if he/she feels additional time is necessary to adequately evaluate the employee.

17.4 Probationary Reports

A performance report of each probationary employee shall be completed. The Police Chief will conduct the report at regular intervals during the probationary period according to rules established by the City Manager.

Section 18. Miscellaneous Personnel Actions

18.1 Vacancies in the Classified Service

All vacancies in higher positions in the classified service shall be filled by promotion from within if the following conditions are met:

- a) The City Manager determines that the best interests of the City will be served by promoting from within.
- b) The person to be promoted meets the minimum qualifications of the promotional position.
- c) Any promotional examination shall comply with the City, state and federal rules and regulations governing competitive examinations.

18.2 Vacancies in City Service

All vacancies in the City's service shall be filled by restoration, promotion, transfer, demotion, reinstatement, or by appointment from an employment list. When employment lists are used to fill vacancies, they shall be used in the following order:

- a) By appointment of eligible candidates from re-employment lists;
- b) By appointment of eligible candidates from promotional lists;
- c) By appointment of eligible candidates from an open eligibility list;

Provided, however, when the City Manager deems it necessary, individuals on a lateral entry employment list may be considered for appointment.

The number of eligible candidates on a promotional list shall exceed by two (2) the number of vacancies to be filled. If there are insufficient available eligible candidates on a promotional list, enough available eligible candidates shall be certified simultaneously from the promotional and eligible list to assure that the number eligible exceeds by two (2) the number of vacancies to be filled.

Promotional examinations scheduled by the City during an employee's regular working hours may be taken without loss of compensation.

18.3 Transfer

An employee may be transferred from one position to another position in the same or comparable classification upon approval of the Police Chief.

18.4 Demotion

The City Manager may demote an employee who so requests it, or whose ability to perform his/her required duties falls below standard, or for disciplinary purposes. No employee shall be demoted to a class for which he/she does not possess the minimum qualifications.

18.5 Suspension

The Police Chief may suspend an employee, without pay, from his/her position in accordance with disciplinary procedures indicated in Section 21.6. Suspension without pay shall not exceed thirty (30) calendar days. However, notwithstanding this 30-day limit, suspensions of more than 30 days may be imposed as part of an agreement between the City and the employee and/or employee's representative. Such agreement shall not be precedent setting on either party.

Section 19. Layoff and Recall

Permanent employees may be laid off, without prejudice, due to lack of funds or curtailment of work. No permanent employee, however, may be separated while there are temporary employees serving in the same or allied class or position in the City service, unless that employee has been offered the temporary work.

When the Police Chief is instructed by the City Manager to reduce the number of employees, layoff shall be made in accordance with the following rules below, (a) through (e) inclusive:

- (a) Layoffs shall be by classification seniority within the Tracy POA. For example, in the event a Sergeant position is eliminated, the most junior Sergeant would bump back to the previous classification that he/she held permanently, unless a vacancy exists in the next lower classification, in which case the Sergeant shall bump to Corporal.
- (b) The employee to be laid off may displace the least senior employee in the lateral or next lower classification in which he/she previously held permanent status, provided the displaced employee has less seniority in the classification.
- (c) An employee may demote or transfer to a vacant position in a classification for which he/she possesses the necessary skills, as determined by the minimum qualifications and job specifications for the position.

- (d) The name of each laid off employee shall be entered, in order of seniority, on a Re-employment list for two (2) years.
- (e) A former employee appointed from a Re-employment list shall have restored all rights accrued prior to being laid off, such as sick leave, vacation credits, and credit for years of service. However, such recalled employee shall not be eligible for benefits for which he/she received compensation at the time of, or subsequent to the date he/she was laid off.

Section 20. Separation from Service

20.1 Resignation

An employee wishing to resign from employment shall file, with the Police Chief, a notice of intention to leave at least two (2) weeks in advance.

20.2 Reinstatement

An employee, in good standing, who has resigned may request a reinstatement and the City Manager may reinstate such employee to a vacant position, if the City Manager determines reinstatement will be in the best interest of the City.

Following a one (1) year period after resignation, the City Manager may request such employee to submit to a physical examination and may require the employee to serve a new probationary period.

20.3 Termination Interview

Employees terminating City employment, for whatever reason, shall be interviewed by their immediate supervisor who shall advise the employee of both his/her and the City's rights, under the terms of resignation, and shall ascertain the reasons for termination of employment.

20.4 Discharge

An employee may be discharged at any time by the Police Chief and/or City Manager for cause. Whenever it is the intention of the Police Chief to discharge an employee in the competitive service, the City Manager shall be notified and his/her prior approval obtained.

Section 21. Employee Conduct and Discipline

21.1 Personal Conduct

Employees are required at all times to conduct themselves in such a manner as to reflect no discredit upon the City of Tracy.

21.2 Financial Affairs

Employees shall so arrange their personal financial affairs that creditors and collection agencies will not have to make use of the Offices of the City Manager or the Police Chief, for the purpose of making collections.

21.3 Outside Employment

Employees may not carry on, concurrently with their public service, any private business, public office, employment or undertaking, attention to which affects the time or quality of their work, or which creates a conflict of interest with their City employment. Employees must annually obtain the approval of the Police Chief for any outside employment.

21.4 Private Use of City Equipment

No City facility or equipment shall be put to any private use without the permission of the City Manager.

21.5 Disciplinary Action

This section shall apply to the following disciplinary actions:

- Oral Reprimand
- Written Reprimand
- Suspension
- Demotion
- Temporary Reduction in Pay
- Discharge

21.6 Causes for Disciplinary Action

Disciplinary actions may be imposed upon any permanent employee for cause. The following shall constitute cause for disciplinary action against an employee:

- (a) Fraud in securing employment
- (b) Incompetence
- (c) Inefficiency
- (d) Inexcusable neglect of duty
- (e) Insubordination
- (f) Dishonesty
- (g) Being under the influence of alcohol or controlled substance while on duty
- (h) Inexcusable absence without leave

- (i) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea, or verdict of guilty, or conviction following a plea of nolo contendere, to a charge of a felony, or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section
- (j) Discourteous treatment of the public or other employees
- (k) Misuse of City property
- (l) Violation of any established City or departmental rule, regulation, policy, and/or manual
- (m) Unlawful discrimination or retaliation, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical disability, marital status, sex, sexual orientation or age, against the public or other employees while acting in the capacity of a City employee.

21.7 Manner of Reprimand

If the City has reason to reprimand an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

21.8 Alternative Days

An employee being suspended may use up to fifteen (15) days' vacation or compensatory time in lieu of leave without pay upon the recommendation of the Police Chief and approval of the City Manager.

21.9 Personnel/Internal Affairs Files

An employee and/or his/her representative, if authorized in writing, shall be permitted to examine the entire contents of his/her personnel file during regular business hours of the Administrative Offices of the City or Police Department.

No material, which relates to the employee's conduct, attitude, work performance, or service, shall be included in his/her personnel file without being signed and dated by the author of such material. Before such material is placed in the employee's file, the department head, or designee, shall provide the employee the opportunity to review the material and sign and date it. The employee shall have the right to insert in his/her personnel file, supplementary material and a written response within thirty (30) days of the employer inserting an item in the file. Such response shall remain attached to the material it supplements for as long as the material remains in the file.

The above provisions shall not apply to files involving a criminal investigation of any employee, which requires confidentiality. However, no portion of any file material deemed to be confidential, shall be used in any disciplinary action until the affected employee has been afforded the opportunity to review such confidential material and respond in writing in accordance with the above provisions.

Citizen complaints, reports and findings which are at least five years old shall be purged except where there is litigation pending involving the complaint, pursuant to Sections 832.5, 832.7 and 832.8 of the California Penal Code.

Section 22. Grievance Procedure

22.1 Definition

A grievance is any dispute, which involves the interpretation or application of any provision of this Agreement excluding, however, those provisions of this Agreement, which specifically provide that the decision of any City official shall be final, the interpretation or application of those provisions not being subject to the grievance procedure.

22.2 Procedure

Grievances shall be processed in the following manner:

Police Officers

- (1) Any employee who believes that he/she has a grievance may discuss his/her complaint with such departmental management official as the department director may designate. Grievances shall be presented within thirty (30) calendar days of the incident or knowledge of the incident, which gave rise to the grievance. If the issue is not resolved within the department, or if the employee elects to submit his/her grievance directly to the Association, the procedures hereinafter specified may be invoked.
- (2) Any grievance, not been resolved by the procedure above, may be referred to the City Manager by the complainant or by the Police Chief. Such referral shall be in writing, detailing the specific issues involved in the referral, together with a statement of the resolution desired. The City Manager shall designate a personal representative, who is not the Police Chief, to investigate the merits of the complaint, to meet with the complainant and, if the complainant is not in the Association, to meet also with the officials of the Association, and to settle the grievance, or to make recommendations to the City Manager. The decision of the City Manager regarding appeals of oral reprimands shall be final and not subject to appeal to Step (3).
- (3) If the parties are unable to reach a mutually satisfactory accord on any grievance other than grievances concerning an oral reprimand, either the Association or the City may require that the grievance be referred to an impartial arbitrator.

The parties may mutually agree upon the selection of the arbitrator or jointly request the State of California Conciliation Service to provide a list of seven (7) persons qualified to act as arbitrators. The parties shall then meet to select the arbitrator. The right to strike the first name shall be determined by lot and the

parties shall alternately strike one name from the list until only one (1) name remains, and that person shall be the arbitrator.

The fees and expenses of an arbitrator, and of a Court reporter, shall be equally shared by the Association and the City. Each party, however, shall bear the cost of its own presentation, including preparation and post hearing briefs, if any.

- (4) The decision of an arbitrator on matters properly before them shall be final and binding on the parties hereto, to the extent permitted by the laws governing General Law Cities in the State of California.

No arbitrator shall entertain, hear, decide or make recommendations on any dispute, unless such dispute involves a position in a unit represented by the Association and unless such dispute falls within the definition of a grievance as set forth in Section 22.

Sergeants

Grievances shall be processed in accordance with the City's Personnel Rules.

22.3 No Change to Memorandum

Proposals to add to or change this Agreement, or written agreements or addenda supplementary hereto shall not be subject to arbitration. No proposals to modify, amend, or terminate this Agreement, nor any matter or subject arising out of or in connection with such proposal, may be referred to under this Section. No arbitrator shall have the power to amend or modify this Agreement, or written agreements, or addenda supplementary hereto, or to establish any new terms or conditions of employment.

22.4 Demotion, Suspension and Dismissal Grievances

No grievance involving demotion, suspension, or dismissal of an employee will be entertained unless it is filed in writing with the City Manager within ten (10) calendar days of the time at which the affected employee was notified of such action.

When the City Manager and Association, in pursuit of Section 22.2 (2) above, settles a grievance, which involves suspension or discharge, they may agree to payment for lost time or to reinstatement with or without payment for lost time. In the event the dispute is referred to arbitration, and the employee is found to have been properly discharged, under the provisions of Section 21.6, the employee may not be ordered reinstated and no penalty may be assessed upon the City.

22.5 Compensation Complaints

All complaints involving or concerning the payment of compensation shall be initially filed in writing with the City Manager. Only complaints, which allege that an employee

is not being compensated in accordance with the provisions of this Agreement, shall be considered as grievances. Any other matters of compensation are to be resolved in the meet and confer process and, if not detailed in the Agreement which results from such meet and confer process, shall be deemed withdrawn until the meet and confer process is next opened for such discussion. No adjustment shall be retroactive for more than sixty (60) days from the date upon which the complaint was filed.

22.6 Mutual Agreement on Changes

No changes in the Agreement or interpretations thereof (except—interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the City Manager and the Association President.

22.7 No Strike

The Association, its members and representatives agree that during the term of this Agreement, it and they will not engage in, authorize, sanction, or support any strike, slow down, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties; and neither the Association nor any representatives thereof shall engage in job actions for the purpose of effecting changes in the directives, or decisions, or management of the City, nor to effect a change of personnel, or operations of management, or of employees not covered by this Agreement.

Section 23. City Rights

- (a) The City of Tracy retains the exclusive right, among others, in accordance with and subject to applicable laws, civil service and other regulations, and the provisions of this Agreement, including, but not limited to the following:
 - (1) To direct employees.
 - (2) To hire, promote, transfer and assign employees in positions not inconsistent with applicable classifications and/or job specifications.
 - (3) To dismiss employees because of lack of work or for other just cause.
 - (4) To reprimand, demote, suspend, discharge or otherwise to discipline employees for proper cause or for violation of the City's Rules and Regulations.
 - (5) To determine the mission of such employees, the budget, the organization, the number of employees and the methods and technology of performing their work.

- (6) To take whatever additional action may be necessary in order to carry out and direct the employees' mission in situations of emergency.
- (7) To review, revise and/or establish job duties, workloads and workload standards as necessary during the term of this Memorandum.
- (8) The City agrees, to the extent required by Government Code Sections 3500, et. seq., to meet and confer, upon request, with unit representatives concerning the practical consequences or impact upon the bargaining unit or bargaining unit members of any management decisions modifying or changing wages, hours and working conditions; provided that the City's duty to meet and confer hereunder shall require it to delay implementation of such management decisions for no more than thirty (30) days from the date it notifies, in writing, the Association of its proposed action (measured from date of mailing by certified mail). Nothing above shall allow the City to violate any provision of this Agreement, and Association shall have the right to grieve any such violation as provided in Section 22.

Section 24. General Provisions

24.1 Safety

The City shall provide and maintain safe working conditions, and the Association will cooperate to that end. Employees shall work in a safe manner.

No employee shall be required to work in an area where conditions exist that are unsafe or detrimental to health without adequate and proper protective clothing and/or equipment.

The City shall continue to supply employees with all safety equipment required by the City and/or Cal OSHA. Such equipment shall include but is not limited to firearms, holsters, leather goods, radios, flashlights, and soft body armor. All employees furnished such equipment shall use the equipment and their use shall only be for the purposes and uses specified under applicable safety rules and regulations.

24.2 Modified Duty Assignments

The City will endeavor to provide modified duty assignments, in a nondiscriminatory, manner to employees injured on the job; provided, however, that employee's injured on-duty shall be given preference, for available modified duty assignments, before employees injured off the job. Such assignments shall be based upon the needs of the department and shall be within the medical limits set by the employee's treating physician.

The City will endeavor, where possible, to place an injured employee on modified duty assignments comparable to his/her regular duty assignments, preferably within his/her regular division.

24.3 Definition of Seniority

For purposes of this Agreement, seniority shall be defined as:

- a. Classification Seniority - Seniority accruing from continuous service from date of appointment to classification.
- b. Department Seniority - Seniority accruing from continuous service within the Department from date of appointment.
- c. City Seniority - Seniority accruing from continuous service within the City.
- d. Seniority shall not be affected by authorized paid leave of absence.

24.4 Americans with Disabilities Act (ADA)

The City and the Association recognize that the City has an obligation under law to meet with an individual employee who alleges a need for reasonable accommodation in the workplace because of a disability. If by reason of the aforesaid requirement, the City finds it necessary to comply with the ADA by setting aside any provision of this Agreement in order to provide reasonable accommodation to an individual employee, such action by the City shall not be subject to the grievance procedure set forth in Section 22 of this Agreement. The Association will be advised of proposed accommodations, prior to implementation by the City.

Any accommodation provided to an individual employee pursuant to the provisions of this Section shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the arbitration of a grievance filed by either party.

Section 25. Modification

There will be no alteration or modification of any provision contained in this Memorandum without its written consent of all parties hereto.

Section 26. Total Agreement

This Agreement constitutes a full and complete agreement by the parties and contains all of the matters upon which the parties reached agreement. Any matter not contained in this Agreement has not been agreed upon and, if raised in negotiations, was dropped by the party raising it as part of a good faith attempt to reach agreement.

Section 27. Separability of Provisions

Should any section, clause or provision of this Agreement be declared illegal by final judgment of a court of competent jurisdiction, invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining

portions shall remain in full force and effect for the duration of this Agreement. In the event of such invalidation, the parties agree to meet and confer concerning substitute provisions for provisions rendered or declared illegal.

Section 28. Event of Conflict

This Agreement shall supersede any prior Agreement, rules or regulations in direct conflict with the provisions hereof.

