TRACY CITY COUNCIL REGULAR MEETING AGENDA

Tuesday, September 3, 2013, 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 - Employee of the Month
- Certificates of Recognition – Rebecca and Anne Marie Fuller

1. CONSENT CALENDAR

A. Approval of Minutes

B. Authorize Amendment of the Position Control Roster by Approving the Reclassification and Reallocation of an Accounting Technician to the Position of Payroll Coordinator

C. Authorize Amendment of the City's Classification and Compensation Plans by Approving Revisions to the Police Department Lead Communications Operator Specification

D. Authorize the Purchase of New Firearms and Exchange of Used Firearms with L.C. Action of San Jose, California

E. Authorize a Five-Year Ground Lease Agreement Between the City of Tracy and GPX Wholesale, Inc., a California Corporation, for Nut Shell Stockpiling Operations on City Property Located at the New Jerusalem Airport and Authorize the Mayor to Execute the Agreement

2. ITEMS FROM THE AUDIENCE

3. PUBLIC HEARING TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT FOR THE CORDES RANCH DEVELOPMENT AGREEMENT, GENERAL PLAN AMENDMENT, CORDES RANCH SPECIFIC PLAN, AND CORDES RANCH SITE ANNEXATION APPLICATIONS, AND TO CONSIDER THE APPLICATIONS FOR A GENERAL PLAN AMENDMENT, CORDES RANCH SPECIFIC PLAN, PREZONING AND ANNEXATION OF THE CORDES RANCH SITE TO THE CITY OF TRACY, AND INTRODUCING AN ORDINANCE AMENDING VARIOUS TRACY MUNICPAL CODE SECTIONS TO CREATE THE CORDES RANCH SPECIFIC PLAN ZONE DISTRICT. THIS IS ALSO A PUBLIC HEARING TO INTRODUCE AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH PROLOGIS, LP. THE CORDES RANCH SPECIFIC PLAN SITE IS APPROXIMATELY 1783 ACRES LOCATED NORTH OF SCHULTE ROAD, SOUTH OF I-205, AND EAST AND WEST OF MT HOUSE PARKWAY, APPLICATION NUMBERS GPA13-0002, A/P13-0001. APPLICANT IS DAVID BABCOCK AND ASSOCIATES. THE PROPERTY SUBJECT TO THE DEVELOPMENT AGREEMENT IS APPROXIMATELY 1238 ACRES OF LAND LOCATED NORTH OF SCHULTE ROAD AND EAST OF MOUNTAIN HOUSE PARKWAY, APPLICATION NUMBER DA11-0001; THE APPLICANT IS PROLOGIS, LP.

4. UPDATE ON CITY-INITIATED ABATEMENT OF NUISANCES AT 1690 DUNCAN DRIVE

5. APPROVAL OF A PURCHASE AND SALES AGREEMENT WITH SURLAND COMMUNITIES LLC FOR THE DISPOSITION OF THE CITY-OWNED 150- ACRE SCHULTE ROAD SITE (APN 209-230-30) AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

6. SECOND READING AND ADOPTION OF ORDINANCE 1186 AN ORDINANCE OF THE CITY OF TRACY REZONING A 47.1-ACRE PARCEL, LOCATED AT THE SOUTHEAST CORNER OF CORRAL HOLLOW ROAD AND KAGEHIRO DRIVE, ASSESSOR'S PARCEL NUMBER 242-040-36, FROM LOW DENSITY RESIDENTIAL (LDR) ZONE TO PLANNED UNIT DEVELOPMENT (PUD) ZONE. THE APPLICANT AND PROPERTY OWNER IS CORRAL HOLLOW DEVELOPMENT, LLC. APPLICATION NUMBER PUD13-0001

7. ITEMS FROM THE AUDIENCE

8. STAFF ITEMS

9. COUNCIL ITEMS

10. ADJOURNMENT

TRACY CITY COUNCIL	REGULAR MEETING MINUTES
July 2, 2013, 7:00 p.m.	
City Council Chambers, 333 Civic Center Plaza	*Web Site:* www.ci.tracy.ca.us

Mayor Ives called the meeting to order at 7:01 p.m. and led the Pledge of Allegiance.

The invocation was offered by Chaplain Jim Bush.

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

Leon Churchill, Jr., City Manager, presented the Employee of the Month award for July to Christopher Davidson, Fire Department and Jonathan Henry, Police Department.

Mayor Ives presented Certificates of Recognition to Anne Marie Fuller and daughter Rebecca Fuller for being crowned Mrs. California – Beauty of The Nation, and Miss Teen California – Beauty of The Nation.

1. CONSENT CALENDAR - Following the removal of item 1-C by Council Member Young, it was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.

   A. Approval of Minutes – Regular meeting minutes of April 16, 2013, and Closed Session meeting minutes of May 7, 2013 were approved.

   B. Approval of the Final Subdivision Map and Subdivision Improvement Agreement for Muirfield 7 – Phase 4, Tract 3779, and Authorize the Mayor to Execute the Agreement – Resolution 2013-095 approved the map and agreement.

   D. Approve an Offsite Improvement Agreement with McDonald's USA, LLC, for the Construction of Street and Utility Improvements on Eleventh Street and "F" Street, and Authorize the Mayor to Execute the Agreement – Resolution 2013-096 approved the agreement.

   C. Authorization to Award Chemical Bids for Water and Wastewater Treatment for Fiscal Year 2013-14 – Steve Bayley, Project Specialist, provided the staff report. The City of Tracy requires various chemicals for daily treatment of water at the John Jones Water Treatment Plant, production wells, and the Wastewater Treatment Plant.

      Bid packages were sent to chemical firms that expressed interest in furnishing water and wastewater treatment chemicals. Nine bids were received and opened on Thursday, June 13, 2013. The bids are the lowest responsible bid for each chemical and comply with City specifications.

Chemical	Company	Bid Price
Liquid Cationic Polymer	Polydyne Inc.	$0.4557/lb.
Non-ionic Liquid Poly-Acrylamide	Ecolab (Nalco)	$0.99/lb.
Blended Liquefied Phosphate	Brenntag	$0.441/lb.
Liquid Alum	General Chemical Corp.	$343.00/ton
Liquid Chlorine, Bulk	Sierra Chemical Co.	$499.80/ton
Liquid Sulfur Dioxide, Bulk	Sierra Chemical Co.	$664.89/ton
Aqua Ammonia	Hill Bros. Company	$0.148/lb.
Sodium Hypochlorite	Brenntag	$0.964/gal

It is anticipated that the annual cost for chemicals will be approximately $390,000.

Staff recommended that Council authorize the purchase of chemicals from the low bidders.

Council Member Young asked how much money was spent on chemicals last year. Mr. Bayley indicated approximately $450,000. Council Member Young pointed out that the City saved over $100,000 on one expense, reconfirming the City's commitment to lower costs.

It was moved by Council Member Rickman and seconded by Council Member Manne to adopt Resolution 2013-097 awarding chemical bids for water and wastewater treatment for fiscal year 2013-14. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – None.

3. PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL ON EACH OF THE PARCELS LISTED IN EXHIBIT "A" TO THIS AGENDA ITEM A NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND ADOPT A RESOLUTION AUTHORIZING FIRE DEPARTMENT STAFF TO ORDER CONTRACTOR TO ABATE SAID NUISANCES – Steve Hanlon, Fire Division Chief, provided the staff report. Pursuant to Tracy Municipal Code, a Public Hearing is required prior to the abatement of any parcels. Sections 4.12.250 through 4.12.340 of the Tracy Municipal Code set forth the procedure for the City to abate weeds, rubbish, refuse and flammable material on private property.

On June 10, 2013, pursuant to Tracy Municipal Code, Section 4.12.280, the Fire Department sent a notice to property owners that said owner was to abate weeds, rubbish, refuse and flammable material on his/her parcel within twenty days, and informed the property owner(s) that a public hearing would be conducted on July 2, 2013, where any protests regarding the notice to abate would be heard. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate within 20 days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property.

Under the provisions of Tracy Municipal Code Section 4.12.290, the Fire Department will proceed at Council's direction with instructing the City's contractor to perform weed, rubbish, refuse and flammable material abatement on the parcels listed. Per the Tracy

Municipal Code, property owners are liable for the cost of abatement and will be billed for the actual cost of the City contractor's services, plus a twenty-five percent administrative charge. All unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property.

There is $12,100 budgeted for Fiscal Year 2013-2014, Grounds and Maintenance account 211-52150-252-00000, that is used for contracting the abatement of weeds, rubbish, refuse and flammable material. There are sufficient funds at this time to accomplish abatement services.

Staff recommended that Council conduct a public hearing to hear and consider any and all objections to the proposed abatement, and by resolution, declare the weeds, rubbish, refuse, and flammable material located at the parcels listed to be a nuisance, and authorize the Fire Department to direct the City's contractor to abate such nuisance.

Mayor Ives opened the public hearing. As there was no one wishing to address Council on the item, the public hearing was closed.

Council Member Rickman thanked Division Chief Hanlon for their enforcement efforts.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2013-098 declaring the existence of weeds, rubbish, refuse and flammable material on the parcels listed in Exhibit "A" to the staff report a nuisance and authorizing Fire Department staff to order the contractor to abate. Voice vote found all in favor; passed and so ordered.

4. REVIEW AND DISCUSS THE POTENTIAL FORMATION OF A SENIOR COMMISSION AND PROVIDE STAFF DIRECTION – Leon Churchill, Jr., City Manager, provided introductory comments regarding the item. Kim Scarlata, Recreation Manager, provided the staff report. Vanessa Carrera, Management Analyst, provided the financial aspect of the proposal.

During the May 7, 2013 Council meeting, Council directed staff to explore the potential formation of a Senior Advisory Commission. The estimated operating expenses associated with creating a Senior Advisory Commission is estimated at $27,650 annually.

Over 13 cities with Senior Advisory Commissions were reviewed to determine how the City of Tracy's Senior Advisory Commission might be structured. The California cities surveyed included: Davis, Dublin, Encinitas, Fremont, Lathrop, Loma Linda, Manteca, Mission Viejo, Patterson, Ripon, San Ramon, Santa Clara and Vista. The majority of these cities had similar models with regard to membership, purpose, and responsibilities.

The various components in the formation of a Senior Advisory Commission include purpose, commissioner responsibilities, membership guidelines, officer duties, and terms. Additionally, consideration to staffing needs, fiscal impact, and the length of time it would take to form the Senior Advisory Commission is also included.

Determining the relationship a Senior Advisory Commission would have with the Parks and Community Services Commission is critical, particularly given that the Parks and Community Services Commission has purview over parks and programming for youth,

adults and seniors. The Senior Advisory Commission could serve as an advisory group to the Parks and Community Services Commission and advise the Parks and Community Services Commission on senior activities, including recreational, social, educational, health and wellness programs held at the Lolly Hanson Senior Center or the Commission could advise Council directly.

A Senior Advisory Commission could consist of a five member commission with senior representatives that are a minimum of 55 years of age, currently working or have experience working in a senior related field, be a resident of Tracy, and not currently serving in any other City of Tracy Committee, Commission or Board. Staff liaison support would entail duties such as preparing and posting agendas, attending meetings, prepare meeting minutes, trainings and special projects. An estimated $27,650 impact to the General Fund is anticipated annually.

If Council chooses to pursue the formation of a Senior Advisory Commission, the estimated timeline to form a Senior Advisory Commission is approximately six months.

In the process of researching the various cities' Commissions within their jurisdictions, staff found an emerging trend towards Commission consolidation. As staff developed two alternatives, four key points were considered; (1) Public engagement goal; (2) Community social trends; (3) Re-engineering of City service delivery and priorities undertaken over the last several years, and (4) Previous Board/Commission recruitment challenges.

The question of resident engagement and participation and the method by which public participation and engagement is elicited and encouraged varies depending on the public participation goal. The City has used various means to practice open government and encourage public participation, elicit community input, provide information or assess public perception. Some of these methods have included Resident Surveys, Community Conversations, Speakers Bureau, workshops, or establishing Resident Advisory Boards and Commissions. One consideration would be to clarify the goal and then determine the most appropriate method to pursue.

Tracy has become diverse in age, population and neighborhood composition. Tracy has a relatively young populace; 35% are under 20; the median age for the last 13 years average is 32; and 48% of households have children less than 18 years of age, while 60% of working adults commute. According to US Census figures, senior citizens, ages 65 and over make up 6.9% of the population. It is important to note that in 2010, federal guidelines define a senior citizen as 65 and older. Previous to 2010, census and other governmental data defined seniors as 55 and older. The community's social trends may also be a factor to consider.

The City of Tracy has re-engineered and consolidated various departments and divisions to create greater efficiency in its service delivery with a newer, leaner structure. The Council has also approved the 2013-2015 Quality of Life Strategic Priority which aims to match programming and services to the diversity and composition of the community.

Recruitment for replacing Commissioners has become more difficult in that, due to lack of applicants, recruitments have had to be completed several times, and in some cases, the single applicant has been appointed due to lack of interest. Challenges with previous

commissioner recruitment and maintaining a quorum is a perspective included as a consideration.

Alternative 1: Expanding the Parks and Community Services Commission - Given that the Parks and Community Services Commission currently oversees programming for youth, adults and seniors, Alternative 1 expands the composition of the Parks and Community Services Commission by adding three senior citizen seats and one youth seat. This appointment would expand the representation of the youth and senior population and increase the overall expertise of the Commission. The Youth Advisory Commission would remain, with the Youth Advisory Commission appointing a representative from the Youth Advisory Commission to the Parks and Community Services Commission.

Alternative 2: Consolidation of Three Existing Commissions into one Commission - Over the years the composition of some Boards and Commissions has changed based on the environmental trends occurring in the City. For example, at the March 19, 2007, Council retreat, Council expressed an interest in reviewing some existing Commissions and prospective new ones. These included the creation of a Transportation Commission, the creation of a Beautification Commission, and a review of the role and mission of the Tracy Tomorrow and Beyond (TT&B) Committee. Council ultimately determined to sunset the TT&B Committee, not pursue a Beautification Commission, and, given the various levels of connectivity between all modes of transportation outlined in the General Plan, that the best course of action was to eliminate the Airport Commission which focused on a specialized service area and replace it with a Transportation Commission (TAC). The TAC addressed broader issues including inter-City transit (TRACER, Para-transit, airports, Multi-model Station, taxis, limousines, Park-and Ride lots, bikeways, trails and passes) and intra-city transit (SJRTD, commuter-vanpools and ACE).

Similar to the creation of the Transportation Commission, Alternative 2 considers consolidating the Parks and Community Services Commission, the Tracy Arts Commission, and the Youth Advisory Commission into one Community Services Commission. The consolidation would result in an 11-member Community Services Commission that includes the appointment of three senior advisory members to ensure senior representation.

Staff reviewed this item with the Tracy Arts Commission (TAC), the Youth Advisory Commission and the Parks and Community Services Commission prior to bringing this item to Council.

The Parks and Community Services Commission met on June 19, 2013, to provide feedback on the possible formation of a Senior Advisory Commission. The Commission was in favor of adding a youth representative to the Parks and Community Services Commission, but were not in favor of creating a Senior Advisory Commission or consolidating three commissions into one.

Some Commissioners commented that senior representation already exists on the Arts and Parks Commissions, and adding a Senior Advisory board would be unnecessary, as the Parks Commission already outreaches to seniors in the community and provides staff with feedback related to programming and policy improvements.

Several Commissioners felt that consolidation would create lengthier meetings and the need to form additional subcommittees to complete special projects. The Parks Commission also expressed concern that topics specifically related to parks and recreation programming may become overshadowed by arts and youth topics. The Parks Commission further believes that the group dynamic may not be successful, as some topics may become highly political or controversial amongst the consolidated group.

The Tracy Arts Commission (TAC) discussed the various options at their June 11, 2013, Commission meeting and were in favor of adding a senior and youth representative to the Parks and Community Services Commission and in favor of a Senior Advisory Commission. The TAC was not in favor of eliminating the Tracy Arts Commission and felt artists, art groups and the Grand Theatre rely on the Arts Commission.

The TAC expressed apprehension about consolidating three commissions into one because of no significant cost savings: A new consolidated Commission would likely require more subcommittee meetings to meet the numerous goals. The TAC voiced their need to support the Grand Theatre Center for the Arts, and the numerous artists and arts groups in the community. In addition, Commissioners noted the complexity of the arts field, such as dance, drama, music, visual arts and literature, and indicated a dedicated Commission with such expertise is needed. The TAC feels their priorities, including the Civic Art Program, Music in the Park, and a newly-designed Multicultural Festival, might be lost in the goals of a larger Community Services Commission. Commissioners stated the TAC often and currently has senior Commissioners, and that youth and senior interests are normally discussed. The TAC feels they have historically represented both youth and seniors, and stated there is no need to create additional dedicated positions to serve the TAC.

The Youth Advisory Commission (YAC) met on Wednesday, June 12, 2013, stating they were in favor of appointing youth commissioners to the Parks and Community Services Commission and in favor of maintaining the Youth Advisory Commission. The YAC opposed a Commission consolidation from three to one primarily because adult commissioners may not support or consider youth ideas which would result in limited representation from each high school.

Their initial concern was that a larger commission comprised mostly of adults would not allow for the youth's ideas to be formalized, and feel that their issues may appear trivial and not wholly supported. They also stated that the current Youth Advisory Commission allows for each high school to be represented with at least two students per school, whereas a consolidated commission may only allow for one or two schools to be represented. Youth commissioners also stated they appreciate what they have learned about the government process by being on a commission and are concerned that experience may be taken away.

Formation of a new Senior Advisory Commission would have an annual impact to the General Fund of approximately $27,650. If Council chooses to explore Alternative 1, a $1,800 annual impact to the General Fund for commissioner salaries is estimated. If Council chooses to explore Alternative 2, an estimated $3,200 General Fund savings would be realized. Additionally, staff hours dedicated to support and administer three commissions could be redirected to other City-related priorities.

Staff recommended that Council review provide direction to staff regarding formation of a Senior Commission.

Council Member Manne asked what was included in the $27,000 cost. Ms. Scarlata referred Council Member Manne to Exhibit A to the staff report which provided an outline of the expenses.

Council Member Young indicated she did not see an alternative that included adding a Senior Commission. Ms. Carrera indicated staff did not explore the alternative of adding a Senior Commission, but did provide the logistics of how one could be formed.

Council Member Young stated she did not believe all senior concerns would be addressed if they were only represented on other commissions. Council Member Young stated she believed one senior commission was needed to address their concerns.

Council Member Manne asked if the $27,000 was based on creating a new commission. Ms. Scarlata stated yes. Council Member Manne asked if there would be any savings from the Parks and Community Services Commission. Ms. Scarlata indicated there would be no cost savings.

Robert Tanner, indicated seniors are already represented on other commissions, and suggested consolidation would take away from other areas. Mr. Tanner suggested the commissioners not be compensated since they are considered volunteers for a savings to the City of approximately $17,000 per year.

Terry Sonnefeld, appointee to the San Joaquin County Commission on Aging, stated the real need for a senior commission had nothing to do with the running of the Senior Center. Mr. Sonnefeld stated the current Senior Center runs well and outlined its many features. Mr. Sonnefeld indicated the City needs to concentrate on a larger facility, another facility, or a facility located more convenient to those who do not have transportation. Mr. Sonnefeld suggested switching the Community Center with the Senior Center. Mr. Sonnefeld further indicated seniors need a place where they can talk about nutrition, transportation, housing, and insurance. Mr. Sonnefeld stated more concern was needed regarding elder abuse, legal advice, counseling, employment, none of which would be made available by a Senior Commission. Mr. Sonnefeld recommended Council discuss what the needs are for seniors and how the needs can be met instead of adding bureacracy.

Linda Jiminez, a senior Tracy resident, spoke regarding public engagement, community social trends, re-engineering a service priority, and previous recruitment issues. Ms. Jiminez stated she believed the needs of seniors are offered through programming at the Senior Center. Ms. Jiminez stated she agreed that a youth representative needed to be added to the Parks and Community Services Commission. Ms. Jiminez suggested it was an illogical approach to add senior representation on each existing commission. Ms. Jiminez requested that Council not combine the commissions.

Brent Riddle addressed Council indicating he has been serving the senior community for a number of years and that he joined the Tracy Senior Advocacy Association that began in January 2013. Mr. Riddle indicated the Association represents 20 businesses and organizations that serve seniors. Mr. Riddle stated the Association group would like to see the formation of a senior commission. Mr. Riddle indicated he disagreed with the

budget proposal and suggested it was a small price to pay to see that seniors are taken care of.

Council Member Rickman asked how a Senior Commission would operate versus what the Parks and Community Services Commission currently offered. Ms. Scarlata indicated a senior commission would oversee specific issues and programming. Ms. Scarlata added it was important to note that Council has had a long time commitment to seniors in the community with a budget of $300,000 for the Senior Center. Ms. Scarlata indicated if a Senior Advisory Commission was established, the Parks and Community Services Commission would change slightly unless Council decided that the Senior Advisory Commission were to report to the Parks and Community Services Commission instead of reporting to Council.

Council Member Rickman asked about the availability of the Community Center. Ms. Carrera indicated the Community Center is booked 75% of the time, but when not in use, it is available for community events and programming.

Council Member Rickman asked about the availability of the Larch Clover Community Center. Ms. Carrerra indicated she was not familiar with the facility, but would visit the site to see if there are any opportunities to work together.

Council Member Rickman asked if the City was losing any funds from the State or Federal Government. Mr. Churchill indicated in many cases those funds are delivered to the county to provide services for the aging. Ms. Scarlata stated she would work with Mr. Sonnefeld to see what the City needs to do to solicit funding.

Council Member Rickman asked if there was a way for the City to offer some of the programs Mr. Sonnefeld mentioned. Ms. Scarlata stated several programs mentioned are currently offered at the Senior Center. Ms. Scarlata added that the Senior Center is at capacity and at times has waiting lists for programs offered. Ms. Scarlata further stated that Mr. Sonnefeld volunteers and offers his services to our seniors.

Council Member Manne pointed out that the growing trend of baby boomers turning 60 has not been addressed and that the alternatives suggested go in the opposition direction. Council Member Manne indicated the senior population is growing and will require additional attention. Council Member Manne suggested consolidating the commissions would further deteriorate services of those commissions. Council Member Manne stated he believes Parks and Community Services has done a good job with the time and funding provided. Council Member Manne stated he supported a commission or group that individually addresses seniors.

Mayor Pro Tem Maciel stated he heard a myriad of needs and some of those needs are beyond the purview and the means of local government to address, but, the City can be a part of the solution. Mayor Pro Tem Maciel stated he was not in favor of combining the commissions. Mayor Pro Tem Maciel further stated some consideration should be given to ensure that seniors have a voice and are represented. Mayor Pro Tem Maciel voiced concerns with forming a separate commission, stating he believed a lot of the senior concerns were addressed by the Parks and Community Services Commission. Mayor Pro Tem Maciel suggested it might be appropriate to establish partnerships with other organizations for items that are beyond the City's expertise.

Council Member Young stated the seniors need to be more involved as a comprehensive voice that is focused on issues affecting the senior population. Council Member Young stated she believed there would be many interested individuals who have a passion for seniors to serve on a senior commission. Council Member Young indicated she was not in favor of the two options provided. Council Member Young suggested the limitations regarding programming and space shows the need for a senior commission.