APPROVED AND ACCEPTED:

**TRACY POLICE OFFICERS
ASSOCIATION (TPOA)**

By _____
David Topaz, TPOA
Labor Consultant, Mastagni Law

By _____
Craig Kootstra, TPOA

By _____
Octavio Lopez, TPOA

By _____
Steve Bailey, TPOA

By _____
Ryan Knight, TPOA

Dated _____

CITY OF TRACY ("CITY")

By _____
R. Leon Churchill, Jr., City Manager

By _____
Maria Hurtado, Assistant City Manager

By _____
Dania Torres-Wong,
Renne Sloan Holtzman & Sakai

Dated _____

EXHIBIT A

Tracy Police Officers' Association Salary Schedule:

**TPOA
SALARY SCHEDULES**

Effective Aug. 22, 2012

Class Code	Position Title...		Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
60102	Police Officer	A	2,758.20	5,516.40	66,196.80	31.8254
		B	2,896.11	5,792.22	69,506.64	33.4167
		C	3,040.92	6,081.84	72,982.08	35.0875
		D	3,192.97	6,385.94	76,631.28	36.8420
		E	3,352.62	6,705.24	80,462.88	38.6841
60105	Police Sergeant	A	3,323.81	6,647.62	79,771.44	38.3517
		B	3,490.00	6,980.00	83,760.00	40.2692
		C	3,664.50	7,329.00	87,948.00	42.2827
		D	3,847.73	7,695.46	92,345.52	44.3969
		E	4,040.12	8,080.24	96,962.88	46.6168
61101	Police Trainee (NON-SWORN)	A	2,398.36	4,796.72	57,560.64	27.6734

EXHIBIT B

Patrol Officer Shift Selection

- At least 60 days prior to January shift change of each calendar year, officers shall select shifts, by seniority, for the next full calendar year.
- The Department reserves positions on each shift for:
 - Field Training Officers*
 - Canine Officers
 - Probationary Employees (limited to one slot per shift)
- Officers are provided with a minimum of 72 hour advanced notice of their scheduled shift selection time, which is a period of 15 minutes. Officers who cannot be present for their selection time may phone in their selection to the on-duty watch commander or supervisor, or submit a written selection in advance. In the event an officer fails to make a selection during his or her designated time, the officer is relegated to those shifts available when the officer reports to select his/her shift.
- During January, following shift selection, each officer is requested to schedule a minimum of 80 hours of vacation for the calendar year. Vacation selection shall be made in seniority order during shift selection. Vacation requested after annual leave selection shall be approved on a case-by-case basis.
- Officers returning to patrol from special assignments are assigned to existing shift vacancies, until they are able to participate in the next shift selection process.

Department agrees to continue the practice of anticipating special assignment rotations and to allow officers near the end of the special assignment rotation to participate in the annual shift selection process. In addition, the Department agrees to continue practice of allowing officers within the last three months of probation to participate in the annual shift selection process.

- Probationary officers are exempt from shift selection. The Department shall assign probationary officers to shifts and rotate as deemed appropriate by the Department.
- Vacancies that occur during the year following shift selection shall be filled/assigned by the Department until the next shift selection process.
- The Department reserves the right to propose modifications to the shift selection system during the term of the Agreement. The Department agrees to meet and confer with the Association prior to implementing any changes.

* Field Training Officer shall be eliminated effective December 31, 2012.

EXHIBIT C

Patrol Sergeant Shift Selection *Effective January 1, 2013 this side letter shall be applicable to the new Corporal classification to be established on January 1, 2013

(Amended)

July 2006

- The shift schedule for the calendar year will consist of two, six month periods with shift changes in early January and July.
- Sergeants are provided with a minimum of 72 hours advanced notice of their scheduled shift selection time, which will be a period of 15 minutes. Sergeants who cannot be present for their selection time may phone in their selection to the on-duty watch commander or supervisor, or submit a written selection in advance. In the event a sergeant fails to make a selection during his or her designated time, the sergeant will be relegated to the end of the seniority list.
- During January following shift selection, each sergeant is required to schedule a minimum of 80 hours of vacation for the calendar year. Vacation selection shall be made in seniority order during shift selection. Vacation requested after annual leave selections shall be approved on a case by case basis.
- Sergeants returning to patrol from special assignments are assigned to existing shift vacancies until they are able to participate in the next shift selection process. Department agrees to continue the practice of anticipating special assignment rotations and to allow sergeants near the end of the special assignment rotation to participate in the annual shift selection process. In addition, the Department agrees to continue practice of allowing sergeants within the last three months of probation to participate in the annual shift selection process.
- Vacancies that occur during the year following shift selection shall be filled/assigned by the Department until the next shift selection process.
- In addition, the Department reserves the right to propose modifications to the shift selection system during the term of the Agreement. The Department agrees to meet and confer with the Association prior to implementing any changes.
- Reducing this shift selection process to writing does not constitute a waiver of rights on the part of the City as enumerated in Section 23 of the MOU.

EXHIBIT D
Effective January 1, 2013

POLICE CORPORAL

Class Title: Police Corporal	Class Code: 60XXX
Department: Police	Bargaining Unit: Tracy Police Officers Association
EEO Code:	Effective Date: January 1, 2013
FLSA Status: Non-Exempt	

DESCRIPTION

Under the general supervision of a Police Lieutenant or Police Sergeant performs a wide variety of lead patrol and related duties involving the prevention of crime, the protection of life and property and the enforcement of laws and ordinances; makes investigations, assists in the preparation of cases and testifies in court; serves in specialized departmental roles as assigned; provide information and assistance to the public; performs related work as assigned.

DISTINGUISHING CHARACTERISTICS

The functions of a Police Corporal are similar to that of a Police Officer with additional duties to act as an assistant supervisor and to act as a Patrol, Traffic or Investigations Supervisor in the absence of a Sergeant. While incumbents are normally assigned to a specific geographic area for patrol or traffic enforcement, all functional areas of the law enforcement field, including investigations, community preservation, administration, and training are included. Positions in the class are occupied by sworn police officers. Officers may be armed and may be assigned to work in uniform or plain clothes. Shift schedules and job assignments may be changed periodically to assure the maximum delivery of effective police service. Incumbents are expected to display a significant degree of initiative, independent judgment, and discretion. This class is distinguished from Police Sergeant in that the latter is the first supervisory level in this sworn class series.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from a Police Lieutenant, Police Sergeant, or other management staff, depending on assignment.

May act as an assistant supervisor to Patrol, Traffic, Investigations or other functional areas of the law enforcement field in the absence of a Sergeant or higher-ranking police personnel.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

Assumes the role of supervisor in the absence of a Sergeant or higher-ranking police personnel.

Patrols the City within an assigned area in a radio dispatched automobile to secure life and property, observe situations, report suspicious or criminal activity, hazardous conditions and deter crime by providing high visibility.

Responds to emergency calls for service, disturbances, thefts, burglaries, vehicle accidents, domestic disputes, suspicious activities and other incidents to protect public safety and property, resolve problems, diffuse situations and enforce laws and ordinances.

Assists in developing community crime prevention programs; speaks and educates local businesses, school, civic, and social groups.

Observes, monitors and controls routine and unusual traffic situations; stops and warns drivers or issues citations as appropriate; provides direction and traffic control in accident or incident situations, special events or other congested situations.

Makes arrests and serves warrants and subpoenas; takes individuals into custody and may transport them for medical clearance and/or booking at a longer-term facility, as required.

Secures crime scenes and evidence; interviews suspects, victims and witnesses; collects and preserves evidence; performs complete investigations and/or cooperates with other law enforcement agencies providing investigative and case development support.

Provides oversight on juveniles and delinquents and works on cases involving unfit homes and crimes committed against or by juveniles.

Assists the City Attorney or the District Attorney staff in preparing, documenting, and developing cases and gathering information; testifies in court as required.

Directs the activities of police support personnel and/or volunteers in office and field situations.

Provides mutual aid to the law enforcement agencies as dispatched and in accordance with departmental policy.

Prepares reports; prepares and maintains logs, records, and accurate files.

Serves writs, warrants, subpoenas and other legal documents.

May be assigned to assist in conducting special studies of crime prevention, traffic control, or other Police Services issues.

Performs other duties of a similar nature or level.

MINIMUM QUALIFICATIONS

Demonstrated knowledge of:

Law enforcement principles, practices and techniques related to patrol, traffic enforcement, crime scene control and investigations, protection of life and property, pursuit, apprehension, and transportation of suspects.

Investigations and identification techniques and equipment.
Rules of evidence regarding search and seizure and the preservation of evidence.

Courtroom procedures and techniques for testifying.

Applicable laws, codes, ordinances, court decisions, and departmental rules and regulations.

Safety practices and equipment related to the work, including the safe use and proper care of firearms, chemical agencies, and impact weapons.

Techniques of first aid and CPR.

Effective communication techniques to deal with and solve the problems presented, dealing with and solving the problems presented by a variety of individuals from various socio-economic, cultural, and ethnic backgrounds, in person and over the telephone, often when relations may be confrontational or stressed.

Basic English grammar, composition, spelling, punctuation and report writing techniques.

Standard office practices and procedures, including the use of standard office equipment, record keeping, business mathematics, and basic computer applications related to the work.

Ability to:

Make sound, independent decisions in emergency situations.

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

Develop and maintain effective working relationships with the community, including specific targeted groups, such as the elderly or school-age youth.

Provide information, direction and assistance to the public in a variety of situations; take reports and assist the public with complaints or unusual situations.

Demonstrated Skills to:

Observe accurately, recall faces, names, descriptive characteristics, facts of incidents and places.

Interpret, apply and explain complex laws, codes, regulations, and ordinances.

Prepare clear, accurate and grammatically correct reports, records, and other written materials.

Identify and be responsive to community issues, concerns, and needs.

Operate the equipment of the department in a safe and responsible manner.

Coordinate and carry out special assignments.

Operate a motor vehicle in a safe manner under patrol and emergency conditions.

Monitor changes in laws and court decisions and apply them in work situations.

Enter information into a computer with sufficient speed and accuracy to perform the work.

EXPERIENCE, EDUCATION AND TRAINING

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

Experience:

Three years of increasingly responsible Law Enforcement experience including a minimum of one year with Tracy Police Department.

Education:

Equivalent to a High School degree and/or an equivalent combination of education and experience sufficient to successfully perform the essential duties of the job is required.

Completion of college level coursework is desirable.

Training:

Any recent training related to law enforcement courses or certification programs relevant to the job classification.

Other Requirements:

Must be at least 21 years of age at the time of employment and have no state or federal convictions for a crime punishable by imprisonment in a federal penitentiary or state prison.

LICENSES AND CERTIFICATIONS:

Possession of a valid California Class C Driver's License and a satisfactory driving record as determined by the City is required.

Must possess a valid Intermediate certificate issued by the California State Commission on Peace Officer Standards and Training (P.O.S.T.).

TOOLS AND EQUIPMENT USED

Police car, police radio, radar gun, handgun and other weapons as required, chemical spray, baton, handcuffs, breathalyzer, Taser, cell phone, first aid equipment, and computer equipment.

PHYSICAL DEMANDS

Must maintain P.O.S.T. physical standards, including mobility and physical strength and stamina to respond to emergency situations and apprehend suspects, lift and push or pull individuals or objects weighing up to 100 pounds; ability to work in a standard office setting and to operate a motor vehicle; vision to maintain firearms qualification, to read printed materials and a computer screen, discern colors and work in a night setting; and hearing and speech to communicate in person, before groups and over the telephone and radio.

The physical demands described are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions,

While performing the duties of this job, the employee is required to see well enough to read fine print and video display's; hear well enough to converse on the telephone and in person over machinery noise; communicate frequently through the use of a telephone or in person on somewhat technical operational procedures.

Communicate through written means.

Specific vision abilities required by this job include close vision, color vision, and the ability to adjust focus.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee may encounter while performing the essential functions of this job. Reasonable

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

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

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

Must be willing to work over time, extended shifts, evening, night, weekend, and holiday shifts. May be called back in emergency situations and work with exposure to difficult circumstances, including exposure to dangerous situations, hazardous situations and all weather conditions. Must be able to pass a detailed background investigation. May travel to sites outside of the City.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related or logical assignment to the position. The job description does not constitute an employment agreement between the City of Tracy and employee and is subject to change by the City as the needs of the City and requirements of the job change.

EXHIBIT E

City of Tracy and Tracy Police Officers Association
Corporal - 10% above Police Officer (Top Step to Top Step)
August 22, 2012

			Semi- Monthly	Monthly	Annually	Hourly Rate
60105	Police Corporal	A	3,034.02	6,068.04	72,816.48	35.0079
		B	3,185.72	6,371.44	76,457.28	36.7583
		C	3,345.01	6,690.02	80,280.24	38.5963
		D	3,512.27	7,024.54	84,294.48	40.5262
		E	3,687.88	7,375.76	88,509.12	42.5525

Side Letter
Work Schedule Alternatives

Employees may be assigned to a variety of shift arrangements inclusive of:

- a. 4/10 Work Weeks
- b. 9/80 Work Weeks

1. 4/10 Work Schedule

Patrol:

The employees sign up in accordance with the Patrol Officer and Sergeant Shift Selection system for the following year. During each six-month period, after three months, employees rotate days off, giving employees three months of weekends and three months of weekdays off. Each team will remain intact during the six (6) month deployment schedule (except as may be affected by the sergeant rotation system). However, the Department reserves the right to move individual employees on a case-by-case basis, based on specific concerns of the Department, such as conflict among officers.

The Department reserves the right to propose modifications to the 4-10 work schedules during the term of the Agreement. The Department agrees to notify the Association at least six-months in advance of consideration of any change and to meet and confer with the Association prior to implementing any changes.

2. 9/80 Work Schedule – Two Week Schedule

Employees may also be assigned four (4) nine (9) hour days one week and one eight (8) hour day and four (4) nine (9) hour days in a set two week schedule with one day off in each ten (10) work day schedule.

The Department reserves the right to propose modifications to the 9-80 work schedules or to return to a five (5) day forty (40) hour work-week during the term of the Agreement. The Department agrees to meet and confer with the Association prior to implementing any changes.

3. Alternative Schedules –

The Department agrees to meet with the TPOA to consider changes to the existing schedules or alternative schedules for some or all assignments within thirty (30) days of receipt of a written notice to meet.

APPROVED AND ACCEPTED

Dated: _____

TRACY POLICE OFFICERS ASSOCIATION

CITY OF TRACY

By _____
Marc Bergman, TPOA President

By _____
Maria Olvera, Director of H.R.

Side Letter

~~Master Patrol Officer~~ - Shall be eliminated on December 31, 2012

~~Effective as soon as feasible after adoption of this Agreement, the City shall establish a Master Patrol Officer designation to promote retention of seasoned Patrol Officers with a broad base of Patrol experience.~~

~~Eligibility:~~

~~To be eligible for consideration as Master Patrol Officer, said officer must have at least five (5) years of Patrol experience with the City of Tracy Police Department plus an additional two years of special assignment experience at Tracy (as listed below), or have at least 7 years of combined Patrol and Special Assignment experience with another law enforcement agency and have at least two years Patrol experience with Tracy (one year with the Tracy Police Department may be waived with approval of the Chief and City Manager). Additionally, employees with ten years of Patrol experience shall have the special assignment requirement waived.~~

~~In addition and in order to advance to the next pay step, the officer must:~~

- ~~_____ a. Meet all job standards and expectations; and~~
- ~~_____ b. Either hold a POST Advanced Training Certificate or work toward the acquisition of the certificate. Master Patrol Officers shall complete the Advanced POST certificate no later than the 12th year of service.~~

~~Pay:~~

~~Officer eligible for Master Patrol Officer designation will receive a 5% pay differential after one year (provided the employee meets all other criteria) at the top salary step of Police Officer and will be eligible to receive an additional 2.5% pay differential for each additional 2 years of Patrol experience in the City, up to a total of 15% pay differential above the top salary step of Police Officer rank.~~

~~Placement on Steps:~~

~~Current officers who qualify for Master Patrol Officer shall be eligible to be placed on the appropriate step (based on years of Patrol or combined experience as outlined above and satisfactory job performance) effective the first pay period after creation of the new designation. The eligible employee's last two performance evaluations (or a period of one year) must not indicate "improvement needed" in any category and the employee shall meet all job standards and expectations. Any Officer who is eligible to move to the next step in the Master Patrol Officer pay range and does not meet performance standards, shall not have his/her pay increased until such time as the Officer does meet all job standards and expectations for minimum of one(1) year.~~

~~FTO Assignments:~~

~~A MPO who is also a Field Training Officer shall continue to receive five percent (5%) FTO differential above his/her current base salary, but in no event shall the employee be paid more than the top step of the MPO salary range.~~

~~Scheduling:~~

~~Employees in the Master Patrol Officer designation shall be assigned to work all shifts and shall select shifts as a separate classification in accordance with the shift selection policy and practice. The Department shall meet with the TPOA in October of each year to discuss the shift selection process and the slots assigned to MPO for the following January shift selection.~~