Mayor Ives asked if the Capital Improvement Project budget identifies a project regarding an expanded senior center. Mr. Churchill stated in the Capital Improvement Program, there is a proposal for a very large community complex at a cost of approximately $22 million which can be funded from a number of sources.

Mayor Ives asked if any funding scheme has been established. Mr. Churchill stated not at this point.

Mayor Ives indicated the contention is that seniors are being underserved and that the City is doing a good job, but is limited because of space. Mayor Ives indicated it was important to understand what kind of advice the Council would receive from a senior commission. Mayor Ives asked what type of actions or projects have been approved or built. Ms. Scarlata indicated a few years ago the City was able to use Community Development Block Grant (CDBG) funds to make internal improvements at the Senior Center and currently under construction is the outdoor area.

Mayor Ives asked how the City gathered senior perspective. Ms. Scarlata stated from focus groups or directly from seniors who provide staff with suggestions for programming. Ms. Scarlata indicated staff continually has dialogue with seniors. Ms. Scarlata stated the Senior Center is limited by budget constraints and reduced hours.

Mayor Ives stated he believed the Council has an opportunity to look at options during the budget process. Mayor Ives stated the question is what will be improved with the addition of a senior commission.

Council Member Rickman asked at what intervals a senior commission would meet. Ms. Scarlata indicated it was something for Council to consider if Council moved toward forming a senior commission.

Council Member Manne stated it seemed that a committee might be more appropriate which could meet semi-annually.

Council Member Young indicated seniors issues were more diverse and cannot be solved through programming. Council Member Rickman indicated he agreed with Council Member Young, that the City needs a commission that focuses on senior issues.

Mayor Ives asked if the structure varied between a committee and a commission. Dan Sodergren, City Attorney, stated one distinction is if the Council appoints the board, it would be subject to the Brown Act; if the board receives compensation, they would be subject to AB 1234 training; the frequency of meetings and where they take place are all covered in the bylaws.

Mayor Pro Tem Maciel asked if individuals with specific talents or backgrounds are sought to serve on the Parks and Community Services Commission. Ms. Carrera stated staff does seek a representative from the School District to serve on the Commission and that while some commissioners may have specific talents, it is not a requirement to serve on the Commission.

Mayor Pro Tem Maciel asked if a number of seats were reserved on the current Parks and Community Services Commission, could those individuals be tasked as a sub-committee which would act as a liaison to seniors. Mr. Churchill stated the staff recommendation tried to make the process of getting senior interests integrated as seamless as possible, whether the interests are related to art, cultural or park interests. Mr. Churchill indicated the administrative challenge is to get those concerns in front of the appropriate commission, and then to Council.

Mayor Ives stated the Parks and Community Services Commission has a senior element or conduit for seniors. Mayor Ives indicated the question is does the Council need to pull the senior piece out and make it stand on its own. Mayor Ives indicated one of the problems is that some of the issues that come up for seniors is not under the purview of the Parks and Community Services Commission.

Council Member Rickman stated it was not his intention to take away from any existing commission or committee, but to add resources for seniors.

Council Member Manne stated the fact that groups exist, such as the one that Mr. Riddle is a part of, should send Council a message that the needs of seniors are under-served. Also, comments from staff that the Senior Center is at maximum capacity and there are waiting lists for classes, indicates a demand for senior activities.

Council Member Manne further stated he has heard comments in the community such as “how do I get to the Senior Center”, where is the Senior Center”, and “what is there to do in Tracy”, indicate to him that seniors’ concerns are not adequately being addressed. Council Member Manne stated he has also heard that the Council was doing a fantastic job of addressing youth and recreation for youth. Council Member Manne indicated he has also heard comments that although there have been improvements at the Senior Center, that it was time for more improvements.

Mayor Ives asked Council Member Manne if steps should be taken prior to forming a commission. Council Member Manne suggested a committee may be able to serve the Council in determining whether a commission was needed.

Mayor Ives suggested a report be given to a joint meeting of the City Council and the Parks and Community Services Commission.

Mayor Pro Tem Maciel indicated the focus has been on the Parks and Community Services Commission and that perhaps the answer is to ensure that seniors are represented on the Parks and Community Services Commission and the Transportation Commission, which should be able to oversee a lion-share of senior concerns.

Council Member Young indicated she did not want to close the door on a group that focuses on seniors.

Mayor Ives outlined the options he heard from Council: 1) Appoint a senior delegate to each Commission; 2) Establish an ad-hoc committee that would provide the Council and the Parks and Community Services Commission a report on senior needs; or 3) Form a committee/ad-hoc commission that would be established for a definitive period of time and report to Council for a specific period of time.

Council Member Manne asked if staff knew how many seniors use the Senior Center. Ms. Scarlata indicated staff does know how many seniors participate in various activities and can provide that information to Council.

Mayor Ives asked if any of the three options identified were constrained and should not be considered. Mr. Churchill stated no options were constrained. Mr. Churchill added he has heard from the Council a desire to identify senior related issues and there were a number of ways that the information can be obtained.

Mayor Ives suggested a committee that would address a joint meeting of the City Council and Parks and Community Services Commission two times per year. Mayor Ives stated Council should allow staff to develop the concept and provide options on how that committee would be populated.

Council Member Manne stated he was in support of that recommendation. Council Member Young believed a six month interval was too long.

Mayor Ives stated the intention of the committee would be to present the needs of seniors before the Council. Mr. Churchill stated staff could return within one or two Council meetings with a specific plan.

Mayor Pro Tem Maciel indicated he still believed senior representation was needed on various commissions. Council decided senior representation on various commissions was a separate issue and would be addressed at another time.

Mayor Ives called for a recess at 9:06 p.m., reconvening at 9:15 p.m.

5. RECEIVE AN UPDATE ON THE STRUCTURE FOR FIRE SERVICE GOVERNANCE AND APPROVE THE FIRE SERVICE GOVERNANCE STEERING COMMITTEE'S RECOMMENDATION REGARDING THE FUTURE GOVERNANCE STRUCTURE– Al Nero, Fire Chief, provided the staff report. On May 15, 2012, staff provided a presentation to Council on the current structure of fire governance, which included an overview of the process to be employed over the succeeding months to evaluate the current structure and to identity alternatives to the existing structure. The goal was to identify a structure that streamlines decision-making and to identify existing barriers to governance efficiency related to the provision of fire services within the South County Fire Authority service area.

On June 5, 2012, Council appointed Steve Abercrombie to represent the Council on the Fire Governance Steering Committee. At the July 17, 2012 meeting of the South County Fire Authority (SCFA), the SCFA Board appointed Jim Thoming to represent the SCFA on the Fire Governance Steering Committee (Committee). The Tracy Rural Fire District (District) appointed John Vieira, the Mountain House Community Services District (MHCSD) appointed Celeste Farron, IAFF Local 3355 appointed Ryan Gall, and Robert Sarvey and Dan Ball were appointed as community members at large. The Committee

has convened monthly meetings since January 2013; special meetings were scheduled as needed.

Staff provided the Committee with information about four options: (1) maintain the current structure, (2) dissolve the SCFA and form a new joint powers authority, (3) have all entities contract directly for fire services with the City, and (4) annex the City and MHCSD into the District to form one fire district. The MHCSD representative has indicated that MHCSD does not want to be annexed into the District.

Staff held three community workshops to receive input from the public and to hear any concerns that may need consideration. The meetings were held at the MHCSD Board room, New Jerusalem School, and the Tracy Transit Center. One person attended the Mountain House workshop, no one attended the workshop at New Jerusalem School, and three people attended the workshop at the Transit Center, two of those people were District Board members. No concerns were raised during any of the meetings. Staff reported the workshop results to the Committee.

Staff formed a task force of Fire Department employees to review the options, perform research, to gather information regarding each of the four options, and to advise of any concerns that employees may have regarding the options. Staff met with IAFF Local 3355 to discuss the options and identify any concerns related to them. The concerns raised through that process were security of employment for current employees and continuance of the current employee contract, should any option be implemented that changes the current employer.

Staff met with the Interim County Administrator to provide an overview of the options, requested that she touch base with the Board of Supervisors to determine any concerns, and asked the County to identify any fiscal concerns. Staff provided information that the County will use in making that determination. Staff also met with the County Auditor to get property tax information upon which to base analysis of fiscal considerations regarding the City being annexed into the District.

Staff's analysis of the four options indicates that two have merit: (1) maintaining the current structure, or (2) annexing the City into the District.

The following is an overview of each option based on information available to date:

Strengthen the Existing Joint Powers Authority - The South County Fire Authority is a Joint Powers Authority (JPA), organized in 1999 pursuant to California Government Code Sections 6500-6536. The JPA currently consists of two partners, the City of Tracy and the Tracy Rural Fire District. The service area covered by the JPA includes the jurisdictional areas of the City of Tracy, the adjacent rural areas, and the community of Mountain House. Services are provided to the community of Mountain House pursuant to a contract with the Tracy Rural Fire District. The JPA is governed by a four member board of directors, two from each partner. Services are provided through contract, by the City of Tracy. Costs, including indirect costs, are allocated through a formula based on the staffing needs within each member's jurisdictional area. Each member is responsible for the costs of replacement apparatus and major repair/renovation of facilities located within their respective jurisdictional boundaries.

Should this option be approved, staff recommended that the following changes be made to the JPA:

- Offer full membership in the JPA to the community of Mountain House.
- Expand the Board of Directors to five. If Mountain House accepts membership, they will be represented on the Board. If not, establish an “At Large” position be established with appointment determined by the member agencies.
- Incrementally move toward full autonomy for the JPA. This may begin with the establishment of a pool to cover capital costs for all member agencies, each member agency paying its “fair share.” During the next year, develop an implementation plan to achieve this goal. The implementation toward full autonomy will take several years to achieve.

Annexation of the City into the District - Annexations are subject to the Cortese-Knox-Hertzberg Local Government Reorganization Act and are subject to LAFCo procedures. The proceedings for annexation may be initiated by resolution of the affected local agency, the Tracy Rural Fire Protection District in this case. Parties are required to negotiate an exchange of property tax revenues to establish the revenue source(s) to fund the service. If the application proceeds, LAFCo will hold a public hearing and may either terminate the proceedings if a majority protest exists, order annexation subject to voter confirmation if the requisite number of protests are made, or order annexation without an election if the number of protests does not require an election.

All properties within the District’s jurisdiction are subject to a benefit assessment based on the type of structure. Services would be funded through property tax and the benefit assessment. Residential and most commercial structures are assessed three cents per square foot in addition to the base property tax. The County, acting on behalf of the District, and the City would negotiate a property tax sharing agreement to determine the property tax to be transferred to the District.

Staff analyzed the fiscal effect on the City making certain assumptions. Financial experts have not verified staff’s analysis so it is subject to change.

Upon completion of the annexation, the City would have no authority or responsibility for fire services. The delivery of all fire services would be the full responsibility of the District. To implement this option, the following would first need resolution:

- Agreement on how to resolve the District’s debt to the City.
- Employee transfer plan and implementation of current MOU.
- Agreement regarding ownership, use, and maintenance of facilities and apparatus/equipment.
- Implementation plan for the transfer of authority and responsibility.

Strengthen the Existing Joint Powers Agreement – No changes as long as existing share is intact; Annexation of the City into the District – Subject to negotiations.

Staff recommended that Council direct staff to advise LAFCo that the current governance structure will continue while the parties move toward a regional stand-alone fire agency, either one fire district or maintenance of the current JPA with the changes outlined in this report.

Council Member Rickman asked what LAFCo would do if the City continued with the current structure. Fire Chief Nero, stated the City will have satisfied LAFCo's concern which was to look at the current structure and alternatives to determine what works best, ensuring that the taxpayers receive the services they pay for. Council Member Rickman asked if that would be for maintaining the current structure. Chief Nero stated it would be for whatever the City brings to LAFCo.

Council Member Manne asked Fire Chief Nero if his recommendation was option two. Fire Chief Nero stated he was recommending the City continue its current practice while additional analysis is being completed. Fire Chief Nero indicated he was not in a position to make a firm recommendation until the fiscal analysis has been completed.

Council Member Rickman asked if option two would still include the City allocating 55.6%. Fire Chief Nero stated staff's recommendation was that the City not pursue that option.

Council Member Rickman indicated he was concerned the City may lose the majority voice. Fire Chief Nero stated if Mountain House chooses to remain as a contract member, they would not have a seat on the authority board.

Mayor Pro Tem Maciel asked if the option of annexing the City into the rural district would remove the City from fire service business. Fire Chief Nero stated yes.

Mayor Pro Tem Maciel asked if the City would still be represented on a governing board. Fire Chief Nero stated only through election and residents within the entire district would be eligible to compete for seats on the board and be able to vote.

Mayor Ives asked if a new special district was formed, is it possible that the structure by which the board is populated may change. Bill Sartor, Assistant City Attorney, indicated the same number of individuals would be on the board. The area from which the board is elected would increase by the amount of the annexation.

Mayor Ives asked if the message the Fire Chief wanted to send to LAFCo was that the City is moving to another governance structure and that we need time to do it right. Fire Chief Nero indicated he hoped to send a message to LAFCo that the City is committed to look at options to determine what is best for the majority of the people as it relates to fire service.

Mayor Ives invited members of the public to address Council. There was no one wishing to address Council on the item.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to approve the Fire Service Governance Steering Committee's recommendation regarding the future governance structure. Voice vote found all in favor; passed and so ordered.

6. AWARD A CONSTRUCTION CONTRACT TO THE LOWEST RESPONSIVE RESPONSIBLE BIDDER FOR THE TRANSIT STATION SECURITY CAMERAS - CIP 77545, AUTHORIZE ALLOCATION OF $50,000 FROM TRANSIT CAPITAL F573 TO CIP 77545, AND AUTHORIZE THE MAYOR TO EXECUTE THE CONTRACT – Kuldeep Sharma, City Engineer, provided the staff report. The City and its Police Department fully respect the individual right to privacy and to conduct lawful activities without

interference. The City and Police Department have neither the right nor the desire to function as “Big Brother” in the lives of Tracy residents.

The City has a vested interest, however, in protecting its assets from vandals; thus enhancing the ability to prosecute persons responsible for malicious mischief, and gaining restitution where possible. Research around the country on surveillance cameras impact typically show a 24% reduction in criminal activity where cameras exist.

The Tracy Transit Station facility was completed from transit funds received from the Federal Transit Authority (FTA). The funding for security cameras at this facility was also provided from transit funds, which require that funding be spent for security purposes to protect the assets for which it has helped to pay. Currently, there are security cameras on all TRACER buses; footage is only viewed when an incident or complaint arises. The same protocol is used with other such cameras within the City of Tracy.

The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B at the November 7, 2006, General Election. This act authorizes the issuance of $19,925,000,000 in general obligation bonds for specific purposes, including grants for transit system safety, security and disaster response projects.

The City of Tracy applied for two separate Proposition 1B grants through the San Joaquin Council of Governments (SJCOG) for a total amount of $150,000. The grant applications have been approved and the grant funds will allow for installation of security cameras at the Tracy Transit Station.

Due to the large size of the facility and lack of sufficient staffing, the facility is vulnerable to graffiti and damages. Installation of security cameras will make the facility safer and more secure. Cameras will be installed to overlook interior and exterior locations around the building. An additive bid item is included for installation of cameras to oversee the main parking lot along Sixth Street.

Plans and specifications were prepared in-house. The project was advertised for construction bids on April 4 and 11, 2013, and three bids were received on May 23, 2013.

The lowest monetary bid is from Bockmon & Woody Electric of Stockton, California, in the amount of $142,173. The bid documents state the contract will be awarded on the basis of the Base Bid. However, in order to complete the project in its entirety and make use of low cost bids, it is in the City of Tracy’s best interest to award the project for the Base Bid and Additive Alternate Bid. Bid analysis indicates that the bid is responsive and the bidder is responsible.

Additional funding of $50,000 is needed to complete the project as recommended. Funding for this amount is available from the Transit Capital Fund F573 and needs to be allocated to CIP 77545.

There will be no impact to the General Fund. This is an approved Capital Improvement Program project in FY 2012/13. Funds are available in Transit Capital F573 for the additional $50,000 needed for the additive bid item.

Staff recommended that Council award a construction contract to Bockmon & Woody Electric of Stockton, California, in the amount of $142,173 for the Transit Station Security Cameras - CIP 77545, authorize allocation of $50,000 from Transit Capital F573 to CIP 77545, and authorize the Mayor to execute the construction contract.

Council Member Manne asked staff to outline some of the graffiti problems or issues the Transit Station has experienced. Ed Lovell, Management Analyst, indicated the Transit Station has experienced issues with graffiti, broken glass, theft of brass, and windows being etched.

Council Member Rickman asked how videos applied to the Public Records Act. Dan Sodergren, City Attorney, stated it would be considered a public record, and would be subject to a retention schedule.

Council Member Rickman asked what safeguards have been put in place regarding video tapes. Mr. Lovell indicated the City currently has cameras on buses and the tapes are only viewed by staff if a complaint is filed. Council Member Rickman asked if the video goes on to a hard drive or was taped over. Mr. Lovell stated the electronic devices on buses can hold approximately one month of storage data before they are taped over. Mr. Lovell further stated recordings from the Transit Station would eventually be stored on a server at City Hall. Mr. Lovell added that the record retention for videos is one year.

Council Member Young asked what areas would be covered by video. Mr. Lovell stated cameras would be installed in the interior of the Transit Station primarily focused on the lobby area and ticket booth; outside focused on the roundabout area and bus bays on the south side of the building and in the parking lot on Sixth Street.

Council Member Manne asked what the lifecycle of the cameras were and the future maintenance costs. Mr. Lovell indicated the typical life of a camera is between five and ten years. Mr. Sharma added that the cameras may not have to be replaced, but due to technology may need to be upgraded.

Council Member Rickman asked if the videos from bus cameras have been used to catch criminal activity. Mr. Lovell indicated the videos have been used to catch individuals who have vandalized buses.

Council Member Rickman asked if the cameras proposed for the Transit Station included audio. Mr. Lovell stated he believed the cameras would capture video and audio.

Mayor Ives invited members of the public to address Council. There was no one wishing to address Council on the item.

Council Member Rickman stated he was concerned with cameras in public spaces; however, in this case the cameras were confined to City property. Council Member Rickman stated he wanted assurance that cameras will be used in the narrowest context as possible.

Mayor Pro Tem Maciel stated he was a strong proponent of cameras in public buildings. Mayor Pro Tem Maciel indicated cameras were a great tool for law enforcement and crime prevention.

Police Chief Gary Hampton stated cameras do not necessarily infringe on civil liberties of community members; it is how the cameras are used. Police Chief Hampton outlined the various ways the Police Department uses cameras and subsequent videos.

Council Member Rickman asked if there was a chain of custody, or a limit of who can view videos. Mr. Lovell indicated only he can view video from the buses. Council Member Rickman asked if there was a policy or procedure in place regarding viewing videos. Mr. Sodergren stated there was no policy established at this point.

Council Member Rickman asked if it would be beneficial to have a policy. Mr. Sodergren indicated staff could create an administrative or internal policy regarding videos and added that they would be subject to the Public Records Act.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2013-099 approving a construction contract to the lowest responsive responsible bidder for the Transit Station security cameras – CIP 77545, authorizing the allocation of $50,000 from the Transit Capital F573 to CIP 77545 and authorizing the Mayor to execute the contract. Voice vote found all in favor; passed and so ordered.

7. COUNCIL DISCUSSION ON COST ESTIMATE TO ANALYZE CITY-WIDE FEES AND DIRECTION ON WHETHER OR NOT TO COMMISSION A STUDY TO DETERMINE IF CURRENT FEES ARE COVERING COST OF SERVICE – Andrew Malik, Development Services Director, provided the staff report. On June 4, 2013, Council approved the City's Master Fee Schedule annual update based on the Consumer Price Index (CPI). The City's Master Fee Schedule includes various fees, ranging from recreational fees to police-related fees and various development permit fees.

During the June 4, 2013 Council meeting, Council asked several questions related to whether or not current fees represent the actual cost of service and requested a cost estimate for updating the 1998 study, as well as, evaluating the methodology for estimating annual fee increases.

The estimated cost to commission a cost of service study ranges between $65,000 and $75,000. The scope of the study would include a cost of service analysis to examine appropriate fee levels to achieve cost recovery or to better understand general fund subsidies for various fee programs. The analysis would also examine the activities that are provided to individual users and determine the appropriate fee to achieve cost recovery.

As stated at the June 4, 2013, Council meeting, without analyzing each specific fee and corresponding cost for that particular service, it is difficult to answer the questions of cost recovery relative to the City's current fees on an individual basis. There are indications from the FY 13/14 budget that the City currently subsidizes various fee programs at an estimated subsidy amount of approximately $4.2 million.

An updated cost of service study may compel Council to alter the City's subsidy policies and practices to achieve similar results.

Staff recommended that Council discuss and provide direction relative to hiring a consultant to analyze and update the City's fees as identified within the Master Fee Schedule.

Council Member Rickman stated the problem he had with the raise in fees was that the reason given for the increase was the raise in the Consumer Price Index (CPI).

Mayor Pro Tem Maciel indicated another barometer that could be used is what neighboring cities are charging. Mayor Pro Tem Maciel stated he was concerned regarding the cost of conducting a survey.

Council Member Manne asked if this subject should be part of another discussion regarding CPI.

Leon Churchill, Jr., City Manager, stated he recently signed a contract with the University of the Pacific (UOP), to establish a local CPI. Mr. Churchill further stated this agenda item relates to what the City's services cost. Mr. Churchill added that in an ideal environment the City would do a cost of services analysis every 5-7 years and use the CPI in between.

Mayor Ives asked if Council chose, could a group of fees be reviewed instead of every single fee. Mr. Malik stated yes.

Council Member Young asked if the cost would still be $50,000-$60,000 if Council chose to just look at a few fees. Mr. Malik stated it could be as low as $10,000-$15,000. Council Member Young stated it would be good to get a sense of what it takes to run the City's business.

Council Member Rickman asked why the City could not do the study. Mr. Churchill responded there were two concerns with staff conducting the study; 1) the technical ability of current staff; and 2) the current demand on staff time.

Council Member Rickman asked Dan Sodergren, City Attorney, for input. Mr. Sodergren stated the City cannot charge more than the actual cost of providing the service, and that he was fairly confident that the City is charging less than actual costs because of the number of increases taken using the CPI.

Council Member Rickman asked about the City doing its own study. Mr. Sodergren stated as long as the City can justify, if challenged, the cost of providing the service it would not matter if the study came from staff or a consultant.

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

Robert Tanner asked if the Master Fee Schedule included developer fees. Mr. Malik stated not development impact fees, only building permit fees. Mr. Tanner asked for the dollar amount of the UOP study. Mr. Churchill stated $2,500.

Mr. Tanner suggested waiting until the study is done by UOP to find out what the CPI will be for Tracy.

Mayor Pro Tem Maciel stated it might be good to wait until the study comes back from UOP to consider spending the money on a complete analysis.

Council Member Young stated two different items were being discussed: the base rate, and the rate of change.

Council Member Rickman stated he wanted to ensure that the City was not raising fees just because the CPI says we can. Council Member Rickman referred to program management fees and a 150% surcharge. Mr. Malik explained that the study completed by the San Joaquin Partnership addressed sewer, water, storm and road costs; a soft cost component was discussed that totaled approximately 40% of soft costs and was the industry standard.