~~Special Assignment Requirement:~~

~~Special Assignments that meet the two year requirement shall include Investigations, Field Training Officers, Narcotics/Street Crimes, Motor/Traffic and Professional Standards Officer.~~

~~Review of Master Patrol Officer Implementation:~~

~~The parties will meet in the spring of 2009 to review implementation of the MPO designation and its impact on recruitment and retention, employee assignments and services provided. The City may propose changes to this Side Letter at such time and will consider suggestions from TPOA. The City agrees to meet and confer on the impact of such proposed changes prior to any changes in this Side Letter.~~

~~Master Sergeant:~~

~~At the same time that the Master Patrol Officer designation is established, Sergeants assigned to Patrol and who meet all the qualifications of a Master Patrol Officer (inclusive of performance standards) shall receive an additional 2.5% after one year at the top step of Sergeant and another 2.5% after three years at the top step of Sergeant. Master Sergeants may be assigned to shifts to provide for a balance of experienced Master Sergeants. Master Patrol Sergeants may have their shift rotated at the discretion of the Department based on operational needs.~~

- ~~• City will add chart in final document to show step placement based on Patrol/Special Assignment experience or for employee who took a lateral appointment with the City.~~
- ~~• Department will add new provision to Department Performance Evaluation System: Employee who receives an "Improvement Needed" on a performance evaluation may request a review and meeting through the chain of command up to Chief.~~

~~APPROVED AND ACCEPTED _____ Dated: _____~~

~~TRACY POLICE OFFICERS _____ CITY OF TRACY
ASSOCIATION~~

~~By _____ By _____~~

~~Marc Bergman, TPOA President _____ Maria Olvera, Director of H.R.~~

RESOLUTION _____

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

WHEREAS, The Memorandum of Understanding (MOU) between the City of Tracy and the Tracy Police Officers Association (TPOA) expired on June 30, 2012, and

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

WHEREAS, Agreement has been reached on a new MOU covering the period of August 22, 2012 through June 30, 2015, and

WHEREAS, The Tracy Police Officers Association (TPOA) Memorandum of Understanding directly supports one of the four Council Strategic Priorities: the Organizational Efficiency Strategic Priority, Goal 1: Advance City Council's fiscal policies, Objective 1a: To change the City's organizational and fiscal structure by completing labor negotiations, and

WHEREAS, The Tracy Police Officers Association (TPOA) Memorandum of Understanding contains three key elements that contribute to one of the City's eight point fiscal strategies to address the structural budget deficit, which include (1) Shift from City to Employee Payment of the Employee Share of CalPERS Retirement Benefit, (2) Continuation of second tier CalPERS retirement formula, and (3) No Cost of Living Adjustments (COLAs), and

WHEREAS, The total savings during this three-year term by having each of the 76 employees in this unit contribute to CalPERS is \$1,820,584, an average of \$23,955 per employee. The total cost of flexible leave hours provided back to employees is \$1,015,792; an average of \$13,366 per employee. The net savings after distribution of flexible leave hours is \$804,792 at the end of the three year contract term. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution of the CalPERS benefit, an ongoing annual savings of \$3.4 million can be realized each subsequent year, and

WHEREAS, The Master Patrol Officer (MPO) program will be replaced with a Corporal Rank program effective January 1, 2013, once the job specification is completed and approved by Council, and

WHEREAS, The maximum allowable accrual of compensatory time will increase from 120 to 140 hours for Detective assignments, as determined by the Police Chief;

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

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 21st day of August, 2012 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4.A.(ii)

REQUEST

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

EXECUTIVE SUMMARY

The Memorandum of Understanding between the City of Tracy and the Tracy Police Managers Association expired on June 30, 2012. Representatives from the City and the Tracy Police Managers Association (TPMA) met and conferred in good faith and negotiated a new Memorandum of Understanding. The attached agreement covers a period of 35 months (three years), effective on August 22, 2012, and expires June 30, 2015.

DISCUSSION

The budgeted message presented to Council on June 5, 2012, described the City's implementation of an eight-point fiscal strategy over four years in an effort to equal or exceed the revenue coming from Measure E prior to its sunset period on March 31, 2016. This eight-point plan includes: (1) Implementation of technological efficiencies, (2) Improved Economy, (3) Elimination or reduction in non-essential services or duplicated services, (4) Reprioritization of existing expenditures, (5) Continued change to the City's organizational structure, (6) Contracting of services or service redesign, (7) Reduction of number of City departments, and (8) new labor contracts and Compensation and Benefit Plans. Thus far, the City has realized approximately \$3 million in savings and generated \$1 million in increased revenue due to an improved economy by implementing four of the eight points delineated above in the eight-point plan.

This Tracy Police Managers Association (TPMA) Memorandum of Understanding relates and contributes to one of the City's eight-point fiscal strategies: New Labor Agreements and Compensation and Benefit Plans. It is anticipated that the City will save \$76,569 during the term of this contract and will realize an ongoing annual savings of \$3.4 million after the three-year term if employees of all labor groups pay the full employee contribution for the CalPERS benefit.

There are three key elements in the Tracy Police Managers Association (TPMA) Memorandum of Understanding that contribute to the overall target as described above. These include the following:

1. Shift from City to employee payment of the employee share of the CalPERS retirement benefit:

To date, the City of Tracy has paid the full cost of the employee share of the California Public Employees Retirement System (CalPERS) benefit. The City's

goal is to phase in employees' paying the full share of the employee share of the CalPERS benefit, which was previously paid by the City on behalf of the employee, as an additional employee benefit. This Tracy Police Managers Association (TPMA) Memorandum of Understanding shifts the share of the payment from the City to the employee increasingly each year over the three-year term of the agreement. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for CalPERS benefit, an ongoing annual savings of \$3.4 million dollars can be realized each subsequent year.¹

A one-time allocation of flexible leave hours is offered to employees during the three-year term in exchange for the increased share of employee's contribution for the CalPERS retirement benefit.

The total savings during this three-year term by having each of the five (5) employees in this unit contribute to CalPERS is \$176,673; an average of \$35,335 per employee. The total cost of flexible leave hours provided back to employees in this unit during this three-year term is \$100,104; an average of \$20,021 per employee. The net savings after distribution of flexible leave hours is \$76,569 at the end of the contract term.

2. Continuation of second tier CalPERS retirement formula:

The City adopted a second tier retirement formula, 3% @ 55, and single highest year, which applies to employees hired on or after July 2, 2010. This 2nd tier will continue with this agreement. This 2nd tier retirement formula assists with long-term (i.e., 10 years or more) efforts to reduce benefit costs.

3. No Cost of Living Adjustments (COLAs):

No Cost of Living Adjustments are offered to employees during the term of this agreement.

In addition to the three key elements described above, an additional provision of the Tracy Police Managers Association (TPMA) Memorandum of Understanding that should be of note; the increase in the employee contribution to future health care premium increases.

Increase in employee contribution to future health care premium increases:

Each January, adjustments to health care premiums are made, depending on the costs. Health care costs continue to rise year after year. Effective January 2013, the employee contribution of any future premium is 75% and the City's share is 25% of the total premium increases.

¹ All things considered, the anticipated \$3 million savings assumes no changes to agreement terms during the next round of negotiations.

STRATEGIC PLAN

This Tracy Police Managers Association (TPMA) Memorandum of Understanding directly supports the Organizational Efficiency Strategic Priority whose purpose is to strengthen and stabilize our organizational foundation in the key areas of City Council's fiscal policies, customer value, processes and systems, and workforce viability. Specifically, this agenda item relates to:

Goal 1: Advance City Council's fiscal policies

Objective 1a: To change the City's organizational and fiscal structure by completing labor negotiations.

FISCAL IMPACT

There are no COLA increases in this agreement. The total savings during this three-year term by having each of the five (5) employees in this Unit contribute to CalPERS is \$176,673; an average of \$35,335 per employee. The total cost of flexible leave hours provided back to employees is \$100,104; an average of \$20,021 per employee. The net savings after distribution of flexible leave hours is \$76,569 at the end of the three-year contract term. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution of the CalPERS benefit, an ongoing annual savings of \$3.4 million can be realized each subsequent year.

RECOMMENDATION

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

Prepared by: Maria A. Hurtado, Assistant City Manager

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

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

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF TRACY

AND

**TRACY POLICE MANAGERS ASSOCIATION
(TPMA)**

August 22, 2012 Through June 30, 2015



Think Inside the Triangle™

Human Resources Department
333 Civic Center Plaza
Tracy, CA 95376
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TRACY POLICE MANAGERS ASSOCIATION (TPMA)
August 22, 2012 through June 30, 2015

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TRACY POLICE MANAGERS ASSOCIATION (TPMA)
August 22, 2012 through June 30, 2015

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**MEMORANDUM OF UNDERSTANDING
Between**

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

Effective August 22, 2012 through June 30, 2015

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

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

This Agreement shall be presented to the City Council as the joint recommendations of the undersigned for salary and employee benefit adjustments for the period commencing August 22, 2012 and ending June 30, 2015.

Section 1. Recognition

1.1 Association Recognition

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

Police Lieutenant
Police Captain

Section 2. Compensation and Benefits

2.1 Salary Plan

The salary plan for each of the classes identified in Section 1 above, shall be effective August 22, 2012. These salaries are contained in attached Exhibit A.

There shall be no Cost of Living Adjustments (COLAs) or equity increases for the employees covered under this Agreement.

2.2 Out-of-Class Pay

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

2.3 Bilingual Pay

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

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

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

Section 3. Leave

3.1 Personnel Rules

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

3.2 Holiday Pay

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

The holiday pay rate shall be calculated as follows:

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

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

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

3.3 Floating Holidays

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

3.4 Management Leave

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

3.5 Maximum Accrual of Leave

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

3.6 City Sell Back of Accumulated Leave

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

3.7 Sick Leave Accrual

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

- One (1) working day for each month of service during the first 20 years of employment.
- Two (2) working days for each month of service beginning the 21st year of employment and this/hereafter.
- Unlimited accrual of sick leave is allowed.

3.8 Retirement Conversion of Sick Leave

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

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

Section 4: Benefits

4.1 CalPERS Retirement

Employees hired by the City of Tracy on or before July 1, 2010 and covered by this agreement shall receive CalPERS 3% at 50 and single highest year formula. Employees hired by the City of Tracy on or after July 2, 2010 and covered by this agreement shall receive CalPERS 3% at 55 and single highest year formula. Employees who receive the CalPERS retirement formula of 3% at 50, or 3% at 55 shall share payment of the 9% of salary employee contribution towards employee statutory share of CalPERS retirement as follows:

Fiscal 2012-2013 – Effective the pay period including August 16, 2012, each employee shall pay 3% of salary and the City shall pay 6% of salary to fund the employee contribution for the CalPERS retirement benefit.

Fiscal 2013-2014 – Effective the pay period including July 1, 2013, each shall pay 6% of salary and the City shall pay 3% of salary to fund the employee contribution for the CalPERS retirement benefit.

Fiscal 2014-2015 – Effective the pay period including July 1, 2014, each employee shall pay 9% of salary to fund the employee contribution for the CalPERS benefit.

Employee payments of the employee share of the CalPERS retirement benefit cost shall be made as a payroll deduction on a pre-tax basis to the extent allowed by law.

EPMC

In addition, the City will provide the Employer Paid Member Contribution (EPMC) to be treated as special compensation for all classifications in the unit for the portion that the City pays towards employee share of CalPERS retirement. Effective the pay period including July 1, 2014, when the employee begins paying the full 9% of the employees share, the City will cease paying towards EPMC.

4.1.1 Flexible Leave Hours

The City shall credit each employee with a block of paid leave hours each fiscal year of this Agreement. These hours shall be labeled Flexible Leave. Each employee may use these leave hours during the fiscal year. Each employee will receive the Flexible Leave hours for that fiscal year on July 1st of each year. Each employee has the option of using such hours as leave in the same manner as vacation leave, or periodically selling the hours. A code will be set up for each option and employees can note the use of or selling of such hours on each time card throughout the fiscal year. Employees must use the current fiscal year hours by June 15th of each year and cannot carry the hours over to a new fiscal year. If an employee terminates before June 30th of any fiscal year, the employee is only eligible for a proration of

hours for the period of July 1st to the date of their termination and hours used in excess of the prorated amount will be deducted accordingly from the employee's final pay.

Amount

During fiscal year 2012-2013, each employee shall receive 50 hours of Flexible Leave during the pay period beginning August 16, 2012. During fiscal year 2013-2014, each employee shall receive 100 hours of Flexible Leave during the pay period beginning July 1, 2013. During fiscal year 2014-2015, each employee shall receive 150 hours of Flexible Leave during the pay period beginning July 1, 2014.

The parties acknowledge that the block of paid leave hours labeled Flexible Leave is credited to each full-time, regular employee at the beginning of each fiscal year of this Agreement and ends when the Agreement expires on June 30, 2015.

Sell-Back

An employee may sell-back some or all of the employee's accrued Flexible Leave balance with any pay period during the fiscal year, so long as it does not generate a separate paycheck. If a separate paycheck is desired, the leave hours will be paid on a separate paycheck on June 30th and/or December 15th of each contract year.

City Buy-Back of Accumulated Leave

Should an employee not utilize Flexible Leave as time off during a fiscal year, or should an employee not sell-back his/her Flexible Leave during the fiscal year, the City shall cash-out each employee's Flexible Leave balance at the end of the fiscal year in which it was provided and pay it to the employee. There shall be no carry-over of Flexible Leave hours from one fiscal year to the next, and no Flexible Leave balance shall be allowed to remain after the June 30, 2015 expiration date of this Agreement.

4.2 Deferred Compensation

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

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

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

4.3 Travel Expense Reimbursement

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

4.4 Health Insurance

4.4.1. Plans Provided

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

4.5. New Employees

New employees hired to the City of Tracy after September 1, 2006 (except those employees within the TPOA bargaining unit that promoted to Lieutenant or Captain and who were hired prior to September 1, 2006) shall be required to select a medical plan for at least the employee and are not eligible for cash benefits except as may be required by provisions of the IRS regulations covering Flexible Benefits plans.

4.6 Dental

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

4.7 Vision Care

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

4.8 Life Insurance

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

4.9 Cafeteria Plan

4.9.1 City Contribution

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

4.9.2 Cash Out Options

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

4.9.3. Future Contributions

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

For employees who elect employee only or employee plus one coverage, any City increase to the employee's account shall be limited to the amount necessary to fully cover the plan selected or up to a maximum of the dollar amount increase allocated to employees who elect family coverage. There shall be no increase for employees who do not elect health insurance coverage.

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

4.9.4 Approved Account Uses

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

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

4.9.5 Notification of Changes in Number of Dependents

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

4.9.6 Flexible Benefits Plan (IRS Section 125)

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

4.10 Long Term Disability

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

4.11 Annual Physical Exam

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

4.12 Education Expense Reimbursement

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

4.13 Uniform Allowance

The City shall provide Police Captains and Lieutenants an annual uniform allowance in the amount of \$900 per year. The uniform allowance shall be paid on the regular payday for the pay period that includes June 30th, by a separate check.

4.14 Education Incentive

The City shall pay a two and one-half percent (2-1/2%) incentive on the existing salary step and range of employees who possess a BA degree or a MA degree in Police Administration or related field.

4.15 Command Duty Officer

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

Section 5. Conditions of Service

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

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

5.3 The governing documents for the resolution of any disputes over conditions of service are the Personnel Rules and Regulations.

5.4 Association Members have the right to appeal conditions of service through the grievance procedure contained in the Personnel Rules and Regulations.

5.5 In the event an employee receives an overpayment by the City, the employee shall reimburse the City for the total overpayment and the City may obtain reimbursement by payroll deduction(s). Typically, such repayment shall occur over a schedule equal to the amount of time over which the overpayment occurred. However, at the employee's request, the City may extend such repayment over a longer period, to be determined by mutual agreement of the employee and the City Administrative Services Director

APPROVED AND ACCEPTED:

**TRACY POLICE MANAGERS
ASSOCIATION**

By _____
David Sant, TPMA

By _____
Greg Farmanian, TPMA

Dated _____

CITY OF TRACY

By _____
R. Leon Churchill, Jr., City Manager

By _____
Maria Hurtado, Assistant City Manager

By _____
Dania Torres-Wong,
Renne Sloan Holtzman & Sakai

Dated _____

EXHIBIT A - Tracy Police Managers Association Salary Schedule

**TPMA
SALARY SCHEDULES**

		Effective 8/22/12				
Class Code	Position Title...		Semi-Mon Salary	Monthly Salary	Annual Salary	Hourly Rate
62101	Police Lieutenant	A	4,444.67	8,889.34	106,672.08	51.2847
		B	4,666.90	9,333.80	112,005.60	53.8488
		C	4,900.25	9,800.50	117,606.00	56.5413
		D	5,145.26	10,290.52	123,486.24	59.3684
		E	5,402.52	10,805.04	129,660.48	62.3368
62102	Police Captain	A	4,890.97	9,781.94	117,383.28	56.4343
		B	5,135.52	10,271.04	123,252.48	59.2560
		C	5,392.30	10,784.60	129,415.20	62.2188
		D	5,661.92	11,323.84	135,886.08	65.3298
		E	5,945.02	11,890.04	142,680.48	68.5964

RESOLUTION _____

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

WHEREAS, The Memorandum of Understanding (MOU) between the City of Tracy and the Tracy Police Managers Association (TPMA) expired on June 30, 2012, and

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

WHEREAS, Agreement has been reached on a new MOU covering the period of August 22, 2012 through June 30, 2015, and

WHEREAS, The Tracy Police Managers Association (TPMA) Memorandum of Understanding directly supports one of the four Council Strategic Priorities: the Organizational Efficiency Strategic Priority, Goal 1: Advance City Council's fiscal policies, Objective 1a: To change the City's organizational and fiscal structure by completing labor negotiations, and

WHEREAS, The Tracy Police Managers Association (TPMA) Memorandum of Understanding contains three key elements that contribute to one of the City's eight point fiscal strategies to address the structural budget deficit, which include (1) Shift from City to employee payment of the employee share of CALPERS retirement benefit, (2) Continuation of second tier CALPERS retirement formula, and (3) No Cost of Living Adjustments (COLAs), and

WHEREAS, The total savings during this three-year term by having each of the five (5) employees in this unit contribute to CalPERS is \$176,673; an average of \$35,335 per employee. The total cost of flexible leave hours provided back to employees is \$100,104; an average of \$20,021 per employee. The net savings after distribution of flexible leave hours is \$76,569 at the end of the three-year term. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution of the CalPERS benefit, an ongoing annual savings of \$3.4 million can be realized each subsequent year;

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

The foregoing Resolution _____ was adopted by the Tracy City Council on the 21st day of August, 2012 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4.B.(i)

REQUEST

ADOPT A RESOLUTION AMENDING THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF TRACY AND DANIEL G. SODERGREN TO REFLECT AGREEMENT MODIFICATIONS FOR CONSISTENCY WITH OTHER CITY OF TRACY LABOR AGREEMENTS AND COMPENSATION AND BENEFIT PLANS AND AUTHORIZE THE MAYOR TO SIGN THE AMENDMENT

EXECUTIVE SUMMARY

The Employment Agreement between the City of Tracy and Daniel G. Sodergren ("City Attorney") was adopted by Council on August 4, 2009. The City Attorney and the Council have tentatively agreed to modify Section 3G related to the Retirement and Deferred Compensation. This provision in the Employment Agreement is proposed to be modified to ensure consistency with other agreements and equity across all units and individual employment agreements. Additionally, highlighted in the staff report are two additional provisions in this Employment Agreement that are tied to the recently adopted Department Head Compensation and Benefit Plan to illustrate the City's expressed intent to ensure key City proposals are included across all labor groups. The key provisions highlighted in this staff report include: (1) a three year phase-in of the employee payment of the employee share of CalPERS Retirement Benefit over a three year period, (2) increasing the employee contribution to future health care premium increases, (3) No Cost of Living Adjustments (COLAs) for the next three years. Additionally, voluntary unpaid furloughs will cease this fiscal year.

DISCUSSION

The Employment Agreement between the City of Tracy and the City Attorney is an at-will agreement where the City Attorney serves at the pleasure of the City Council. The City Attorney and the Council have tentatively agreed to amend Section 3G related to retirement and deferred compensation. This modification contributes to the City's fiscal goals and ensures consistency and equity across the various Memorandums of Understanding and Compensation and Benefits Plans adopted by Council on June 19th and July 17th of this year.

The budget message presented to Council on June 5, 2012, described the City's implementation of an eight point fiscal strategy over four years in an effort to equal or exceed the revenue coming from Measure E prior to its sunset period on March 31, 2016. This eight-point plan includes: (1) Implementation of technological efficiencies, (2) Improved economy, (3) Elimination or reduction in non-essential services or duplicated services, (4) Reprioritization of existing expenditures, (5) Continued change to the City's organizational structure, (6) Contracting of services or service redesign, (7) Reduction of number of City departments, and (8) New labor contracts and Compensation and Benefit Plans. Thus far, the City has realized approximately \$3 million in savings, and generated \$1 million in increased revenue due to an improved economy, by implementing four out of the eight points delineated above of the eight-point plan.

Amending this Employment Agreement between the City of Tracy and the City Attorney contributes to one of the City's eight point fiscal strategies: labor contracts and Compensation and Benefit Plans.

The City Attorney and the Council have tentatively agreed to make modifications to Section 3G related to the retirement and deferred compensation as outlined below.

A three year phase-in of the employee payment of the employee share of CalPERS Retirement Benefit:

To date, the City of Tracy has paid the full cost of the employee share of the California Public Employees Retirement System (CalPERS) benefit for all units, except for the Department Heads and City Attorney, who voluntarily began paying 1.5% of the employee share of CalPERS in fiscal year 2011-2012, the City Manager who paid 3% in fiscal year 2011-2012, and the Police Chief, who began paying the full 9% of the employee share of CalPERS upon his hire in August of 2011.

The City's goal is to phase in all employees paying the full share of the employees' share of the CalPERS benefit over a three year period. This Employment Agreement modifies Section 3G related to retirement and deferred compensation and shifts the employee share of the CalPERS contribution from the City to the City Attorney increasingly each year over the next three years. This shift will result in an estimated \$28,000 savings over the next three years and an ongoing annual savings of approximately \$14,000 in fiscal years 2015-2016 and beyond. It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit an ongoing annual savings of \$3 million dollars can be realized each subsequent year.¹

Additionally, in exchange for employees paying their full share of the employee's portion of the CalPERS retirement benefit, a one-time allocation of flexible leave hours is offered to employees during the three year term. The same one-time allocation of flexible leave hours applies to the City Attorney's Employment Agreement, as outlined in the Department Head Compensation and Benefits Plan.

The total savings during this three year period by having the City Attorney contribute to CalPERS is estimated at \$28,000. The total cost of flexible leave hours provided back to the City Attorney over the next three years is \$22,211. The net savings after distribution of Flex Leave Hours is approximately \$5,788. The ongoing annual savings realized in FY 2015-2016 and beyond is \$14,000.

Increase in employee contribution to future health care premium increases:

Each January, adjustments to health care premiums are made, depending on the amount of the increase. Health care costs continue to rise year after year. To date, the employer/employee cost split of premium increases has been 85/15; 85% City paid and 15% employee paid. Section 3D: Health, Disability, Management and Life Insurance Benefits, currently states that the City Attorney will receive the same level of health care benefits provided to Department Heads covered in the Department Head Compensation and Benefits Plan, therefore effective January 2013, the City Attorney's contribution of any future premium increases will increase to 25% and the City's share will decrease to

¹ All things considered, the anticipated \$3 million savings assumes all Units agree and no changes to agreement terms are made during the next round of negotiations.

75% of the total premium increases, as reflected in the Department Head Compensation and Benefits Plan resolution.

1. No Cost of Living Adjustments (COLAs):

Section 3B under the compensation and Benefits section related to COLAs stipulates that the City Attorney will receive the same Cost of Living Adjustments provided to Department Heads under the Department Head Compensation and Benefits Plan; that plan contains no Cost of Living Adjustments over the next three years.

Section 3A: Compensation and Benefits of the current agreement provides that the City Attorney would participate in unpaid furloughs in both 2009 and 2010. Additionally, the City Attorney voluntarily continued participation in unpaid furloughs through June 30, 2012. When implementation of unpaid furloughs began three years ago, it was anticipated that this strategy was a short term solution to address the structural budget deficit. The City Attorney's voluntary participation in unpaid furloughs ended at the same time that the City suspended furloughs for all employees (July 1, 2012), which adds \$9,086 to the annual deficit each year.

Staff estimates that, during the past three years, City employees saved the City \$1.9 million through the voluntary implementation of unpaid furloughs (*one year at \$400,000, two additional years x \$600,000 for non-public safety employees, and one year of Fire employee furloughs at \$300,000*)

STRATEGIC PLAN

This Employment Agreement directly supports the Organizational Efficiency Strategic Priority the purpose of which is to strengthen and stabilize the City's organizational foundation in the key areas of City Council's fiscal policies, customer value, processes and systems, and workforce viability. Specifically, this agenda item relates to:

Goal 1: Advance City Council's fiscal policies

Objective 1a: To change the City's organizational and fiscal structure by completing labor negotiations.

FISCAL IMPACT

No COLA increases are contained in this amendment to the Employment Agreement. The total savings during this three year period by having the City Attorney contribute to CalPERS is estimated at \$28,000. The total cost of flexible leave hours provided back to the City Attorney over the next three years is \$22,211. The net savings after distribution of Flex Leave Hours is approximately \$5,788. The ongoing annual savings realized in FY 2015-2016 and beyond is \$14,000.

It is anticipated that beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit, then an ongoing annual savings of \$3 million dollars can be realized each subsequent year.

It should be noted that the discontinuation of unpaid furloughs from the City Attorney will result in an increase to the budget deficit of \$9,086 per year; \$600,000 citywide. This fiscal impact was considered in the fiscal year 2012-2013 budget.

RECOMMENDATION

Staff recommends that the Employment Agreement between the City of Tracy and Daniel G. Sodergren be amended to reflect Daniel G. Sodergren's phased in payment of the employee share of CalPERS as outlined in the staff report for consistency with other City of Tracy Labor Agreements and Compensation and Benefit Plans.

Prepared by: Maria A. Hurtado, Assistant city Manager

Reviewed by: Bill Sartor, Assistant City Attorney,

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

Attachment: Employment Agreement between Daniel G. Sodergren and the City of Tracy

FIRST AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
DANIEL G. SODERGREN AND THE CITY OF TRACY

This First Amendment ("Amendment") to the Employment Agreement between Daniel G. Sodergren and the City of Tracy ("Agreement") is made and entered into by and between Daniel G. Sodergren ("EMPLOYEE") and the City of Tracy, a municipal corporation ("CITY").

RECITALS

WHEREAS, EMPLOYEE and CITY entered into the Agreement on August 4, 2009, and

WHEREAS, EMPLOYEE and CITY have agreed to make adjustments to provisions in the Agreement related to payment of the employee share of CalPERS for consistency and equity purposes to reflect the key City proposals negotiated with the majority of the labor groups thus far.

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

1. Amendment. The first sentence of Subsection G. entitled "Retirement and Deferred Compensation" of Section 3. entitled "Compensation and Benefits" of the Agreement is hereby deleted and replaced with the following sentence:

"CITY shall pay all the employee and employer share of CalPERS contributions for the single highest year in accordance with the 2.5% at age 55 benefit formula; provided, however, that commencing the pay period beginning August 16, 2012, EMPLOYEE shall participate in the multi-year phase-in of EMPLOYEE paying the full Employee share for such CalPERS Retirement Benefit in the same manner as other non-public safety employees covered under the most recent Department Head Compensation and Benefits Plan."

2. Amendment. Subsection F. entitled "Accrual and Use of Leave" of Section 3. entitled "Compensation and Benefits of the Agreement" is hereby amended to read, in its entirety, as follows:

"F. Accrual and Use of Leave."

1. EMPLOYEE shall accrue vacation leave, sick leave, management leave, and flexible leave on an annual basis at the rate contained in the most currently adopted Department Heads Compensation and Benefits Plan. EMPLOYEE shall receive the same bereavement and family leave, and the same holidays (including floating holidays), provided to other employees covered by the Department Head Compensation and Benefits Plan.
2. EMPLOYEE is entitled to accrue all leave, without limit, except for the limits on flexible leave contained in the most currently adopted Department Head Compensation and Benefits Plan, and in the event EMPLOYEE's employment is terminated, either voluntarily or involuntarily, he shall be compensated for all unused accrued vacation leave and flexible leave at the rate of pay on the date of separation. EMPLOYEE shall be entitled to

"buy back" vacation and flexible leave, and convert sick leave, as permitted in the Department Head Compensation and Benefits Plan."

3. Modifications. This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
4. Representation by Counsel. EMPLOYEE and CITY acknowledge that they each did, or had the opportunity to, consult with legal counsel of their respective choices with respect to the subject matter of this Amendment prior to signing it.
5. Applicable Law. This Amendment is signed and delivered in the State of California and the rights and obligations of the parties under this Agreement shall be construed and enforced in accordance with the laws of the State of California.
6. Waiver. No waiver by any party of any breach of any term or provision of this Amendment shall be construed to be, nor shall be, a waiver of any preceding, concurrent or succeeding breach of the same or any other term or provision of this Amendment.
7. Interpretation. This Amendment is deemed to have been drafted jointly by the parties to this Amendment. Any uncertainty or ambiguity shall not be construed for or against any party based upon attribution of drafting to any party.
8. Severability. If any provision of this Amendment is held unconstitutional, invalid or unenforceable, that invalidity shall not affect any other provisions which could be given effect without the invalid provision.
9. Counterparts. This Amendment may be executed in several counterparts, and shall be admissible in counterparts. All executed copies are duplicate originals and are equally admissible in evidence.

City of Tracy

Daniel G. Sodergren

Brent H. Ives, Mayor

Date: _____

Date: _____

Attest:

By: Sandra Edwards
Title: CITY CLERK

Date: _____

Approved as to Form:

Assistant City Attorney

RESOLUTION _____

AMENDING THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF TRACY AND DANIEL G. SODERGREN TO REFLECT AGREEMENT MODIFICATIONS FOR CONSISTENCY WITH OTHER CITY OF TRACY LABOR AGREEMENTS AND COMPENSATION AND BENEFIT PLANS AND AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT

WHEREAS, On August 4, 2009, the City Council approved the employment agreement between the City of Tracy and Daniel G. Sodergren (Resolution No. 2009-149) to hire Daniel G. Sodergren as its City Attorney subject to the terms and conditions set forth in the Employment Agreement Between Daniel G. Sodergren and the City of Tracy, and

WHEREAS, The City Attorney and the Council have agreed to make adjustments to some of the Compensation and Benefit provisions to reflect modifications included in other City of Tracy labor agreements and Compensation and Benefit Plans for consistency and equity purposes and to contribute to the City's fiscal goals, and

WHEREAS, The City's goal is to phase in all employees paying the full share of the employees' share of the CalPERS benefit over a three year period. This employment agreement modifies Section 3G related to Retirement and Deferred Compensation and shifts the employee share of the CalPERS contribution from the City to the City Attorney increasingly each year over the next three years. This shift will result in a \$28,000 savings over the next three years and an ongoing annual savings of \$14,000 in fiscal year 2015-2016 and beyond, and

WHEREAS, Three key City proposals included in the Department Head Compensation and Benefits Plan and applicable to this employment agreement contribute to one of the City's eight point fiscal strategies to address the structural budget deficit, include (1) increasing the employee contribution to future health care premium increases, and (2) No COLA's for the next three years, and

WHEREAS, Section 3A: Compensation and Benefits stipulated that the City Attorney would participate in unpaid furloughs in both 2009 and 2010. The City Attorney voluntarily continued participation in unpaid furloughs through June 30, 2012, and although the employment agreement did not require participation of unpaid furloughs beyond 2010, the City Attorney's voluntary participation in unpaid furloughs ended at the same time as furloughs were suspended for all City employees (July 1, 2012), adding \$9,086 to the annual deficit each year, and

WHEREAS, The total savings during this three year period by having the City Attorney contribute to CalPERS is estimated at \$28,000. The total cost of Flex Leave hours provided back to the City Attorney over the next three years is \$22,211. The net savings after distribution of flexible leave hours is approximately \$5,788. The ongoing annual savings realized in Fiscal Year 2015-2016 and beyond is of \$14,000. The discontinuation of unpaid furloughs from the City Attorney will result in an increase to the budget deficit of \$9,086 per year;

NOW, THEREFORE, BE IT RESOLVED, That City Council authorizes an amendment to the employment agreement between the City of Tracy and Daniel G. Sodergren and authorizes the Mayor to execute the amendment.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 21st day of August, 2012 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4.B.(ii)

REQUEST

ADOPT A RESOLUTION AUTHORIZING THE MAYOR TO SIGN THE SECOND AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN RALPH LEON CHURCHILL, JR. AND THE CITY OF TRACY TO DISCONTINUE UNPAID FURLOUGH DAYS AND TO CLARIFY PARTICIPATION IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

EXECUTIVE SUMMARY

The attached resolution authorizes the Mayor to sign the Second Amendment to the Employment Agreement between Ralph Leon Churchill, Jr. and the City of Tracy discontinuing unpaid furlough days and clarifying participation in the California Public Employees' Retirement System ("CalPERS").