Council Member Rickman asked Mr. Churchill what amount other communities charge. Mr. Churchill stated the City's use of 150% over administrative charges is not typical. However, the monetary value of what it represents is average and typical.

Council Member Rickman stated he would like staff to go back and look at the fees that were raised in June and justify them.

Council Member Manne stated it was embarrassing that the City does not have the information on what it costs to run a program. Council Member Manne stated he did not want to spend $75,000 to conduct a study at this time.

Council Member Manne suggested UOP could look at fees for approximately $2,500.

Council Member Young suggested a few fees be looked at to develop a base that other fees could be compared against. Mr. Malik stated staff could look at a specific set of fees of Council's choosing.

Mayor Ives asked staff if there was a set of fees that could act as a representation of all fees. Mr. Malik stated a few fees could be representative, especially if they are competitive in nature.

Council Member Manne asked if the City had a commission or group that is looking at other fees. Mr. Churchill stated only the overhead rate. Mr. Churchill clarified that if the goal was to find the cost of development related fees, then all fees have to be looked at; if you want to test that the CPI was a valid and reliable tool for the last 15 years, then only a random sample of fees would be needed.

Mayor Ives asked Council for direction on how to move forward. Council Member Manne indicated he would like to wait until the UOP study is complete on the CPI. Council Member Young indicated she was concerned that the City does not know its costs.

Mayor Ives stated he took exception with the impression that the City does not know what it cost to do business. Mayor Ives stated the cost of services was established a long time ago and has only been adjusted using the CPI. Mayor Ives suggested that Council or others not presume that there was not a lot of work that went into establishing the original cost.

It was Council consensus to wait until the study is completed by the University of the Pacific on the Consumer Price Index.

Mr. Churchill stated he believed Council had a healthy debate and discussion on the matter, and that administratively there may be isolated cases that staff can study. Mr. Churchill indicated he would discuss it with the management team.

8. COUNCIL UPDATE AND AFFIRMATION OF CONTINUED SUPPORT FOR THE DELTA COALITION LOBBYING EFFORTS RELATED TO THE BAY DELTA CONSERVATION PLAN AND THE DELTA PLAN – Andrew Malik, Development Services Director, provided the staff report. In November 2009, the California Legislature enacted Senate Bill X7 1 (The Delta Reform Act). It established the Delta Stewardship Council (DSC) as an independent State agency, and required that the DSC develop, adopt, and implement by January 1, 2012, the Delta Plan, a legally enforceable, comprehensive, long-term management plan for the Sacramento-San Joaquin Delta and the Suisun Marsh (Delta) that achieves the "coequal goals". The coequal goals are the two goals of providing a more reliable water supply for California and protecting, restoring and enhancing the Delta ecosystem. The coequal goals are to be achieved in a manner that protects and enhances the unique cultural, recreational, nature resource and agricultural values of the Delta as an evolving place". Achieving the coequal goals is a fundamental purpose of the Delta Plan.

The Final Draft Delta Plan was adopted by the DSC on May 28, 2013. The final Delta Plan generally covers five topic areas and goals: increased water supply reliability, restoration of the Delta ecosystem, improved water quality, reduced risks of flooding in the Delta, and protection and enhancement of the Delta as an evolving place. Although the DSC, through the Delta Plan, does not propose or contemplate constructing, owning, or operating any facilities related to these five topic areas, the Delta Plan sets the regulatory policies and recommendations that seek to influence the actions, activities and projects of cities, counties, State, Federal, regional and other local agencies toward meeting the goals in the five topic areas.

After the Delta Plan was adopted, a lawsuit was filed by the Westlands Water District and San Luis Delta Mendota Water Authority challenging the adequacy of the Plan's Environmental Impact Report and the Delta Stewardship Council's authority under, and compliance with, the Delta Reform Act.

Staff has monitored development of the Delta Plan over the years and provided comments and coordinated with San Joaquin and other affected parties. The City and other agencies were concerned with the scope and extent of proposed regulatory and review authority of the DSC. The proposed Delta Plan, in its final form, continues to threaten the ability of local communities to grow and prosper, takes away local decision making, and provides an appointed body with the authority to veto certain local land use and other decisions based upon subjective criteria. Staff is concerned with the policies in the Delta Plan (chapter 2) which requires certain "Covered Actions" to be consistent with the Delta Plan. Under the Plan, the term "Covered Action" is broadly defined and includes most land use and development applications that are considered to be "projects" for the purpose of CEQA.

For all Covered Actions, the City must submit a written certification to the Delta Stewardship Council, with detailed findings, demonstrating that the Covered Action is

consistent with the Delta Plan. Any person, including any member of the Delta Stewardship Council or its Executive Director, may file an appeal with regard to a certification of consistency submitted to the Council. The Council has final decision making authority if such an appeal is filed. If a Covered Action is found to be inconsistent, the project may not proceed until it is revised so that it is consistent with the Delta Plan. This process will likely lead to additional processing times for land use and development applications. Also, given that any person can file an appeal with the Council, this process could be abused and used simply to delay development projects.

This process is contrary to the City of Tracy's economic development efforts. Staff is concerned with the policies in the Delta Plan (Chapter 5) related to the location of future growth in areas within the Secondary Zone of the Delta (large portions of the City of Tracy and the City's Sphere of Influence). The Delta Plan limits development to the current Sphere of Influence (SOI) of cities. The City's recent SOI approval by LAFCo is significantly smaller than the LAFCo-approved SOI in 1994. This was due to new local LAFCo policies that required smaller SOIs. It is unclear how any potential future SOI update/expansion in areas within the Secondary Zone of the Delta would be received by the Delta Stewardship Council.

Staff has attended periodic meetings with representatives of San Joaquin County and the City of Stockton in the establishment and coordination of stakeholder meetings to facilitate a collaborative and uniform effort to address our mutual concerns with the adoption and implementation of the Delta Plan, the Program EIR, and related plans and programs such as the Bay Delta Conservation Plan (BDCP).

The Delta Plan addresses the broader issues facing the Delta (including urban development within the Secondary Zone of the Delta), the scope of the BDCP is within the Delta itself. Its specific purpose is to restore and protect ecosystem health and the SWP and CVP water supplies and water quality. The Delta Plan was adopted by the Delta Stewardship Council on May 28, 2013.

Mr. Malik introduced Steve Bayley, Project Specialist, who provided background information on the Bay Delta Conservation Plan (BDCP). Mr. Bayley indicated that Delta Coalition Stakeholders continue to provide comments on the BDC which has yet to be adopted. Within the BDCP is the plan to utilize the much-publicized tunnels to ship water south of the Delta. Coalition Stakeholders have developed recommendations and a position statement related to the Delta Plan and the BDCP.

Mr. Bayley outlined the benefits to the City of Tracy including a higher reliability of water received from the Delta Mendota Canal as well as a higher quality water. The down-size is the users of the water have to pay for the $14 billion cost of the tunnels, which is very expensive and in his opinion not warranted by the project.

Mr. Bayley indicated that staff agrees with the all of the statements highlighted within the Coalition's position statement and requested confirmation by Council to continue supporting Coalition recommendations as additional lobbying efforts continue.

Mayor Pro Tem Maciel indicated he represents the City on the Delta Coalition and asked that Council receive the updated report. Mayor Pro Tem Maciel indicated it was important to note that even though the tunnels would bring more water to Tracy, the project overall does not produce additional water.

Mayor Ives asked how the cost of the tunnels was shared. Mr. Bayley stated it was a 60/40 split; (40% for Delta Mendota users); the City share would be 1% of the 40% or (($14 billion x 40%) - 1%) would be the City's cost.

Mr. Bayley added that 60% of the cost would be borne by State water project users.

Mayor Ives invited members of the public to address Council on the item. There was no one wishing to address Council.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to direct staff to support the Delta Coalition Stakeholders relative to the Delta Plan and Bay Delta Conservation Plan position statement. Voice vote found all in favor; passed and so ordered.

9. ITEMS FROM THE AUDIENCE – None.

10. STAFF ITEMS – None.

11. COUNCIL ITEMS - Council Member Rickman wished everyone a safe and fun Fourth of July and encouraged the public to support local non-profit organizations by purchasing approved fireworks from their booths.

12. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 10:55 p.m.

The above agenda was posted at the Tracy City Hall on June 27, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

_____
Mayor

_____
City Clerk

TRACY CITY COUNCIL	SPECIAL MEETING MINUTES
July 16, 2013, 6:30 p.m.	
City Council Chamber, 333 Civic Center Plaza	*Web Site:* *www.ci.tracy.ca.us*

1. CALL TO ORDER - Mayor Ives called the meeting to order at 6:39 p.m. for the purpose of a closed session to discuss the items outlined below.

2. ROLL CALL - Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

3. ITEMS FROM THE AUDIENCE – None.

4. REQUEST TO CONDUCT CLOSED SESSION -

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

   - Property Location: City of Tracy Northeast Industrial Grant Line Road Project (APN#s: 213-070-08 and 213-070-51)
   - Negotiator(s) for City: Andrew Malik, Development Services Director, Kul Sharma, Assistant Director of Development Services; Zabih Zaca, Senior Civil Engineer; and Associated Right of Way Services
   - Negotiating Parties: Frank Silva Trust and Bernadine Silva
   - Under negotiation: Price and terms of payment for the purchase of the property or a part of the property.

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Maciel motioned to recess the meeting to closed session at 6:40 p.m. It was seconded by Council Member Manne. Voice vote found all in favor; passed and so ordered.

6. RECONVENE TO OPEN SESSION – Mayor Ives reconvened the meeting into open session at 7:05 p.m.

7. REPORT OF FINAL ACTION – None.

8. ADJOURNMENT – It was moved by Mayor Pro Tem Maciel and seconded by Council Member Manne to adjourn the meeting. Voice vote found all in favor; passed and so ordered. Time: 7:05 p.m.

The above agenda was posted at City Hall on July 11, 2013. The above are action minutes.

_____
Mayor

ATTEST:

_____
City Clerk

TRACY CITY COUNCIL	REGULAR MEETING MINUTES

July 16, 2013, 7:00 p.m.

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

Mayor Ives called the meeting to order at 7:11 p.m. and led the Pledge of Allegiance.

The invocation was offered by Pastor Tim Heinrich, Crossroads Baptist Church.

Roll call found Council Members Manne, Rickman, Young, Mayor Pro Tem Maciel and Mayor Ives present.

1. CONSENT CALENDAR - Following the removal of item 1-G by a member of the audience, it was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered.

   A. Approval of Minutes – Regular meeting minutes of May 7, 2013, May 21, 2013, and Special meeting minutes of May 21, 2013, were approved.

   B. Authorize the Mayor to Sign a Quitclaim Deed Conveying Vacated Right-of-Way on Schulte Road to the Tracy Public Cemetery District, and Authorize the City Clerk to File the Quitclaim Deed with the San Joaquin County Recorder – Resolution 2013-100 authorized the Mayor to sign the Quitclaim Deed.

   C. Acceptance of the Tracy Airport Fixed Base Operator (FBO) Meter – CIP 77035A, Completed by Bockmon & Woody Electric Co., Inc. of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2013-101 accepted the project.

   D. Acceptance of the Corral Hollow Road Pavement Repair and Resurfacing (North of Linne Road to Peony Drive) – CIP 73127, (Federal Project Number RSTP-5192 (036)), Completed by Knife River Construction of Stockton, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2013-102 accepted the project.

   E. Award a Construction Contract for Traffic Related Capital Improvement Projects (CIP 72072, 72080, and 72083) and Authorize the Mayor to Execute the Contract - Resolution 2013-103 awarded the construction contract.

   F. Acceptance of the Bus Stop Improvements Project (Phase II) on Various City Streets - CIP 77539, Federal Transportation Improvement Program (TIP) No. 212-0000-0457, Grant No. CA-96-X003, Completed by American Asphalt, Inc., of Hayward, California, and Authorization for the City Clerk to File the Notice of Completion - Resolution 2013-104 accepted the project.