Ralph Leon Churchill Jr. has been serving as City Manager since 2008. The Employment Agreement as amended on October 18, 2011 provides that Mr. Churchill will take 12 unpaid furlough days between July 1, 2012 and June 30, 2013. The proposed amendment discontinues unpaid furloughs for fiscal year 2012-2013, given that the implementation of the furlough days was a temporary measure to address the structural budget deficit and all City employees have discontinued implementation of unpaid furloughs beginning July 1, 2012.

Additionally, the current Employment Agreement requires that Mr. Churchill pay 3% of his salary as a portion of the full 8% employee's share of the CalPERS rates for the next three years of his contract. The proposed Amendment requires a three year phase-in of Mr. Churchill's full payment of the employee share of the CalPERS retirement benefit, as outlined in the Department Head Compensation and Benefits Plan adopted by Council on June 19, 2012. Under the proposed Amendment, the City and the employee shall share payment of the 8% of salary employee contribution during the term of this Agreement as follows:

1. Fiscal Year 2012-2013: Effective the pay period including August 16, 2012, Mr. Churchill shall pay 2.66% of salary and the City shall pay 5.34% of salary to fund the employee contribution for the CalPERS retirement benefit;

Fiscal Year 2013-2014: Effective the pay period including July 1, 2013, Mr. Churchill shall pay 5.33% of salary and the City shall pay 2.67% of salary to fund the employee contribution for the CalPERS retirement benefit;

Fiscal Year 2014-2015: Effective the pay period including July 1, 2014, Mr. Churchill shall pay 8% of salary to fund the full employee contribution for the CalPERS benefit.

2. In exchange for Mr. Churchill paying his full 8% share of the employee's portion of the CalPERS retirement benefit, one-time allocations of flexible leave hours are recommended for this employment contract, as outlined in the Department Head Compensation and Benefits Plan adopted by Council on June 19, 2012, as follows:

During fiscal year 2012-2013, Mr. Churchill will receive 44 hours of flexible leave hours, during fiscal year 2013-2014, Mr. Churchill will receive 88 hours of flexible leave hours, and during fiscal year 2014-2015, Mr. Churchill will receive 132 hours of flexible leave hours. The flexible leave balance cannot carry over from one fiscal year to the next and no leave hour balance will remain after the three-year period through June 30, 2015.

DISCUSSION

The budget message presented to Council on June 5, 2012, described the City's implementation of an eight-point fiscal strategy over four years in an effort to equal or exceed the revenue coming from Measure E prior to its sunset period on March 31, 2016. This eight-point plan includes; (1) Implementation of technological efficiencies, (2) Improved Economy, (3) Elimination or reduction in non-essential services or duplicated services, (4) Reprioritization of existing expenditures, (5) Continued change to the City's organizational structure, (6) Contracting of services or service redesign, (7) Reduction of number of City departments, and (8) New labor contracts and Compensation and Benefit Plans. Thus far, the City has realized approximately \$3 million in savings and generated \$1 million in increased revenue due to an improved economy by implementing four out of the eight points delineated above of the eight-point plan.

Amending Mr. Churchill's Employment Agreement contributes to one of the City's eight-point fiscal strategies: Labor Contracts and Compensation and Benefit Plans.

Two key elements are proposed for amendment in the Employment Agreement between Mr. Churchill and the City of Tracy, one of which contributes to the overall target as described above. That provision is as follows:

1. A three year phase-in of the employee payment of the employee share of CalPERS retirement benefit:

To date, the City of Tracy has paid the full cost of the employee share of the California Public Employees Retirement System (CalPERS) benefit for all units, except for the Department Heads and the City Attorney, who voluntarily began paying 1.5% of the employee share of CalPERS last year on July 1, 2011, the City Manager who paid 3% in fiscal year 2011-2012 and the Police Chief, who began paying the full 9% of the employee share of CalPERS upon his hire in August 2011.

The City's goal is to phase in all employees paying the full share of the employees' share of the CalPERS benefit, previously paid by the City on behalf of the employee as an additional employee benefit. This Employment Agreement shifts the share of the payment from the City to Mr. Churchill increasingly each year over the three-year term of the Agreement. Staff anticipates that, beginning July 2015, if employees of all labor groups pay the full employee contribution for the CalPERS benefit an ongoing annual savings of \$3 million dollars can be realized each subsequent year.¹

¹ All things considered, the anticipated \$3 million savings assumes all Units agree and no changes to agreement terms are made during the next round of negotiations.

A one-time allocation of flexible leave hours is offered to Mr. Churchill during the three-year term in exchange for the increased share of the employee contribution for the CalPERS retirement benefit.

The total savings during the three years by having Mr. Churchill contribute to CalPERS is \$13,935. The total cost of flexible leave hours provided back to Mr. Churchill during these three years is \$25,267. The net cost to the City after distribution of flex leave hours is \$11,332 during this three-year period. The ongoing annual savings to the City in fiscal years 2015-2016 and beyond, however, is \$15,926, as the employee will pick up the full 8% employee share of the CalPERS cost of this retirement benefit and the cost of the flexible leave hours ends on June 30, 2015.

2. Discontinuation of unpaid furloughs:

The proposed amendment discontinues 12 unpaid furlough days for fiscal year 2012-2013, given that the implementation of the furlough days was a temporary measure to address the structural budget deficit and all City employees have discontinued implementation of unpaid furloughs beginning July 1, 2012.

It is estimated that during the past three years, City employees saved the City \$1.9 million dollars through the voluntary implementation of unpaid furloughs (*one year at \$400,000, two additional years x \$600,000 for non-public safety employees, and one year of Fire employee furloughs at \$300,000*). It should be noted that discontinuation of unpaid furloughs will result in an increase in the budget deficit.

In addition to the two key provisions recommended in this Employment Agreement, two related provisions are highlighted in the staff report that are tied to the recently adopted Department Head Compensation and Benefit Plan to illustrate the City's expressed intent to ensure key City proposals are included across all labor groups. The two additional key provisions include: (1) increasing the employee contribution to future health care premium increases and (2) No Cost of Living Adjustments (COLAs) for the next three years.

Increase in employee contribution to future health care premium increases:

Each January, adjustments to health care premiums are made, depending on the amount of the increase. Health care costs continue to rise year after year. To date, the employer/employee cost split of premium increases has been 85/15; 85% City paid and 15% employee paid. Section 3D: Health, Disability, and Life Insurance Benefits, states that the City Manager will receive the same level of health care benefits provided to department heads covered in the Department Head Compensation and Benefits Plan. Therefore effective January, 2013, the City Manager's contribution of any future premium increases will increase to 25% and the City's share will decrease to 75% of the total premium increases, as reflected in the Department Head Compensation and Benefits Plan.

No Cost of Living Adjustments (COLAs) recommended for the next three years:

Finally, because Mr. Churchill receives the same Cost of Living Adjustments as outlined in the Department Head Compensation and Benefits Plan, Mr. Churchill will

not receive a COLA for the next three years, as outlined in the Department Head Compensation and Benefits Plan adopted by Council on June 19, 2012.

STRATEGIC PLAN

This Employment Agreement directly supports the Organizational Efficiency Strategic Priority whose purpose is to strengthen and stabilize our organizational foundation in the key areas of City Council's fiscal policies, customer value, processes and systems, and workforce viability. Specifically, this agenda item relates to:

Goal 1: Advance City Council's fiscal policies

Objective 1a: To change the City's organizational and fiscal structure by completing labor negotiations.

FISCAL IMPACT

No COLA increases are proposed in this Employment Agreement. The total savings during this three year period by having Mr. Churchill contribute to CalPERS is \$13,935. The total cost of providing a one-time allocation of Flexible Leave hours is \$25,267. The annual savings realized in fiscal years 2015-2016 and beyond is \$15,926.

RECOMMENDATION

That City Council considers the attached resolution authorizing the Mayor to sign the Second Amendment to the Employment Agreement between Ralph Leon Churchill, Jr. and the City of Tracy discontinuing unpaid furlough days and clarifying participation in the CalPERS Retirement System.

Prepared by: Maria A. Hurtado, Assistant City Manager

Approved by: Maria A. Hurtado, Assistant City Manager

Attachment: Second Amendment to Employment Agreement between Ralph Leon Churchill, Jr. and the City of Tracy

SECOND AMENDMENT TO
EMPLOYMENT AGREEMENT
BETWEEN
RALPH LEON CHURCHILL, JR. AND THE CITY OF TRACY

This Second Amendment to the Employment Agreement between Ralph Leon Churchill, Jr. and the City of Tracy is entered into this 21st day of August, 2012, by and between the City of Tracy, a municipal corporation ("CITY") and Ralph Leon Churchill, Jr., an individual ("EMPLOYEE").

RECITALS

A. The CITY and EMPLOYEE entered into an Employment Agreement on March 18, 2008 ("Agreement"), and

B. The Agreement was for an initial period of four years, and

C. The first amendment to the employment agreement was made on October 18, 2011 where the term of the Agreement was extended for an additional four years, the number of unpaid furlough days the EMPLOYEE was required to take was clarified, and the terms of EMPLOYEE's participation in the California Public Employees' Retirement System were clarified.

D. The parties now wish to eliminate the 12 unpaid furlough days, and

F. The parties now wish to amend the terms of EMPLOYEE's participation in the California Public Employees' Retirement System.

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

1. Amendment. Subsection 2. of subsection A. of Section 3. of the Agreement, entitled "Base Salary" is hereby amended to delete the following phrase: "and twelve unpaid furlough days between July 1, 2012 and June 30, 2013."

2. Amendment. Subsection H., entitled "California Public Employees' Retirement System ("CalPERS")" of Section 3., entitled "Compensation and Benefits", of the Agreement, is hereby amended to add the following sentence:

"Commencing the pay period beginning August 16, 2012, EMPLOYEE shall participate in the multi-year phase-in of EMPLOYEE paying the full Employee share for such CalPERS Retirement Benefit in the same manner as other non-public safety employees covered under the most recent Department Head Compensation and Benefits Plan."

3. Amendment. Subsection F., entitled "Accrual and Use of Leave" of Section 3., entitled "Compensation and Benefits", of the Agreement is hereby amended to add a new subsection 5. entitled "Flexible Leave" to read as follows:

"5. Flexible Leave. Notwithstanding subsection 4., above, EMPLOYEE is entitled to accrue and use flexible leave hours in the amounts and in the manner

Second Amendment to Employment Agreement
Between Ralph Leon Churchill, Jr. and the City of Tracy
Page 2

set forth in the Department Heads Compensation and Benefits Plan adopted by City Council Resolution No. 2012-133.”

4. Modifications. This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
5. Representation by Counsel. EMPLOYEE and CITY acknowledge that they each did, or had the opportunity to, consult with legal counsel of their respective choices with respect to the subject matter of this Amendment prior to signing it.
6. Applicable Law. This Amendment is signed and delivered in the State of California and the rights and obligations of the parties under this Agreement shall be construed and enforced in accordance with the laws of the State of California.
7. Waiver. No waiver by any party of any breach of any term or provision of this Amendment shall be construed to be, nor shall be, a waiver of any preceding, concurrent or succeeding breach of the same or any other term or provision of this Amendment.
8. Interpretation. This Amendment is deemed to have been drafted jointly by the parties to this Amendment. Any uncertainty or ambiguity shall not be construed for or against any party based upon attribution of drafting to any party.
9. Severability. If any provision of this Amendment is held unconstitutional, invalid or unenforceable, that invalidity shall not affect any other provisions which could be given effect without the invalid provision.
10. Counterparts. This Amendment may be executed in several counterparts, and shall be admissible in counterparts. All executed copies are duplicate originals and are equally admissible in evidence.

City of Tracy

Ralph Leon Churchill, Jr.

Brent H. Ives, Mayor

Date: _____

Date: _____

ATTEST:

Sandra Edwards, City Clerk

APPROVED AS TO FORM:

Daniel G. Sodergren, City Attorney

RESOLUTION _____

AUTHORIZING THE MAYOR TO SIGN THE SECOND AMENDMENT TO THE EMPLOYMENT AGREEMENT BETWEEN RALPH LEON CHURCHILL, JR. AND THE CITY OF TRACY TO DISCONTINUE UNPAID FURLOUGH DAYS AND TO CLARIFY PARTICIPATION IN THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM

WHEREAS, The City Manager and the City have agreed to make modifications to two provisions in the employment agreement to reflect modifications included in other City of Tracy labor agreements and Compensation and Benefit Plans for consistency and equity purposes and to contribute to the City's fiscal goals, and

WHEREAS, The City's goal is to phase in all employees paying the full share of the employees' share of the CalPERS benefit over a three year period. This Employment Agreement modifies Section H of the Agreement related to the California Public Employees' Retirement System ("CalPERS") and shifts the employee share of the CalPERS contribution from the City to the City Manager increasingly each year over the next three years. This shift will result in an ongoing annual savings of \$15,926 in fiscal years 2015-2016 and beyond, and

WHEREAS, The Employment Agreement between Ralph Leon Churchill, Jr. and the City of Tracy modifies Subsection A of Section 3 of the Agreement, entitled "Base Salary" to eliminate the 12 unpaid furlough days between July 1, 2012 and June 30, 2013, as implementation of unpaid furlough days was a temporary fiscal strategy to address the City's structural budget deficit, and

WHEREAS, No Cost of Living Adjustment (COLA) increases are proposed in this Employment Agreement. The total savings during this three year period by having Mr. Churchill contribute to CalPERS is \$13,935. The total cost of providing a one-time allocation of flexible leave hours is \$25,267. The annual savings realized in fiscal years 2015-2016 and beyond is \$15,926;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the Second Amendment to the Employment Agreement between the City of Tracy and Ralph Leon Churchill, Jr. and authorizes the Mayor to execute the Amendment.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 21st day of August, 2012 by the following vote:

AYES: COUNCIL MEMBERS

NOES: COUNCIL MEMBERS

ABSENT: COUNCIL MEMBERS

ABSTAIN: COUNCIL MEMBERS

Mayor

ATTEST:

City Clerk

AGENDA ITEM 4.B.(iii)

REQUEST

ADOPT A RESOLUTION AMENDING THE EMPLOYMENT AGREEMENT BETWEEN GARY HAMPTON AND THE CITY OF TRACY TO SERVE AS POLICE CHIEF TO REFLECT (1) A THREE YEAR TERM AND (2) MODIFICATIONS TO THE AGREEMENT FOR CONSISTENCY WITH OTHER CITY OF TRACY LABOR AGREEMENTS AND COMPENSATION AND BENEFIT PLANS

EXECUTIVE SUMMARY

The term in the Employment Agreement between Gary Hampton and the City of Tracy to serve as Police Chief had no end date and included a stipulation that the Police Chief work at the will and pleasure of the City Manager. The Police Chief has agreed to make adjustments to the term and some of the compensation and benefit provisions to reflect modifications included in other City of Tracy labor agreements and Compensation and Benefit Plans. These changes include: (1) entering into a three-year term, (2) a three year phased-in approach of the employee payment of the employee share of the CalPERS retirement benefit, and (3) increasing the employee contribution to future health care premium increases. This Employment Agreement will reflect a new term covering a period of approximately 35 months, from August 21, 2012 through June 30, 2015 and is modified primarily for consistency with other agreements and equity across the board with the key City proposals.

DISCUSSION

The Employment Agreement between the City of Tracy and Gary Hampton is an at-will agreement where the Police Chief serves at the pleasure of the City Manager. The Police Chief has agreed to make adjustments to the term and some of the compensation and benefit provisions to reflect modifications included in other City of Tracy labor agreements and the Department Head Compensation and Benefit Plan. These modifications are made primarily for consistency and equity in key areas across various units.

Three key proposals are included as amendments to the Police Chief's Employment Agreement. These include the following:

A three year phase-in of the employee payment of the employee share of CalPERS retirement benefit:

To date, the City of Tracy has paid the full cost of the employee share of the California Public Employees Retirement System (CalPERS) benefit for all units, except for the Department Heads who paid 1 ½% in fiscal year 2011-2012, the City Manager who paid 3% in fiscal year 2011-2012 and the Police Chief, who began paying the full 9% of the employee share of CalPERS upon his hire in August 2011. The Police Chief agreed to contribute the full 9% employee share of CalPERS given the expectation that all other City of Tracy employees would also contribute their full employee share of CalPERS that same year as new agreements were drafted. The negotiations with all units ultimately

resulted in labor groups implementing a three year phase-in of the employee payment of the employee share of the CalPERS retirement benefit. And although the Police Chief already pays the full 9% share of the employee share of CalPERS, Council has expressed its intent to be consistent and equitable across all contracts in the area of employee retirement contributions. This Employment Agreement is proposed to be modified to reflect a three year phase-in of the employee payment of the employee share of the CalPERS retirement benefit. Additionally, for equity reasons, a one-time allocation of 170 hours of management leave at a cost of \$14,915 is recommended in this contract. The calculation for the one-time allocation is consistent with leave allocations approved by Council for Department Heads on June 19, 2012.

Also, in exchange for employees paying their full share of the employee's portion of the CalPERS retirement benefit, flexible leave hours are offered to employees during the three-year term. The same one-time allocation of flexible leave hours is recommended for the Police Chief's contract.

The total cost of flexible leave hours proposed to be provided to the Police Chief during this three-year term is \$26,322.

No Cost of Living Adjustments (COLAs):

No Cost of Living Adjustment will be offered to the Police Chief during the term of this Employment Agreement.

Elimination of the City's \$6,000 annual contribution towards the employee's 401 Deferred Compensation Plan:

The original employment contract required that the City contribute \$6,000 annually into a deferred compensation plan for the Police Chief. The \$6,000 annual payment towards the employee's 401 Deferred Compensation Plan was originally negotiated to make up for the loss of his 3% @ 50 retirement formula from his previous employment, given that the City of Tracy implemented a two-tiered system for any employee hired after December 2010. However, based on CalPERS regulations, an employee returning to City service is eligible to receive the benefit formula provided to those hired before the 2nd tier was implemented. Therefore, this Employment Agreement modifies two provisions in the current Employment Agreement related to this anomaly; one which eliminates the City's \$6,000 annual contribution towards a 401 Deferred Compensation Plan and the other which changes the retirement formula from 3% @ 55 to 3% at 50 to reflect the actual retirement formula adopted by CalPERS.

In addition to the three key proposed amendments described above, an additional provision should be noted; the increase in the employee contribution to future health care premium increases.

Increase in employee contribution to future health care premium increases:

Each January, adjustments to health care premiums are made, depending on the amount of the increase. Health care costs continue to rise year after year. To date, the employer/employee cost split of premium increases has been 85% City paid and 15%

employee paid. Effective January 2013, the Police Chief's contribution of any future premium increases will increase to 25% and the City's share will decrease to 75% of the total premium increases.

Lastly, the residency requirement is proposed to be extended for a maximum of one year through August 2013, in recognition of the limited housing stock in Tracy and housing market. The Police Chief agrees to establish residence within the Tracy City limits within one year and thereafter maintain residency in Tracy for the duration of his employment as the Police Chief.

All other provisions of the Employment Agreement related to compensation, benefits, and severance remain the same.

FISCAL IMPACT

No COLA increases are proposed in this Employment Agreement. The one-time allocation of 170 hours of management leave totals \$14,915 plus the \$26,322 cost of the flex leave hour allocation over the term of the contract results in a total cost to the City of \$41,237 over this three-year contract. With the elimination of the \$6,000 annual contribution to a 401 Deferred Compensation Plan, the savings to the City totals \$18,000 over this three-year contract. The ongoing annual savings to the City after FY 2015-16 and beyond is \$22,425 (*\$16,425 for the employee CalPERS pick-up and \$6,000 from the elimination of the \$6,000 annual contribution to a 401 Deferred Compensation Plan*). As stated in the staff report, the intent of modifying this Employment Agreement is for consistency and equity purposes to reflect the key City proposals negotiated with the majority of the labor groups thus far.

RECOMMENDATION

That City Council, by Resolution, authorize an amendment to the Employment Agreement between Gary Hampton and the City of Tracy to reflect a three-year term and modifications to the agreement as outlined in the staff report.

Prepared by: Maria A. Hurtado, Assistant City Manager

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

Attachment: Proposed Amendment to Employment Agreement between Gary Hampton and the City of Tracy

AMENDMENT TO EMPLOYMENT AGREEMENT BETWEEN
GARY HAMPTON AND THE CITY OF TRACY

This Amendment ("Amendment") to the Employment Agreement between Gary Hampton and the City of Tracy ("Agreement") is made and entered into by and between Gary Hampton ("Hampton") and the City of Tracy, a municipal corporation ("City").

RECITALS

WHEREAS, The City, entered into an employment agreement (Resolution No. 2011-153) with Gary Hampton on August 2, 2011 to hire Gary Hampton as its Police Chief subject to the terms and conditions set forth in the Employment Agreement Between Gary Hampton and the City of Tracy, and

WHEREAS, The Police Chief and the City have agreed to make adjustments to some of the provisions in the employment agreement for consistency and equity purposes to reflect the key City proposals negotiated with the majority of the labor groups thus far, and

WHEREAS, The Employment Agreement between Gary Hampton and the City of Tracy will now cover the period of August 21, 2012 through June 30, 2015, and

WHEREAS, The adjustments to the Employment Agreement between Gary Hampton and the City of Tracy contain three key elements which include: (1) A three year phase-in of the employee payment of the employee share of the CalPERS retirement benefit, (2) No Cost of Living Adjustments (COLAs), and (3) the elimination of the City's \$6,000 annual contribution towards the employee's 401 Deferred Compensation Plan, and

WHEREAS, A one-time allocation of 170 hours of management leave is included in this contract, and

WHEREAS, A one-time allocation of 170 hours of management leave totaling \$14,915 and the \$26,322 cost of the flex leave hour allocation results in a total cost to the City of \$41,237 over this three-year contract. With the elimination of the \$6,000 annual contribution to a 401 Deferred Compensation Plan, the savings to the City totals \$18,000 over this three-year contract. The ongoing annual savings to the City after fiscal year 2015-2016 and beyond is \$22,425 (*\$16,425 for the employee CalPERS pick-up and \$6,000 from the elimination the \$6,000 contribution to a 401 Deferred Compensation Plan*).

NOW, THEREFORE, In consideration of the mutual covenants set forth below, the parties agree as follows:

1. The following are the terms of this Amendment:
 - (a) The following sentence is hereby added to the end of section 3. entitled "Duration of Employment" of the Agreement: "This Agreement is otherwise in effect through June 30, 2015."
 - (b) Section 4. entitled "Compensation" of the Agreement is hereby amended to read as follows in its entirety: "Hampton shall continue to receive a base monthly salary of \$15,208.33, payable in installments at the same time as other employees of the City are paid and subject to legally required withholdings and deductions."

- (c) Subsection (a) of Section 5. entitled "Benefits" of the Agreement is hereby amended to read as follows in its entirety: "City shall contribute annually 4.5% of Hampton's annual salary to a 401 Deferred Compensation Plan."
- (d) Subsection (b) of Section 5. entitled "Benefits" of the Agreement is hereby amended to read as follows in its entirety: "Hampton shall receive the same leave and benefits as provided to management employees in accordance with the City Council-approved Department Heads Compensation and Benefits Plan ("Department Heads Plan"), as it may be amended, except as modified by this Agreement, provided however that for Fiscal Year 2012-2013 only, Hampton will receive an additional 170 hours of Management Leave added to his account. This additional 170 hours of Management Leave will be provided effective August 18, 2012.
- (e) Subsection (c) of Section 5. entitled "Benefits" of the Agreement is hereby amended to read as follows in its entirety: "Hampton shall accrue vacation leave at an 11-15 year service rate of 200 hours per year, in accordance with the Department Heads Plan."
- (f) Subsection (e) of Section 5. entitled "Benefits" of the Agreement is hereby amended to read as follows in its entirety: "Hampton shall receive the single highest year and 3% at 50 benefit formula provided through the Public Employees' Retirement System ("PERS") and shall share payment of the 9% of salary employee contribution during the term of this employment agreement as follows:

Fiscal 2012-2013: Effective the pay period starting August 16, 2012, Hampton shall pay 3% of salary and the City shall pay 6% of salary to fund the employee contribution for the CalPERS retirement benefit.

Fiscal 2013-2014: Effective the pay period starting July 1, 2013, Hampton shall pay 6% of salary and the City shall pay 3% of salary to fund the employee contribution for the CalPERS retirement benefit.

Fiscal 2014-2015: Effective the pay period starting July 1, 2014, Hampton shall pay 9% of salary to fund the employee contribution for the CalPERS benefit.

Employee payments of the employee share of the CalPERS retirement benefit cost shall be made as a payroll deduction on a pre-tax basis to the extent allowed by law."

- (g) A new subsection (i) is hereby added to Section 5. entitled "Benefits" of the Agreement to read as follows: "The City shall credit Hampton with a block of paid leave hours each fiscal year of this employment agreement. These hours shall be labeled Flexible Leave. Hampton may use these leave hours subject to the conditions for use of vacation or sell-back the flexible leave hours during the fiscal year. Hampton will receive the flexible leave hours for that fiscal year on July 1st of each year. Hampton has the option of using such hours as leave in the same manner as vacation leave, or periodically selling the hours. A code will be set up for each option and Hampton can note the use of or selling of such hours on each time card throughout the fiscal year. Hampton must use the current fiscal year hours by June 15th of each year and the hours cannot be carried over to a new fiscal year. If

Hampton terminates before June 30th of any fiscal year, he is only eligible for a proration of hours for the period of July 1st to the date of termination.

Amount: Hampton shall receive the following: During fiscal year 2012-2013, Hampton shall receive 50 hours of Flexible Leave during the pay period beginning August 16, 2012. During fiscal year 2013-2014, Hampton shall receive 100 hours of flexible leave during the pay period beginning July 1, 2013. During fiscal year 2014-2015, Hampton shall receive 150 hours of Flexible Leave.

Hampton and the City acknowledge that the block of paid leave hours labeled Flexible Leave is credited at the beginning of each fiscal year of this employment agreement and ends when the term of this employment agreement expires on June 30, 2015.

Sell-Back: Hampton may sell-back some or all of his accrued Flexible Leave balance with any pay period during the fiscal year, so long as it does not generate a separate paycheck. If a separate paycheck is desired, the leave hours will be paid on a separate paycheck on June 30th and/or December 15th of each contract year. Flexible Leave sell-back is independent of and not subject to the limitations described in Section 4.E.: Buy-Back of Accumulated Leave of the Department Head Compensation and Benefit Plan. Should Hampton not utilize Flexible Leave as time off during a fiscal year, or should Hampton not sell-back his Flexible Leave during the fiscal year, the City shall cash-out Hampton's Flexible Leave balance at the end of the fiscal year in which it was provided and pay it to Hampton. There shall be no carry-over of Flexible Leave hours from one fiscal year to the next, and no Flexible Leave balance shall be allowed to remain after the expiration of this Agreement."

- (h) Section 6. entitled "Residency" of the Agreement is amended to read as follows in its entirety: "Hampton agrees to establish residence within the Tracy city limits no later than August 30, 2013, and thereafter to maintain residence within Tracy for the duration of his employment as Police Chief."
2. Modifications. This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
 3. Representation by Counsel. Hampton and City acknowledge that they each did, or had the opportunity to, consult with legal counsel of their respective choices with respect to the subject matter of this Amendment prior to signing it.
 4. Applicable Law. This Amendment is signed and delivered in the State of California and the rights and obligations of the parties under this Agreement shall be construed and enforced in accordance with the laws of the State of California.
 5. Waiver. No waiver by any party of any breach of any term or provision of this Amendment shall be construed to be, nor shall be, a waiver of any preceding, concurrent or succeeding breach of the same or any other term or provision of this Amendment.
 6. Interpretation. This Amendment is deemed to have been drafted jointly by the parties to this Amendment. Any uncertainty or ambiguity shall not be construed for or against any party based upon attribution of drafting to any party.

7. Severability. If any provision of this Amendment is held unconstitutional, invalid or unenforceable, that invalidity shall not affect any other provisions which could be given effect without the invalid provision.
8. Counterparts. This Amendment may be executed in several counterparts, and shall be admissible in counterparts. All executed copies are duplicate originals and are equally admissible in evidence.

City of Tracy

Gary Hampton

Brent H. Ives, Mayor

Date: _____

Date: _____

Attest:

By: Sandra Edwards
Title: CITY CLERK

Date: _____

Approved as to Form:

City Attorney

RESOLUTION _____

AMENDING THE EMPLOYMENT AGREEMENT BETWEEN THE CITY OF TRACY AND GARY HAMPTON TO REFLECT AGREEMENT MODIFICATIONS FOR CONSISTENCY WITH OTHER CITY OF TRACY LABOR AGREEMENTS AND COMPENSATION AND BENEFIT PLANS AND AUTHORIZING THE MAYOR TO SIGN THE AMENDMENT

WHEREAS, The City, acting by and through its City Manager, entered into an employment agreement (Resolution No. 2011-153) with Gary Hampton on August 2, 2011 to hire Gary Hampton as its Police Chief subject to the terms and conditions set forth in the Employment Agreement Between Gary Hampton and the City of Tracy, and

WHEREAS, The Police Chief has agreed to make adjustments to some of the provisions in the employment agreement for consistency and equity purposes to reflect the key City proposals negotiated with the majority of the labor groups thus far, and

WHEREAS, The employment agreement between Gary Hampton and the City of Tracy will now cover the period of August 21, 2012 through June 30, 2015, and

WHEREAS, The employment agreement between Gary Hampton and the City of Tracy contains three key elements which include (1) A three year phase-in of the Employee payment of the employee share of the CalPERS Retirement benefit, (2) No Cost of Living Adjustments (COLAs), and (3) the elimination of the City's \$6,000 annual contribution towards the employee's 401 Deferred Compensation Plan, and

WHEREAS, A one-time allocation of 170 hours of Management Leave is included in this contract, and

WHEREAS, A one-time allocation of 170 hours of Management Leave totaling \$14,915 and the \$26,322 cost of the Flex Leave hour allocation results in a total cost to the City of \$41,237 over this three year contract. With the elimination of the \$6,000 annual contribution to a 401 Deferred Compensation Plan, the savings to the City totals \$18,000 over this three year contract. The ongoing annual savings to the City after FY 2015/16 and beyond is \$22,425 (*\$16,425 for the employee PERs pick-up and \$6,000 from the elimination of the \$6,000 contribution to a 401 Deferred Compensation Plan*);

NOW, THEREFORE, BE IT RESOLVED, That City Council authorizes the amendment to the employment agreement between Gary Hampton and the City of Tracy attached to the staff report accompanying this item and authorizes the Mayor to execute the amendment.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 21st day of August, 2012 by the following vote:

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

Mayor

ATTEST:

City Clerk

AGENDA ITEM 5

REQUEST

APPROVE EXPANSION OF THE SAN JOAQUIN COUNTY ENTERPRISE ZONE BOUNDARIES

EXECUTIVE SUMMARY

An expansion of the San Joaquin County Enterprise Zone boundaries is being pursued by San Joaquin County. All municipal partners in the Enterprise Zone must approve the expansion area before the request is submitted to the State of California for final approval.

DISCUSSION

On June 22, 2008, the State announced the final designation of the San Joaquin County Enterprise Zone (the "Enterprise Zone"). The California Enterprise Zone Program targets economically distressed areas using special state and local incentives to promote business investment and job creation. By encouraging entrepreneurship and employer growth, the program strives to create and sustain economic expansion in California communities. Each zone designation is in effect for 15 years.

The attached map (Attachment A) depicts the existing boundaries of the Enterprise Zone. The current Enterprise Zone is approximately 668 square miles and includes properties within the cities of Tracy, Stockton, Lodi, Manteca, Lathrop, Ripon, and Escalon, as well as unincorporated areas of the County. On occasion, business and property owners, as well as local government representatives request that additional areas within San Joaquin County be added to the Enterprise Zone. These inclusion requests are reviewed by city and county officials for eligibility before being considered for the expansion process. To be eligible a property must be zoned for industrial or commercial use (or have an approved Conditional Use Permit for such uses) and have basic infrastructure available. The State allows enterprise zones to expand up to 15% during the life of the zone.

The first expansion of the Enterprise Zone boundaries became effective July 11, 2011, adding 4.81 square miles (a 0.73% increase). The second expansion of the Enterprise Zone boundaries is currently being pursued by San Joaquin County. If approved, this expansion (as shown in Attachment B) will add approximately 1.089 square miles (a .16% increase) to the Enterprise Zone area and includes the addition of various properties within the cities of Stockton, Tracy, Lodi, Manteca, and Escalon, as well as unincorporated properties of the County. The proposed expansion will add a single parcel of property to the Enterprise Zone in the City of Tracy. The subject property, located at 101 S. Tracy Boulevard, is currently owned by In-Shape Health Clubs. Staff recently received a letter from In-Shape Health Clubs (Attachment C) requesting that their property be considered as part of the Enterprise Zone expansion. As additional job generating areas (such as Cordes Ranch) are annexed to the City, the City will request that these areas also be included in the Enterprise Zone.