   G. Authorize an Appropriation of $10,810 from the 2013 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for the Purchase and Installation of Enhanced Technology for the Tracy Police Department's Law Enforcement Programs - Police Chief Gary Hampton, provided the staff report. The Edward Byrne Justice Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of

Federal criminal justice funding to State and local jurisdictions. JAG funds support all components of the criminal justice system by improving the effectiveness and efficiency of criminal justice systems, processes and procedures.

Agencies are allowed to use this grant to support a broad range of activities to prevent and control crime based upon local needs and conditions. The Tracy Police Department has determined the most appropriate use of this grant is to purchase and install several components of technology to enhance the safety of citizens.

The Tracy Police Department intends to purchase electronic digital recorders, surveillance equipment, and automated external defibrillators. The City of Tracy will receive $10,810 from the 2013 Federal JAG Program. There is no negative impact to the current fiscal budget as no City match is required. Accepting this grant funding requires the funds to be appropriated from the Federal JAG Program and $10,810 added to the Police Department's Operating Budget.

Staff recommended that Council authorize acceptance of the grant and the appropriation of $10,810 from the Federal JAG Program to the Police Department's Operating Budget for the purchase of electronic digital recorders, surveillance equipment, and automated external defibrillators.

Paul Miles asked what the nature of the surveillance equipment was and what measures were in place to ensure it was not misused, suggesting Tracy Police has a record of recording individuals without their knowledge. Police Chief Hampton stated Mr. Miles has not filed a formal complaint specific to the issues he brought up. Police Chief Hampton further stated that Mr. Miles has filed complaints and those complaints have been responded to. In response to the question, Police Chief Hampton stated the grant would be used to purchase remote video recorders which allow police personnel to monitor suspect activity without establishing police presence from several miles up to several hundred feet away.

It was moved by Council Member Rickman and seconded by Mayor Pro Tem Maciel to adopt Resolution 2013-105 authorizing acceptance of the grant and the appropriation of $10,810 from the Federal JAG Program to the Police Department's Operating Budget for the purchase of electronic digital recorders, surveillance equipment, and automated external defibrillators. Voice vote found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Paul Miles addressed Council regarding comments made by Mayor Pro Tem Maciel at a previous Council meeting pertaining to Mr. Miles' website. Mr. Miles commented on the unfortunate actions of individuals against Council Member Young.

3. PUBLIC HEARING TO CONSIDER A PROPOSED INCREASE TO WASTEWATER RATES AND INTRODUCTION OF AN ORDINANCE TO REVISE WASTEWATER RATES – Steve Bayley, Project Specialist, provided the staff report. The goal of any rate setting process is to establish the fair and equitable distribution of costs among users. The 2013 Wastewater Revenue Program Update has been prepared by CH2M Hill using the City's wastewater revenue program model. A City Council workshop on the

rate study was held on April 16, 2013, to review the update. This study calculates rates based on revenue requirements for the upcoming years. The rate study recommendation is for a rate increase for the single-family home as well as rate increases for the multifamily, commercial, and industrial user classes. Expenses have been carefully managed and wastewater rates were last increased in 2006.

The need for the proposed rate increase is in large part to fund the construction of a second outfall pipeline project. The existing outfall pipeline was installed in the late 1970's so it will be nearly 40 years old by the time a second outfall can be constructed. The existing outfall is comprised of asbestos cement pipe. Asbestos cement is a very brittle material which can be easily damaged. There is currently only one outfall pipeline which makes it a single point of failure, meaning if the pipeline broke the City would have no other way to dispose of nine million gallons per day of treated wastewater. Were there to be a significant release of treated wastewater to the environment, there would likely be significant regulatory fines and the potential for third party lawsuits. The existing outfall pipeline is at capacity. The new, second outfall pipeline would parallel the existing outfall pipeline and would be approximately 3.5 miles long. Final design and permitting are nearly complete and the project will be ready for bidding this year. A redundant pipeline is needed in order to ensure continued long-term reliable disposal of the treated wastewater effluent.

Wastewater rates are calculated using the quantity of wastewater discharged (Flow) as well as the strength of the wastewater (BOD and Suspended Solids). Different types of users have different volumes and strengths of wastewater. The rate study establishes rates for user categories in proportion to Flow, BOD and Suspended Solids. Leprino Foods, as a large industrial user, has flow measured and samples taken daily in order to determine accurate monthly charges.

The proposed rate for a single-family home is to increase to $34.00 per month. The current charge is $31.00. Property owners were mailed a notice of the proposed increase indicating that a public hearing on the matter would be held at the City Council meeting on July 16, 2013. If a majority protest does not exist, the Council may act on the proposed increase to the wastewater system charges. A majority protest would be a majority of the owners of the parcels affected by the rate increase.

The proposed rate increase is needed to fund the Wastewater Enterprise Fund's share of the outfall pipeline project. The outfall pipeline project is to construct a new 42 inch diameter pipeline which will be 3.5 miles long with the associated pumping facilities. The new pipeline will have a capacity of 16 million gallons per day (mgd) and its estimated cost is $25 million. The existing ratepayers' share of the project is a proration based on existing flow and new pipeline capacity. The existing flow is nine mgd, so the ratepayers' share would be 9/16, or 56%, which equals $14 million. This cost may be financed with bonds. New developments' share of the project would be $11 million.

Staff recommended that the Mayor open the public hearing and, upon close of the hearing, if there is not a majority protest, that Council introduce the ordinance to revise wastewater rates.

Council Member Manne asked what the lifecycle of the existing pipeline was. Mr. Bayley stated the existing pipeline was nearly 40 years old. Mr. Bayley added that the pipeline broke once 15 years ago. Mr. Bayley further stated it was prudent risk management to

replace the pipeline before it fails. Council Member Manne asked when a second replacement might be necessary. Mr. Bayley stated with new materials a new pipeline could last approximately 60-80 years.

Council Member Manne asked if it was fair to say the current system needed to be replaced immediately. Mr. Bayley indicated staff has been working on the project for five years, obtained permits which took three years, and to delay the project further may subject it to new environmental guidelines which would be more expensive.

Council Member Manne asked Mr. Bayley to provide an example of a catastrophic event. Mr. Bayley explained that if the pipe broke or was damaged, the City would have to shut down the treatment plant to repair the pipeline. Also, if the pipe broke, water could be discharged onto private property or into the river at a rate of nine million gallons per day, which could subject the City to severe fines.

Mayor Ives opened the public hearing.

A member of the public asked if the $3 increase just covered the pipeline or included maintenance of the plant. Mr. Bayley explained that a portion of the fee goes to the outfall pipeline and a portion to cover the increased rates of the collection systems. Mr. Bayley added that 56% of the $25 million cost would be borne by rate payers, and the remainder paid by future development.

The resident asked how long it would take to pay off the bond. Mr. Bayley indicated the term of the bond would be 20 or 30 years.

Paul Miles asked what size of a community could be supported by the new pipeline. Mr. Bayley stated the new pipeline would be capable of discharging 16 million gallons per day.

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

Council Member Rickman asked when the rate increase would take effect. Mr. Bayley stated sometime in September 2013. Council Member Rickman asked when the project would go out for bids. Mr. Bayley indicated sometime in January 2014, with an award in February or March 2014. Mr. Bayley added the bond sale would probably occur at the same time.

Council Member Rickman indicated he would like an agenda item to discuss the fees in relation to the bid amount. Mayor Ives suggested the future agenda item for awarding the contract include a discussion regarding the increased fee versus the contract cost. Council Member Rickman stated Council should be able to take action on the discussion when the award of contract returns to Council for adoption.

Mayor Ives indicated the action is necessary to protect a public asset.

The Clerk read the title of proposed Ordinance 1185. It was moved by Council Member Rickman and seconded by Council Member Manne to waive the reading of the text. Voice vote found all in favor; passed and so ordered.

It was moved by Council Member Rickman and seconded by Mayor Pro Tem Maciel to introduce Ordinance 1185. Voice vote found all in favor; passed and so ordered.

4. APPROVE RESPONSES TO THE SAN JOAQUIN COUNTY GRAND JURY REPORT ON THEIR REVIEW OF (1) PUBLIC SAFETY IN SAN JOAQUIN COUNTY (CASE NO. 0912); (2) SAN JOAQUIN COUNTY MOSQUITO AND VECTOR CONTROL BOARD (CASE NO. 1112); (3) IMPROVING DISPOSAL OF CITY AND COUNTY SURPLUS PUBLIC ASSETS (CASE NO. 0312) AND AUTHORIZE THE MAYOR TO SIGN THE RESPONSES – Police Chief Gary Hampton provided the staff report. The 2012-2013 San Joaquin Grand Jury (Grand Jury) studied (1) the County's law and justice system in an effort to develop ideas to help reduce crime throughout the County; (2) the Mosquito and Vector Control District's Brown Act compliance and other issues; and (3) improving disposal of City and County surplus public assets.

   Regarding the 2012-2013 San Joaquin Grand Jury report on Public Safety in San Joaquin County, the Grand Jury report addressed three areas within the law and justice system: law and justice staffing; county jail capacity; and law enforcement leadership.

   Regarding the 2012-2013 San Joaquin Grand Jury report on the Mosquito and Vector Control Board, the Grand Jury investigation was structured to focus on five specific issues: lack of transparency and compliance with the Brown Act at District Board meetings; lack of understanding about action related to health insurance benefits; Trustees' knowledge of District finances; appointment of Trustees to the District Board; and the best governance structure of the District Board to serve the public.

   Regarding to the 2012-2013 San Joaquin Grand Jury report on improving disposal of City and County surplus public assets, the Grand Jury report investigated the disposition of local government's surplus public assets, in an effort to promote public transparency and consistency while disposing of capital assets.

   Staff recommended that City Council approve the City's responses to the San Joaquin County Grand Jury reports and authorize the Mayor to sign each of the three response letters.

   Council Member Rickman asked if the City had a gang unit. Police Chief Hampton stated yes; the City has an officer deployed to a regional special enforcement team that not only deals with street violence, but focuses on gang activity.

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

   Robert Tanner stated he was surprised that the City does not have a policy regarding the disposal of assets. Dan Sodergren, City Attorney, clarified that the City does have general procedures in the Tracy Municipal Code for real property and surplus equipment and supplies. Mr. Sodergren explained that the Grand Jury wants additional administrative procedures in place regarding disposition of equipment and vehicles.

   Mayor Ives indicated the City's responses are appropriate.

   Council Member Rickman referred to the Grand Jury responses regarding pulling resources to help Stockton. Police Chief Hampton indicated the City of Tracy will assist the City of Stockton or another city when it benefits the City of Tracy. Police Chief

Hampton added that he would rather deal with crime in another city before it reaches Tracy.

It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adopt Resolution 2013-106 approving responses to the San Joaquin County Grand Jury Report on their review of (1) Public Safety in San Joaquin County (Case No. 0912); (2) San Joaquin County Mosquito and Vector Control Board (Case No. 1112); (3) Improving disposal of City and County surplus public assets (Case No. 0312), and authorizing the Mayor to sign the response letters. Voice vote found all in favor; passed and so ordered.