All municipal partners in the Enterprise Zone must approve the expansion area before it is submitted to the State for final approval.

STRATEGIC PLAN

This agenda item supports the Economic Development strategic plan. This agenda item specifically implements the following goals and objectives:

Goal 1: Create jobs reflective of the "Target Industry Analysis" and those that best match the skill sets of Tracy employed residents

While this agenda does not fit into a particular objective under the plan, it furthers the goal of increasing employment opportunities by having incentives available for businesses already existing in Tracy, as well as those interested in locating to the area.

FISCAL IMPACT

In Fiscal Year 2012-2013 the City's share of the annual San Joaquin County Enterprise Zone operating cost is \$46,929.23 The City's share is not expected to increase as a result of the expansion.

RECOMMENDATION

Staff recommends that Council approve the Expansion of the San Joaquin County Enterprise Zone Boundaries.

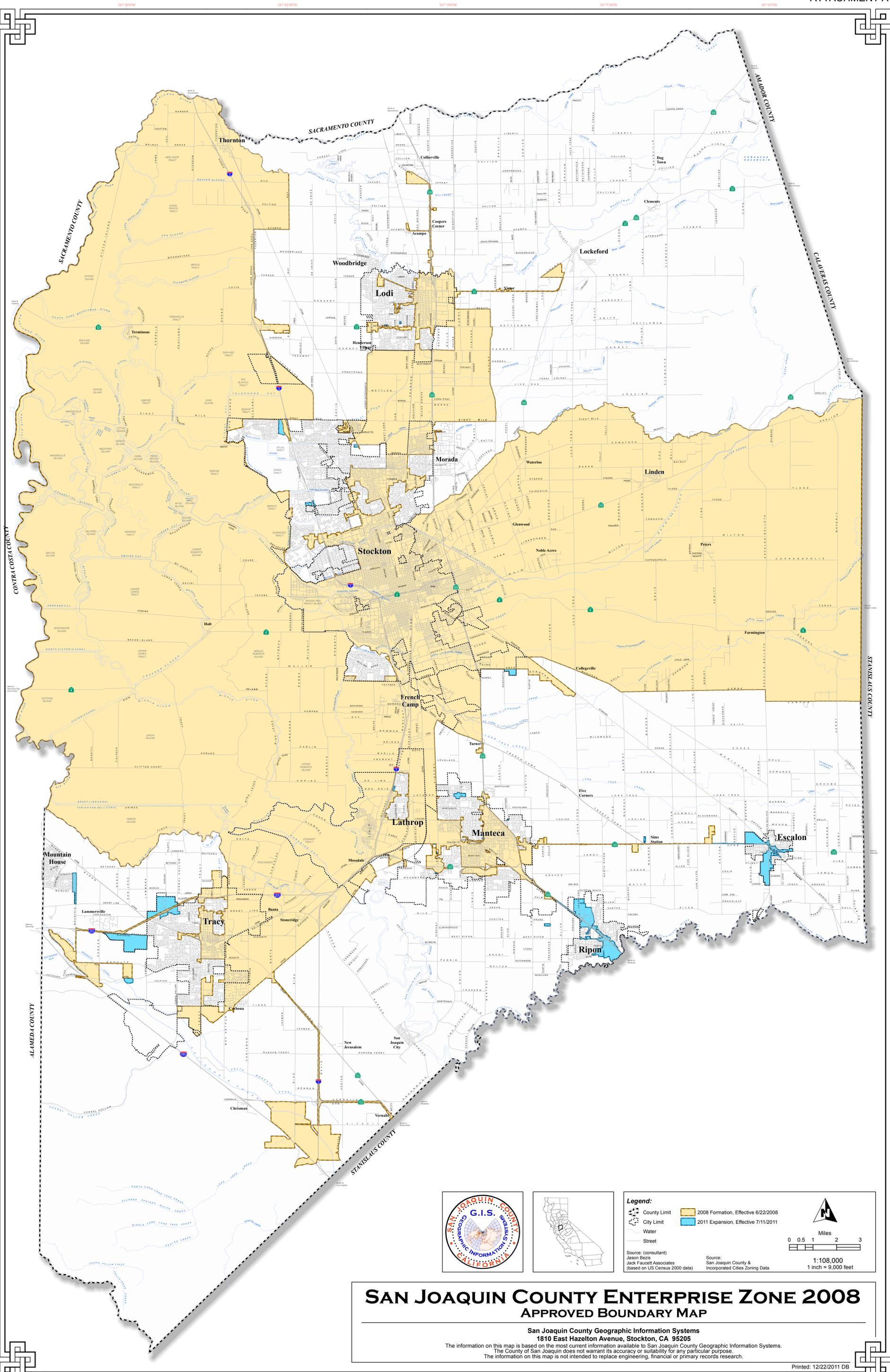
Prepared by: Amie Mendes, Economic Development Analyst

Reviewed by: Andrew Malik, Development Services Director

Approved by: Leon Churchill Jr., City Manager

ATTACHMENTS

Attachment A – Current San Joaquin County Enterprise Zone Boundary Map
Attachment B – Proposed San Joaquin County Enterprise Zone Expansion Areas
Attachment C – Letter of Request from In-Shape Health Clubs



Legend:

- County Limit
- City Limit
- Water
- Street
- 2008 Formation, Effective 6/22/2008
- 2011 Expansion, Effective 7/11/2011

Source: (consultant)
 Jason Beitz
 Jack Faucett Associates
 (based on US Census 2000 data)

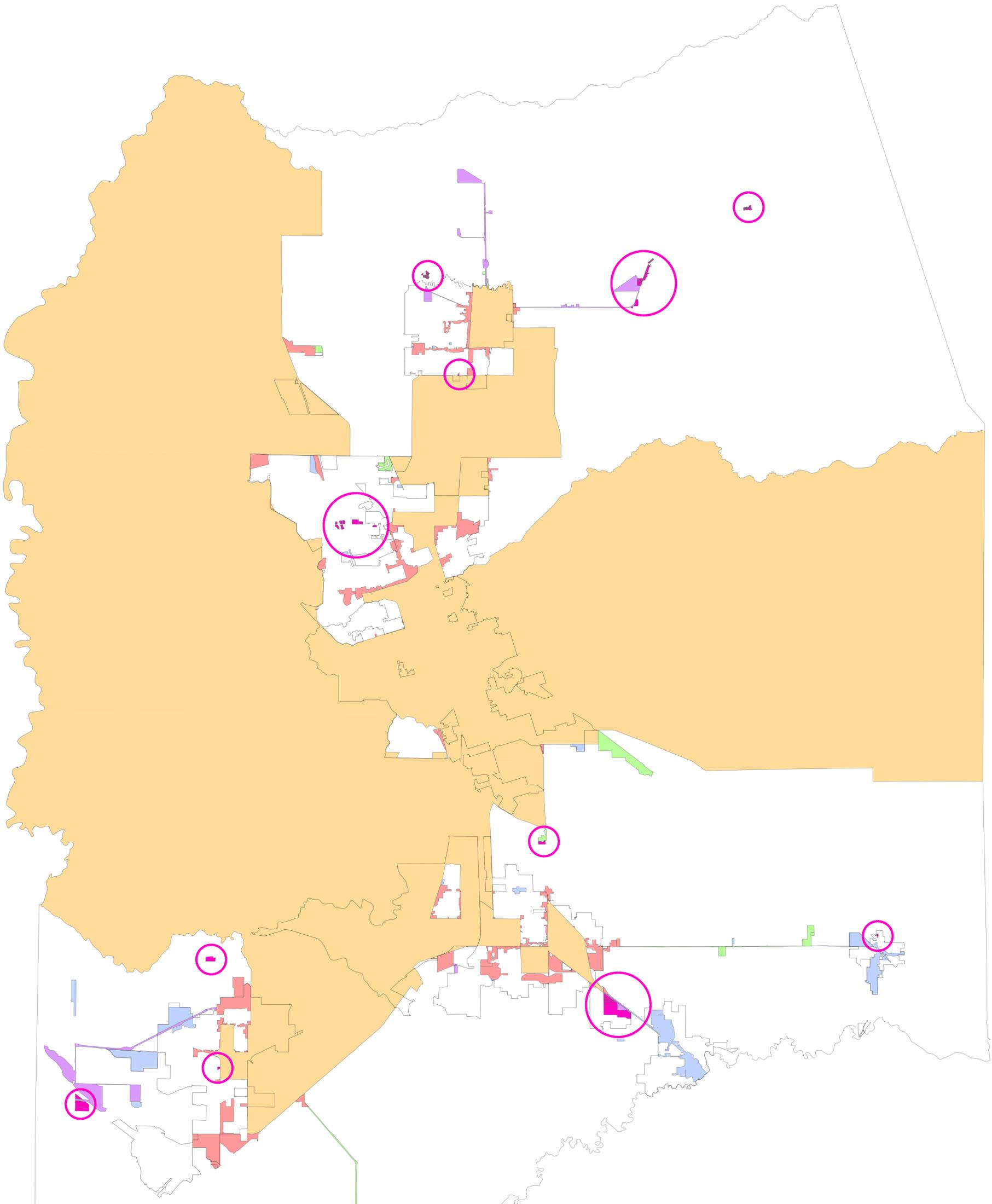
Source: San Joaquin County & Incorporated Cities Zoning Data

Scale: 0 0.5 1 2 3 Miles
 1:108,000
 1 inch = 9,000 feet

SAN JOAQUIN COUNTY ENTERPRISE ZONE 2008 APPROVED BOUNDARY MAP

San Joaquin County Geographic Information Systems
 1810 East Hazelton Avenue, Stockton, CA 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 or suitability for any particular purpose.
 The information on this map is not intended to replace engineering, financial or primary records research.



Legend

- 2008 Eligible Area
- 2008 Contiguous Commercial/Industrial Area
- 2008 Adjacent Industrial Area
- 2008 Adjacent Industrial Land-Use (Conforming With Agricultural Zoning)
- 2010 Additions
- 2012 Additions

DRAFT EZ 2012



**IN-SHAPE
HEALTH CLUBS**

Live the life you want... Get In-Shapel

April 12, 2012

Amie Mendes
City of Tracy
Economic Development Department
333 Civic Center Plaza
Tracy, CA 95376

Dear Ms. Mendes:

We are providing this letter in connection with a request to expand the San Joaquin County Enterprise Zone to include our club located at 101 S Tracy Boulevard, Tracy.

In-Shape Health Clubs, Inc. was formed in 1981 when our founder, Mort Rothbard, purchased West Lane Racquet Club in Stockton. Since then, the company has grown to include more than 50 clubs, including three in Tracy. Our San Joaquin County Clubs currently employ nearly 320 people including approximately 75 employees in the Tracy Boulevard location. We are a health club industry leader in the California Central Valley.

All our clubs, including those in Tracy, are committed to hiring and retaining employees and expanding and improving the facilities. Inclusion of our Tracy Boulevard Club in the Enterprise Zone will allow us to purchase additional capital assets, maintain the facility through various improvement projects, and create additional jobs and improve the skills of the existing workforce.

In-Shape Health Clubs, Inc. is still managed by the Rothbard family and operated from its corporate office in the California Central Valley. If you require any further information regarding the expansion request, please do not hesitate to contact me.

Sincerely,

Tiffany Blair, CPA/ABV
Assistant Controller

RESOLUTION _____

APPROVING THE EXPANSION OF THE SAN JOAQUIN COUNTY ENTERPRISE ZONE BOUNDARIES

WHEREAS, The City of Tracy is part of the San Joaquin County Enterprise Zone (the "Enterprise Zone") which was established on June 22, 2008, and

WHEREAS, The City of Tracy wishes to expand the boundaries of the Enterprise Zone to include the geographic area set forth in the boundary map attached as Exhibit A, and incorporated herein by this reference, and

WHEREAS, Land included with the proposed expansion area is zoned for industrial or commercial use, or has an approved Conditional Use Permit for such uses, and

WHEREAS, Basic infrastructure is available to the area that would be included in the proposed area, and

WHEREAS, San Joaquin County will submit a written request, as required, to the California Department of Housing and Community Development to have the Enterprise Zone boundaries expanded;

NOW, THEREFORE, BE IT RESOLVED, that the City Council does hereby support and approve the San Joaquin County Enterprise Zone expansion into the areas as described above.

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 21st day of August, 2012, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 6

REQUEST:

AUTHORIZE THE APPROPRIATION OF \$1.2 MILLION FROM THE RESIDENTIAL SPECIFIC PLAN (RSP) FUND 345 TO CAPITAL IMPROVEMENT PROJECT (CIP) 73135 FOR CONSTRUCTION OF ROADWAY IMPROVEMENTS AS INCENTIVE TO CERTAIN NEW JOB GENERATING DEVELOPMENT IN THE CITY'S NEI AREA

EXECUTIVE SUMMARY:

In order for the City to attract job generating developments in the City's NEI area, it is recommended that the City Council approve an appropriation of \$1.2 million from the RSP fund 345 to CIP 73135 for construction of roadway improvements in the NEI area as incentive to attract certain new job generating development in the City's NEI area.

DISCUSSION

There is a lot of interest from developers, including Prologis, to locate large job generating tenants developing and establishing their office in the City's NEI area which is located south of I-205, east of MacArthur Drive and north of the Union Pacific Railroad line. However, due to incentives offered by other agencies to attract such anchors in their community, it is becoming difficult for the City to compete and attract development.

In order for the City to be more competitive and aggressive in attracting development to the City, staff is recommending the appropriation of \$1.2 million from the RSP fund 345 to CIP 73135 for the construction of roadway improvement in the NEI area. This amount will be used as an incentive to complete certain infrastructure improvements which otherwise will be the responsibility of this development. This capital improvement project provides for the construction of the north-south road connector from south of Grant Line Road located farther west of Chrisman Road at the NEI area boundary line.

Prior to using any portion of this funding, the City will enter into certain agreements with the developers or their agents with securities to ensure these developments will locate in the City's NEI area. Such agreements, when finalized, will be presented to the City Council for approval. The proposed appropriation of funds will demonstrate the City's good faith effort in negotiating and dealing with the developers and/or with their agents.

STRATEGIC PLAN

This agenda item is consistent with the City Council adopted policy for Economic Development to provide necessary infrastructure for attracting companies with a large employment base.

FISCAL IMPACT

There will be no impact the General Fund with the proposed appropriation of funds.

RECOMMENDATION

That City Council, by resolution, approve the appropriation of \$1.2 million from the RSP fund 345 to Capital Improvement Project 73135 for construction of roadway improvements as incentive to certain new job generating development in the City's NEI area.

Prepared by: Kul Sharma, Development Services Assistant Director/City Engineer

Reviewed by: Andrew Malik, Development Services Director

Approved by: Leon Churchill, Jr., City Manager

RESOLUTION 2012- _____

AUTHORIZE THE APPROPRIATION OF \$1.2 MILLION FROM THE RESIDENTIAL SPECIFIC PLAN (RSP) FUND 345 TO CAPITAL IMPROVEMENT PROJECT (CIP) 73135 FOR CONSTRUCTION OF ROADWAY IMPROVEMENTS AS INCENTIVE TO CERTAIN NEW JOB GENERATING DEVELOPMENT IN THE CITY'S NEI AREA

WHEREAS, There is a lot of interest from developers to locate large job generating tenants developing and establishing their office in the City's NEI area; and

WHEREAS, It is becoming difficult for the City to compete and attract developments; and

WHEREAS, Staff recommends the appropriation of \$1.2 million from the RSP fund 345 to CIP 73135 for construction of roadway improvements in the NEI area; and

WHEREAS, The appropriation will be used as an incentive to complete certain infrastructure improvements; and

WHEREAS, The City will enter into certain agreements with the developers or their agents with securities to ensure these developments will locate in the City's NEI area prior to using any portion of this funding; and

WHEREAS, There is no fiscal impact to the General Fund;

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the appropriation of \$1.2 million from the RSP fund 345 to Capital Improvement Project (CIP) 73135 for construction of roadway improvements as incentive to certain new job generating development in the City's NEI area.

The foregoing Resolution 2012-____ was adopted by the Tracy City Council on the 21st day of August 2012 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 8.A

REQUEST

FOLLOW UP DISCUSSION AND DIRECTION TO STAFF RELATED TO EXPANDING THE PROVISIONS OF THE EXISTING BOARDING UP OF BUILDINGS WITH UNSECURED OPENINGS ORDINANCE

EXECUTIVE SUMMARY

In an ongoing effort to promote safe living and working environments for City neighborhoods and commercial corridors, staff presents Council with the concept of an amendment to the Boarded Up Buildings Ordinance, establishing a 180 day timeframe for which boarded up buildings may remain boarded up. Failure to comply with the 180 day timeframe, would subject property owners to judicial and administrative penalties.

DISCUSSION

On February 21, 2012, Code Enforcement staff presented Council with a discussion item regarding the effects of long-term vacant, abandoned and boarded up properties in the City of Tracy. Staff discussed current efforts and new State regulations dealing primarily with abandoned foreclosed properties (SB1137). Staff has seen a marked improvement in banks cooperating with City regulations for cleaning up foreclosed properties. An improving economy has also helped staff deal with foreclosures.

Staff presented Council with the concept of expanding the provisions of the existing Boarded Up Buildings Ordinance to control the length of time a vacant, boarded up building could remain in such condition. The overall goal of the ordinance would be to reduce or eliminate the decades-long problem that boarded up buildings present to the community.

Approximately 14 buildings in the City of Tracy have been in a boarded up state for many years; some as long as 25 years and longer. These buildings lack proper attention and maintenance, provide a place for rodents to nest, and add to the sense of blight and insecurity of nearby residents and become easy targets for illegal dumping. Boarded up buildings require significant oversight by code enforcement personnel as well as police and fire services.

Proposed New Time Limit for How Long Boarded Up Buildings May Remain Boarded Up

Section 9.60 of the Tracy Municipal Code (attached) establishes the criteria for when a vacant building requires boarding up as well as the permit requirements and standards for securing an open building. The ordinance does not identify the length of time a building can remain boarded up. One method to minimize the problems associated with boarded up buildings, could be an amendment to the ordinance to allow a time limit of 180 days during which these properties can remain in a boarded up state. During this 180 period, the property owner would have the option of demolishing or rehabilitating the building for occupancy, in accordance with all applicable codes and regulations. If the property owner chooses the latter, it would be the owner's prerogative to occupy the

building or to keep it vacant, so long that it is maintained and kept secure so that there is no need to board up the building.

If such an ordinance amendment is adopted by Council, the 180 day period would begin after the property owner has been issued an Order to Abate (for existing boarded up buildings) or 180 days from the date a board up permit is issued. Property owners would be subject to criminal and administrative penalties as outlined in Chapter 1.04, Penalty Provisions and Chapter 1.28, Administrative Citations and Penalties of the Tracy Municipal Code, should they fail to perform within this 180 day timeframe. Administrative fines are cumulative and may include late payment charges in addition to administrative costs, interest, late payment charges, and re-inspections.

Property owners are allowed an opportunity to contest the administrative citation by way of an administrative hearing.

Additional Code Enforcement Tools to Address Vacant Boarded Buildings

In addition to criminal and administrative penalties, the City also has the power of receivership in limited cases. In 2008, City Council adopted Resolution 2008-226, authorizing the City Attorney's office to file receivership actions for vacant properties that severely violate health and safety codes and are imminent dangers to the community. Drug houses, gang houses, hoarder houses, fire damaged properties, and severely substandard properties may qualify for receivership.

Unlike the traditional concept of financial receivership, a Health & Safety Code receiver is not appointed to operate a property for a period of time, or to "wind-down" operations. Rather, the receiver is appointed to remedy health and safety violations on a property. Often this is through hiring a contractor to correct the violations, or it could begin with emptying a property of its residents. The remedies are left to the receiver, which is what makes the remedy so adaptable and applicable to the problems governments are facing.

Authorized pursuant to California Health & Safety Code Sections 17980 et seq., receiverships are used primarily for abandoned and substandard properties where the property's conditions pose a serious threat to its residents or the public at large.

The receiver, if authorized to do so by San Joaquin County Superior Court, can borrow against the property (using the property's equity) and use those funds to pay for property rehabilitation, demolition or other work as authorized by the Court to bring the property into compliance with local and state regulations.

Receivership takes place through a court order and may be accomplished with or without the consent of the owner of the property. Although boarded up buildings are unsightly nuisances and deteriorate neighborhood values, appearance alone does not qualify them for receivership. Receivership is an aggressive, staff-intensive and complex process which offers the most advantage when dealing with severe life safety situations and may only be used where clearly necessary to protect the public from serious life and health safety issues. Boarded up buildings in the City of Tracy are primarily addressed through the Abatement of Dangerous Buildings Code and relevant Tracy Municipal Code requirements.

Outreach Efforts

On May 8, 2012, staff met with representatives of the Tracy Association of Realtors (TAR) to review the ordinance amendment concept. During this meeting, several ideas were exchanged regarding the impacts of such an amendment. In summary, the TAR was concerned with:

- Violation of private property rights;
- Potential liens on vacant, foreclosed, boarded up properties for failure to comply. Liens posted by the City could potentially destroy a real estate transaction;
- Additional governmental regulations that further restrict the ease of doing business in the City;
- Increased burden on staff to regulate such a code amendment.

On June 19, 2012, the City of Tracy Interdepartmental Enforcement Alliance (IDEA) team met to review staff's proposed ordinance amendment. During that meeting, the team expressed concern with the time intensive process on staff's part to track the progress of these vacant buildings to ensure they are converted within the required 180 day timeframe.

Council Options

1. Leave the board up ordinance as written and enforce open and unsecured structures pursuant to existing TMC requirements.
2. Adopt a revision to the ordinance establishing the 180 day timeframe. This option will require prioritizing and monitoring staffs efforts over the next six months to determine impact on staffing.

STRATEGIC PLAN

This item falls within the efforts of Public Safety Strategy 4, Establish methods and processes to adequately address safety, blight, and quality of life issues. Therefore, an amendment to the Boarded Up Buildings Ordinance would work in conjunction with the City's efforts to eliminate blighted and dangerous building conditions throughout the community.

FISCAL IMPACT

If Council directs staff to proceed with an ordinance amendment, an increased amount of staff time will be required to monitor the progress of a boarded building's compliance with the 180 day timeframe. Inspecting properties for compliance, as well as tracking administrative citations issued for those properties in violation of the 180 day boarding requirement, will result in service level impacts to other types of code cases. However, over the long term, reducing the amount of time spent enforcing the nuisances

associated with boarded buildings may result in cost savings to the City as a consequence of reduced calls for service from Police and Code Enforcement staff.

As a result of budget and staff reductions, the Code Enforcement Division continues to perform in a reactive nature. Staff prioritizes cases to manage workload; however, as caseloads increase, there will continue to be service level impacts.

RECOMMENDATION

Staff recommends that City Council discuss amending the Tracy Municipal Code to establish a 180 day timeframe a building can remain in a boarded up state, and provide direction accordingly. If additional staff resources are needed, staff could bring back additional information during the budget process.

Prepared by: Ana Contreras, Community Preservation Manager

Reviewed by: Bill Dean, Assistant Development Services Director

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

Attachment – Tracy Municipal Code Section 9.60

Chapter 9.60**BOARDING OF BUILDINGS WITH UNSECURED OPENINGS****Sections:**

- 9.60.010 Findings and intent.**
9.60.020 Application.
9.60.030 Unsecured building a public nuisance—Boarding permit required.
9.60.040 Standards for securing building.

9.60.010 Findings and intent.

(a) The Council finds and declares that vacant buildings which have unsecured windows and doors or other openings allowing entry become an attractive nuisance to children, a harborage for rodents, an invitation to vagrants and criminals as a temporary abode and as a place to engage in illegal conduct, frequently including illegal drug-related activity, and an increased fire hazard; that such buildings contribute to the growth of blight within the City, depress market values of surrounding properties, thereby reducing tax revenues, necessitate additional governmental services, significantly interfere with the use and enjoyment of neighboring properties, create an unsafe condition affecting the public and constitute an unreasonable use of property and a public nuisance.

(b) Protection of the environment, and the public health, safety and welfare requires the establishment and enforcement of the means by which such nuisance conditions may be prevented. (Ord. 1090 § 1 (part), 2006)

9.60.020 Application.

(a) The provisions of this chapter shall apply generally to all property throughout the City in which any of the conditions, hereinafter specified, are found to exist; provided, however, that the provisions of this chapter shall not apply to buildings or structures in which a person resides or otherwise occupies in such a manner that unauthorized entries to the structure can be promptly observed and reported to the City of Tracy Police Department.

(b) The provisions of this chapter are to be supplementary and complementary to all of the provisions of the Tracy Municipal Code, state law, and any law cognizable at common law or in equity, and nothing in this chapter shall be read, interpreted or construed in any manner so as to limit any existing right or power of the City to abate any and all nuisances. Any public nuisance set forth in this chapter may be abated by the City under the procedures set forth in chapter 1.32 of this Code.

(c) Property owners with buildings located within the City that are boarded as of the date of adoption of this chapter will be given a six (6) month grace period to comply with the provisions of this chapter. The grace period will be considered the same as if an initial boarding permit was granted by the Building Official. At the end of the six (6) month period, any such boarded building will be considered a public nuisance unless the property owner has applied for and received a renewal boarding permit. Property owners with boarded buildings which fall under the provisions of this subsection will be notified by mail of the conditions and requirements of this chapter.

(d) Notwithstanding any provision of this chapter to the contrary, the Building Official shall have the discretion to grant a property owner a grace period of five (5) working days to apply for a permit in emergency situations such as natural disasters or other unforeseen circumstances.

(e) The applicant shall specify, on the application for the permit, the number and location of each window, door, or other opening to be boarded. Only doors, windows or other openings that are broken or missing, so as to allow access to the interior, must be temporarily boarded and secured. However, should the applicant decide to use boarding for an opening that is not yet broken or missing, such boarding must be shown on the application for the permit and installed in compliance with the standards set forth in section 9.60.040 of this chapter.

(f) The applicant shall submit a new application, and pay another permit fee, for any additional windows, doors, or other openings to be boarded after the final inspection on the original permit occurs. (Ord. 1090 § 1 (part), 2006)

9.60.030 Unsecured building a public nuisance—Boarding permit required.

(a) It shall be unlawful and a public nuisance for any owner of property in this City to allow to exist on such property any building or structure whose doors, windows or other openings are broken or missing, so as to allow access to the interior; or which is not temporarily boarded and secured in compliance with section 9.60.040 of this chapter within the time set forth by the Building Official in the permit; or which is left in such temporary boarded-up condition after the expiration of any initial or renewed boarding permit.

(b) It shall be unlawful and a public nuisance for any person, firm, association or corporation to erect, install, place or maintain boards over the doors, windows or other openings of any building or structure or otherwise secure such openings by a means other than the conventional method used in the original construction and design of the

building or structure without a valid, current and unexpired boarding permit therefor from the Building Official. No boarding permit shall be issued for a period of greater than six (6) months. Upon an application and a showing of good cause, the Building Official may issue renewals of such permits.

(c) The fees for the issuance or renewal of a boarding permit shall be set by Council resolution and may be amended from time to time to adjust for the personnel costs upon which the fee is based rising or falling. Upon payment of the required fee, the Building Official shall issue or renew a boarding permit upon the submission of a written application by the property owner or his/her authorized representative or contractor and upon the confirmation by a city building inspector that the boarding or other method of securing the building will or has been done in compliance with this chapter.

(d) Any person violating or causing the violation of this chapter shall be guilty of an infraction as provided for in section 1.04.030 of this Code, in addition to any other remedies provided for in this Code, including those set forth in section 1.04.010 of this Code, or under other applicable law. (Ord. 1090 § 1 (part), 2006)

9.60.040 Standards for securing building.

(a) The temporary boarding of the doors, windows or other openings of any building or structure or any means of securing such openings, other than by the conventional method used in the original construction and design of the building or structure, shall comply with the following minimum standards:

(1) Windows. Windows and similar openings shall be boarded with exterior grade plywood of minimum thickness three-fourths (3/4") (to be consistent with door security standards) inch or its equivalent. Vent holes may be required, as deemed necessary by the Building Official. The plywood shall be secured in place, as a minimum standard, by a set of two (2) Grade No. 2 Douglas Fir two (2) by four (4) or four (4) by four (4) cross members set at two (2') foot on center vertically, secured to the plywood by three-eighths (3/8") inch plated carriage bolts with large washers at each end and with the cross member turned so that the carriage bolt goes through the larger dimension. Bolts used to secure the cross member shall be threaded to the correct length. A minimum of two (2) sets of such cross members shall be used on each window. Each cross member shall be a continuous piece of lumber, and each must extend at least one foot past the window opening in each direction. Bolts and nuts used to secure the cross members to the plywood must be tightened enough to slightly deflect the wood. Bolt heads must fit tightly

against the wood and not give a purchase for pliers or pry bars. The nuts are to be located on the interior side of the structure.

(2) Exterior doors. The main exterior (required) residential exit door(s) and all commercial exterior exit doors shall be boarded with exterior grade plywood of a minimum thickness of three-fourths (3/4") inch or its equivalent, fitted to the entry door jamb with maximum one-eighth inch clearance each edge from the door jambs and threshold. The existing door should be removed. The plywood shall, as a minimum standard, be attached to three (3) Grade No. 2 Douglas Fir horizontal two (2) by four (4) wooden crossbars with two (2) each three-eighths (3/8") inch carriage bolts and matching hardware with nuts located on the interior side of the structure. The plywood shall be attached to the door entry with three (3) case hardened strap hinges located at quarter points and the plywood shall be secured by two (2) case hardened steel hasps located at third points on the strike side of the door and minimum two (2) inch case hardened padlock. Fasteners used to attach the door hasp and hinges shall be the non-reversible type that do not give a purchase for pliers or pry bars. All other unsecured residential doors providing exterior access shall be removed and be secured in the same fashion as windows noted above.

(3) Painting of boarded openings. All boarded openings shall be painted with a minimum of one coat of exterior paint which is of a dark gray or similar earth color or a color compatible with the exterior color of the building or structure.

(4) Garages. Overhead garage doors shall be secured. Nailing the door to the jamb or nailing pieces of two (2) by four (4) to the jamb is not acceptable. The overhead door shall be padlocked with the existing garage lock or a newly installed one. In an attached garage it is acceptable, as a minimum standard, to insert a piece of Grade No. 2 Douglas Fir two (2) by four (4) lumber through the overhead mechanism on the inside of the door. The two (2) by four (4) shall be long enough to go through both sides of the mechanism or shall be nailed in place on the inside so that it cannot fall out. Secondary garage entrances to the outside of the garage shall be secured with strong-backed plywood as described for windows above. Access doors between the house and attached garage need not be boarded. Detached garages shall be secured as a separate structure. Access shall be provided by padlock as described for doors above.

(b) Alternative methods of securing a building. Notwithstanding subsection (a) of this section, the Building Official may approve alternative methods of securing doors, windows or other openings of any building or struc-

ture. In making the determination to approve any alternative method, the Building Official shall consider the aesthetic and other impacts of such method on the immediate neighborhood and the extent to which such method provides adequate and long-term security against the unauthorized entry to the property.

(c) During all times that persons are inside a boarded structure, all exits and entries under title 9 of this Code shall be made accessible provided that the structure must be again secured when such persons are no longer inside. (Ord. 1090 § 1 (part), 2006)

Chapter 9.64

ENERGY CODE

Sections:

9.64.010	Reference to chapter.
9.64.020	Purpose of chapter.
9.64.030	Adoption by reference of the California Energy Code.
9.64.040	Penalty provisions.

9.64.010 Reference to chapter.

This chapter 9.64 of the Tracy Municipal Code may be referred to as the "City Energy Code," and is adopted pursuant to Government Code 50022.2. For purpose of clarity, the term "Code," when used alone, shall refer to the Tracy Municipal Code. (Ord. 1103 § 4 (part), 2007)

9.64.020 Purpose of chapter.

The purpose of this chapter is to provide minimum standards to sustain energy reliability, reduce electrical and gas demand, contribute to a more stable economy as energy costs increase and reduce pollution and greenhouse emissions by way of regulating building construction activity for maximum energy efficiency. The purpose of this chapter is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this chapter. (Ord. 1103 § 4 (part), 2007)

9.64.030 Adoption by reference of the California Energy Code.

The City hereby adopts by reference the code entitled "2005 California Energy Code," including all appendices attached thereto, published by the International Code Council and copyrighted by the California Building Standards Commission (hereinafter "California Energy Code"), as amended by this chapter. The California Energy Code is on file with the City Clerk, and is available for inspection and copying in accordance with Government Code section 50022.6. (Ord. 1103 § 4 (part), 2007)

9.64.040 Penalty provisions.

The City in accordance with Tracy Municipal Code section 9.02.040 shall enforce violations of this chapter. (Ord. 1103 § 4 (part), 2007)