5. APPROVE A PROFESSIONAL SERVICES AGREEMENT (PSA) WITH CH2MHILL FOR DESIGN AND PREPARATION OF IMPROVEMENT PLANS AND CONSTRUCTION DOCUMENTS FOR CORRAL HOLLOW ROAD SEWER AND WATER SYSTEM IMPROVEMENTS REQUIRED TO SERVICE SOUTH SIDE DEVELOPMENTS IN ACCORDANCE WITH THE CITY'S APPROVED MASTER PLANS AND DETERMINE THE FORMAL REQUEST FOR PROPOSAL PROCEDURE IS NOT IN THE BEST INTEREST OF THE CITY IN THIS INSTANCE – Kuldeep Sharma, City Engineer, provided the staff report. Citywide Water and Wastewater Master Plans were adopted by City Council on January 15, 2013. In order to serve new south side developments within the City, new sewer and water lines need to be designed and constructed on Corral Hollow Road. Since these lines will be crossing the Delta Mendota Canal (DMC-owned and operated by the Bureau of Reclamation and the San Luis – Delta Mendota Water Authority) and California Aqueduct (owned and operated by the California Department of Water Resources) along with Union Pacific Railroad Tracks (UPRR) and WSID Canal, the design and construction will need to meet requirements of these agencies. The proposed water and wastewater utility system will require multiple permits from various Federal, State, and local agencies. In addition, pump station, force mains, and improvements to the existing sewer lines need to be constructed to serve the new developments.

   Since the majority of the infrastructure is essential to service Tracy Hills, the developers have agreed to fund their portion of the cost of design of the infrastructure upfront. The City will pay the remaining cost of this from Development Impact Fees already collected from Standard Pacific for the Muirfield subdivision. Due to the complexity of the work and involvement with various agencies, services of an experienced consultant are needed to complete this work.

   Staff has received and negotiated a proposal from CH2MHill to complete the task for design, completion of improvement plans, and construction bid documents for a cost not to exceed $2,360,000. Tracy Hills developers have also reviewed the proposal and have requested the City to acquire the services of CH2MHill for this task.

   CH2MHill is a world renowned consultant, specializing in this type of utility work. They are familiar with the City's infrastructure and have worked with Federal and State agencies. Staff recommended that Council determine the formal request for proposal procedure is not in the best interest of the City and award the contract to complete the design of the Corral Hollow Road Sewer and Water System Improvements to CH2MHill in accordance with section 2.20.140 of the City of Tracy Municipal Code.

Tracy Hills developers are working with the City to enter into a cost recovery agreement to address staff timing and cost of other services. This PSA will not be executed until the cost recovery agreement is executed by the developer.

The item is consistent with the City's Economic Development Strategy and meets goals to ensure physical infrastructure and systems necessary for development.

A portion of the cost of services under the recommended PSA with CH2MHill will be borne by Tracy Hills and the remainder of the cost will be paid by the City from Wastewater Development Impact Fees already received from Standard Pacific Developers for the Muirfield subdivision as follows:

Total Cost of the Professional Services Agreement	$2,360,000
Tracy Hills Cost	$1,710,131
City of Tracy Cost (Paid by Standard Pacific)	$ 649,869

Authorization to proceed will be limited to the existing funds that have already been received by Standard Pacific and to the amount which will be received from Tracy Hills development.

Staff recommended that City Council; 1) Determine the formal request for proposals procedure is not in the best interest of the City in this instance; and approve a Professional Services Agreement (PSA) with CH2MHill for the design and preparation of improvement plans and construction documents for Corral Hollow Road Sewer and Water Improvements for a not-to-exceed cost of $2,360,000.

Council Member Rickman asked why the City did not go out to bid. Mr. Sharma stated the selection of consultants is based on qualifications. Mr. Sharma stated staff sends out a request for proposals and the consultant is chosen based on their qualifications and experience.

Council Member Rickman asked how the City knows if the contract is competitive if it does not go through the bidding process. Mr. Sharma stated the bidding process is usually limited to construction contracts which include competitive bidding and sealed bid documents.

Council Member Rickman stated on its face it looks like a monopoly. Council Member Rickman asked what the original price was for the consultant. Mr. Sharma stated when negotiations began they started at $35,000 - $45,000.

Council Member Young stated she was also concerned that the bidding process was not followed.

Mayor Ives asked the City Attorney to explain the process. Dan Sodergren, City Attorney explained that public works construction contracts are governed by State law and anything over $5,000 has to go out for bid and awarded to lowest responsible bidder. The contracting of consultant services procedures is governed by municipal code. In the City's purchasing ordinance for consultant services a provision states that if the contract is under $50,000 an informal request for proposal procedure can be followed; contracts over $50,000 require the City to obtain at least three proposals. Mr. Sodergren further explained that the City can also take into account the proposers past

experience or other items such as a local business preference. This is usually stipulated in the request for proposals.

Mayor Pro Tem Maciel asked if the City has contracted with other consultants other than CH2MHill on similar projects. Mr. Sharma listed various companies the City had used in the past.

Mayor Pro Tem Maciel asked if any General Fund monies were involved. Mr. Sharma stated no. Mayor Pro Tem Maciel asked if Tracy Hills believed it was in their best interest. Mr. Sharma stated yes.

Council Member Manne asked if stakeholders other than Tracy Hills were involved in the selection process. Mr. Sharma stated three developments would benefit from the project and all were made aware of the proposal and provided a copy of the Agreement.

Council Member Manne asked how removing the bid process could impact the timeline for completion of the project. Mr. Sharma stated the developer's goal was to complete the design and environmental work within their own timeline.

Council Member Rickman asked how many times over the last few years has the City used CH2MHill. Mr. Sharma stated the last major project completed by CH2MHill was the relocation of a force main on the north side of the City.

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

Robert Tanner asked if the new project would be paid by the development community or would it cause a rate increase. Mr. Sharma stated the design and construction of the project will be paid by the development community with no rate increase to users.

Mayor Ives asked if the pipeline would be depreciated and money put aside for its replacement in the future. Mr. Sharma stated yes.

Mike Souza, Tracy Hills, stated the reason they wanted to use CH2MHill was because they would be able to prepare plans quicker, and their permitting experience with other entities was extensive.

Council Member Rickman asked Mr. Kumar if he understood his perspective regarding bidding the project. Vijay Kumar, CH2MHill, outlined the number of projects they have successfully bid on and received which totals less than ten percent of the jobs.

Council Member Rickman indicated he wanted to ensure that the City was getting the best deal. Mr. Kumar outlined the project, the experience of his staff and how he adjusted prices. Mr. Kumar stated he believed he was providing the City with the best price.

It was moved by Council Member Manne and seconded by Council Member Rickman to adopt Resolution 2013-107 approving a Professional Services Agreement with CH2MHill for design and preparation of improvement plans and construction documents for Corral Hollow Road sewer and water system improvements required to service south side developments in accordance with the City's approved master plans and determining the

formal request for proposal procedure is not in the best interest of the City in this instance. Voice Vote found all in favor; passed and so ordered.

6. ITEMS FROM THE AUDIENCE – None.

7. STAFF ITEMS

A. Receive and Accept the City Manager Informational Update – Leon Churchill, Jr., City Manager, provided the report. Council accepted the City Manager's informational update.

8. COUNCIL ITEMS

A. Council Designation of Voting Delegate and up to Two Voting Alternates for the League of California Cities 2013 Annual Conference Business Meeting – Mayor Ives stated he wanted to be sure that the City was well represented on any tax sharing item. Mayor Pro Tem Maciel indicated he attended last year and would attend this year as well. Council Member Young indicated she would like to attend as well.

Mayor Pro Tem Maciel was designated as the voting delegate and Council Member Young was designated as the alternate for the League of California Cities 2013 Annual Conference Business Meeting.

Council Member Rickman encouraged everyone to take advantage of the many events happening throughout the City this summer.

9. ADJOURNMENT - It was moved by Mayor Pro Tem Maciel and seconded by Council Member Rickman to adjourn. Voice vote found all in favor; passed and so ordered. Time: 8:53 p.m.

The above agenda was posted at the Tracy City Hall on July 11, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

_____
Mayor

_____
City Clerk

September 3, 2013

AGENDA ITEM 1.B

REQUEST

AUTHORIZE AMENDMENT OF THE POSITION CONTROL ROSTER BY APPROVING THE RECLASSIFICATION AND REALLOCATION OF AN ACCOUNTING TECHNICIAN TO THE POSITION OF PAYROLL COORDINATOR

EXECUTIVE SUMMARY

This report recommends the reclassification and reallocation of an Accounting Technician to the position of Payroll Coordinator.

DISCUSSION

Periodically, the Human Resources Department receives requests for classification studies and conducts classification reviews as necessary, to allow for changes that have occurred in areas such as job responsibilities, organizational structure, and/or service needs.

The Human Resources Department recommends reallocation and reclassification of one Accounting Technician position to a Payroll Coordinator position, based on the results of a classification study conducted on the affected positions within the Administrative Services Department.

In 2009, the City implemented several structural changes, including rightsizing to reduce expenses in response to the ongoing recession. This strategy involved redeploying the responsibilities of vacated positions to other applicable staff for a specified period of time to provide the organization time to assess service delivery needs.

Upon the retirement of the City's long-tenured Payroll Coordinator, payroll duties were assigned to an existing Accounting Technician position. To compensate for the increased responsibilities and required expertise, the Accounting Technician performing the payroll duties received a 10% stipend. In 2011, a classification study was conducted and determined that the Payroll Coordinator title was appropriate for the breadth and depth of expertise needed to accurately and competently complete the required tasks to process City payroll.

The completion of the classification study occurred at a time when the organization was preparing to undergo significant structure changes, which involved merging the Finance, Human Resources, and Information Technology divisions under a single Department: Administrative Services. Additionally, the Accounting Technician assigned to perform the payroll duties was preparing to retire. Upon the hiring of the new Administrative Services Director in summer 2012, the findings and recommendations of the classification study were re-examined and found to be appropriate.

Classification Study Recommendations

Based on the results of the classification study, the Human Resources Division recommends that the City's Position Control Roster be amended to incorporate the following adjustments:

Reclassify and Reallocate an Accounting Technician position to the position of Payroll Coordinator.

STRATEGIC PLAN

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

Governance Strategy

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

Objective 1b: Affirm organizational values.

FISCAL IMPACT

The proposed reclassification and reallocation is approximately $4,000 annually. This action will not impact the General Fund as there is adequate funding for this expense in the FY 13/14 operating budget.

RECOMMENDATION

That the City Council, by resolution authorize the Administrative Services Director to amend the City's Classification and Compensation Plan and the Budget Officer to amend the Position Control Roster by approving the reclassification and reallocation of an Accounting Technician to the position of Payroll Coordinator.

Prepared by: Midori Dearborn, Senior Human Resources Analyst

Reviewed by: Jenny Haruyama, Administrative Services Director

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

RESOLUTION _____

AUTHORIZING AN AMENDMENT OF THE CITY'S POSITION CONTROL ROSTER BY APPROVING THE RECLASSIFICATION AND REALLOCATION OF AN ACCOUNTING TECHNICIAN POSITION TO THE POSITION OF PAYROLL COORDINATOR

WHEREAS, The City has a Position Control Roster, and

WHEREAS, The City has completed a classification review and determined it is in the best interest and efficiency of the Administrative Services Department to reclassify and reallocate an existing Accounting Technician position to a Payroll Coordinator.

NOW, THEREFORE, BE IT RESOLVED, As follows:

1. The City Council authorizes the Administrative Services Director and the Budget Officer to amend the Position Control Roster as follows:

   a. Reallocate an Accounting Technician to the position of Payroll Coordinator.

   b. Accounting Technician currently performing payroll duties will be reclassified as a Payroll Coordinator.

2. The Budget Officer is authorized to amend the Position Control Roster to reflect the amendments set forth above.

* *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 3rd day of September, 2013 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

September 3, 2013

AGENDA ITEM 1.C

REQUEST

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLANS BY APPROVING REVISIONS TO THE POLICE DEPARTMENT LEAD COMMUNICATIONS OPERATOR SPECIFICATION

EXECUTIVE SUMMARY

To provide greater oversight within the Police Department Communications Unit, the Lead Communications Operator classification has been reactivated within the Police Department. A classification review of the position recommends revising the classification, including clarifying existing responsibilities and retitling the position from Lead Communications Operator to Lead Public Safety Dispatcher.

DISCUSSION

As part of the FY 2013/14 budget process, five Public Safety Dispatcher II positions were reallocated to Lead Communications Operators to provide greater oversight, leadership, and accountability within the Police Department Communications Unit.

Upon review of the existing Lead Communication Operator classification, it was determined that the specification should be updated to better clarify the position's duties and responsibilities. Proposed changes involve broadening the reporting structure to the Police Support Operations Manager and requiring a rotating shift schedule to broaden staff's exposure to a variety of call situations.

Last, it is recommended that the Lead Communications Operator be retitled to Lead Public Safety Dispatcher. This title will better align the classification with industry standards. In 2012, a similar change was made to the Communications Operator I/II series, which was retitled to Public Safety Dispatcher I/II.

The annual salary range for the Lead Public Safety Dispatcher position is $58,978.80 – $71,689.20, which is approximately 5% above the Public Safety Dispatcher II salary range.

Classification Review Recommendation

The Human Resources Department recommends approval of the classification revisions, including the retitling of the Lead Communications Operator to Lead Public Safety Dispatcher.

STRATEGIC PLAN

This agenda item supports the Governance Strategic Plan and specifically implements the following goals and objectives:

Governance Strategy

Goal 1: Further develop an organization that attracts, motivates, develops and retains high quality, engaged, informed and high performing workforce.

FISCAL IMPACT

There is no General Fund impact associated with the classification revision. Adequate funds have been included in the FY 2013/14 operating budget.

RECOMMENDATION

That the City Council, by resolution, authorize the Administrative Services Director to amend the City's Classification Plan by approving revisions and title change to the classification specification of the Lead Communications Operator to Lead Public Safety Dispatcher in the Police Department.

Prepared by: Judy Carlos, Human Resources Analyst
Lani Smith, Police Support Operations Manager

Reviewed by: Gary Hampton, Police Chief
Jenny Haruyama, Administrative Services Director

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

Attachment: Lead Public Safety Dispatcher job description

City of Tracy

LEAD PUBLIC SAFETY DISPATCHER

Class Title:	Lead Public Safety Dispatcher	Class Code:	50504
Department:	Police	Unit:	Teamsters
EEO Code:	80	Effective Date:	July 1, 2003
FLSA:	Non-Exempt	Revision History:	09/2013

DESCRIPTION

Under general direction, is responsible for the lead direction and training of Public Safety Dispatchers and participation in the day-to-day operations of the communications unit. Performs a variety of administrative and technical duties in support of the police department.

DISTINGUISHING CHARACTERISTICS

This is the advanced journey level class in the Public Safety Dispatcher series and is distinguished from the other Public Safety Dispatcher classifications by more complex, responsible, and sensitive duties assumed. This position provides lead direction to Public Safety Dispatchers and provides input for performance evaluations.

SUPERVISION RECEIVED AND EXERCISED

General supervision is provided by the Communications Supervisor or other supervisory or management positions. May exercise technical or functional supervision over lower level Public Safety Dispatcher positions. A Lead Public Safety Dispatcher shall not administer discipline, but is responsible for identifying performance and/or conduct deficiencies in accordance to City policy.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

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

Performs regular dispatch duties including receiving, interpreting, classifying, prioritizing, and responding to calls of a routine and emergency nature.

Provides lead direction to personnel and monitors daily operations of the Communications Center during the assigned work period.

Monitors status of events, performs necessary coordination, and adjusts schedules and assignments as necessary.

Reviews existing policies and procedures, Standard Operating Procedures (SOP's) and federal and state manuals; recommends new or revised procedures where appropriate.

Assists in the development of goals and objectives for the Communications Unit.

Briefs in-coming Public Safety Dispatchers and Patrol Officers of shift activities; updates Watch Commander and Patrol Sergeant on significant incidents.

Identifies training needs; provides input for development, implementation, and coordination of training programs for both new and tenured employees. Provides in-service for basic and specialized training.

Responsible for duplicating appropriately approved requests for recorded transmissions.

Provides feedback to Communications Unit Supervisor regarding performance and discipline issues for Communication Center staff.

Training one-on-one and complete daily evaluations of new Public Safety Dispatchers.

Completes requests for reports of events handled and personnel involved.

Completes assigned Department of Justice audits.

Maintains confidentiality of all data from internal and external customers.

May perform a variety of related clerical duties.

Participates in department work groups to enhance the quality of service.

Engages with the community to provide greater awareness of public safety services and education.

Maintains the highest level of customer service for internal and external customers.

MINIMUM QUALIFICATIONS

Knowledge of:

Basic supervisory and personnel practices.

Customer service and telephone etiquette techniques.

Principles, practices and procedures of public safety dispatch.

Proper and safe use of computer and radio equipment.

General functions of a law enforcement agency.

Applicable federal, state, and local regulations governing dispatching, record keeping

Processing and interpreting criminal records and proper release of information.

Proper call interrogation; law enforcement dispatch techniques and procedures.

Adhere to and support department policy and core values.

Ability to:

Effectively lead and train assigned personnel and articulate procedures covered.
Complete daily documentation on trainee through written documentation.

Learn, apply, and maintain current knowledge of departmental rules, regulations, policies and procedures, and information pertaining to law enforcement dispatch.

Utilize a two-way radio system to communicate with field units; accurately maintain the status of all field units.

Speak clearly, distinctly, and in a concise manner at all times.

Reduce rambling and disconnected material into concise and accurate messages.

Think and act promptly in emergencies.

Physical and mental ability to work effectively under all conditions encountered.

Read, understand, and apply a variety of call-taking information and materials.

Understand and follow both oral and written instructions promptly and accurately.

Communicate effectively in the English language in both written and oral forms.

Reason and respond decisively under stressful and/or emergency situations.

Establish and maintain effective work relationships with those contacted in the performance of required duties; resolve group and interpersonal conflicts

Read and effectively interpret small-scale maps and information from a computer screen.

Compile information and maintain reports in CAD and RMS for statistics.

Operate and train on the Department of Justice California Law Enforcement Telecommunications System (CLETS) system.

Wear a telephone headset and be able to hear, distinguish, and understand two or more people at a time and voices with background noises present.

Enter, update, and retrieve information from computerized databases.

Monitor multiple computer screens simultaneously.

Test and inspect communications and security equipment as required.

Sit for long periods of time.

Type at least 35 words per minute.

Ability to multi-task.

Perform related duties as assigned.

EDUCATION AND EXPERIENCE

Any combination of experience and training will qualify if it provides for the required knowledge and abilities. A typical way to obtain the knowledge and abilities would be:

Education:	Equivalent to completion of the twelfth grade.
Experience & Training:	Three or more years' experience involving heavy telephones and customer service in a public safety agency as a dispatcher which utilizes a CAD and 9-1-1 system or in a job classification that has transferrable skills set; two years of which will have been in the Tracy Police Department or possess comparable experience with a public safety agency.

Successful completion of probationary period with a law enforcement agency.

SPECIAL REQUIREMENTS

No felony convictions.

Ability to pass a background investigation and psychological evaluation.

Lead Dispatchers work rotating shifts (including day shift, swing shift, and night shift), weekends and holidays and are subject to callback and overtime assignments.

This lead position is required to shift bid on a seniority basis, rotating shifts between day, swing and graveyard to provide a broad range of exposure encountered on the various shifts and with all staff.

LICENSES/CERTIFICATES

Possession of and the ability to maintain:

P.O.S.T. Public Safety Dispatcher Certificate

A valid Class C California Driver's License.

Possession of or ability to obtain within one year of appointment:

P.O.S.T Communications Training Officer Certificate

TOOLS AND EQUIPMENT USED

- Telephone console to receive 9-1-1 and non-emergency telephone calls
- Computer-aided dispatch system with mapping feature and printer
- Zetron radio console controls and monitors
- Headsets
- Personal computer
- Microsoft Office - including E-mail
- Copy and Fax machine
- CLETS with an interfaced printer
- Telecommunications Device for the Deaf

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. 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 frequently required to sit and talk or hear. The employee may need to occasionally walk or have the ability to move about the office. The employee is frequently required to use hands, finger, handle, or feel objects, tools, or controls; and reach with hands and arms.

The employee must occasionally lift and/or move up to 10 pounds. Specific vision abilities required by this job include constant screen and security monitors as well as the ability to adjust focus. Specific hearing abilities include constant monitoring of radio channels and the answering of telephone lines.

WORK ENVIRONMENT

The work environment characteristics described here are representative of those an employee encounters while performing the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions. The noise level in the work environment is usually quiet.

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.

The job description does not constitute an employment agreement between the employer and employee and is subject to change by the employer as the needs of the employer and requirements of the job change.

RESOLUTION _____

AUTHORIZING AMENDMENT OF THE CITY'S CLASSIFICATION AND COMPENSATION PLANS BY APPROVING REVISIONS TO THE POLICE DEPARTMENT LEAD COMMUNICATIONS OPERATOR SPECIFICATION

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

WHEREAS, The City finds it necessary to amend the classification specifications for the position of Lead Communications Operator;

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

1. The City Council authorizes the Administrative Services Director or designee to amend the City's Classification and Compensation Plans as follows:

   Revise and retitle the classification: Lead Communications Operator to Lead Public Safety Dispatcher

2. The City Council authorizes the Budget Officer to amend the Position Control Roster to reflect the amendments set forth above.

* *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 3rd day of September, 2013 by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

September 3, 2013

AGENDA ITEM 1.D

REQUEST

AUTHORIZE THE PURCHASE OF NEW FIREARMS AND EXCHANGE OF USED FIREARMS WITH L.C. ACTION OF SAN JOSE, CALIFORNIA

EXECUTIVE SUMMARY

As part of the Fiscal Year 2013-14 operating budget, funds were appropriated to replace the current firearms inventory, which includes a trade-in of the used inventory toward the purchase of new firearms. The result is a net cost of approximately $76,591.

DISCUSSION

The Fiscal Year 2013-14 operating budget designated approximately $93,380 to replace the existing firearms inventory. The replacement has become necessary due to the age of the current inventory of nearly 20 years. The wear and tear on firearms over that length of time has required replacement of worn components at an ever increasing rate and has become cost prohibitive, as well as a public safety issue.
A competitive bidding process was conducted with "Notice Inviting Bids" published on June 28, 2013 and closing at 2:00 p.m. on July 8, 2013. The "Notice Inviting Bids" included the number and specifications for new firearms and related equipment, as well as the requirement for the vendor to purchase the majority of the current inventory of the Police Department's used firearms. Three potential vendors submitted formal bids, identified as Adamson Police Products, Pro Force Law Enforcement and L.C. Action.

Staff conducted a review of the bid submittals with the following results:

Adamson submitted an incomplete bid. The bid was submitted with only the handgun portion of the request and failed to fulfill the rifle portion of the bid request.

Pro Force submitted a complete bid. However, there were several conditions on the purchase of the Tracy Police Department's used firearms inventory. This includes additional costs to the City that required payment for shipping the entire inventory to Arizona for inventory by Pro Force staff, and then sold to an undetermined third party by Pro Force. When Pro Force received payment from the third party, they would then credit the City. This would result in the City being responsible for additional costs and less control of the inventory being sold to a third party. The Pro Force bid net cost is $113,069.96.

L.C. Action fulfilled all of the bid requirements as specified in the "Notice Inviting Bids". L.C. Action provided the lowest purchase price for new firearms and the greatest value for the Police Department's current used inventory. The net cost of the L.C. Action bid is $76,591.

Therefore, staff recommends that the City exchange its current inventory of used firearms and purchase a new firearms inventory from L.C. Action. A list of all used firearms owned by the City to be exchanged in this purchase agreement is attached and listed by make, model and serial number for clarification.

The purchase price after the trade-in of used firearms is approximately $76,591.

STRATEGIC PLAN

This agenda item does not relate to Council's Strategic Plans.

FISCAL IMPACT

The purchase and replacement of the firearms inventory is a budgeted item for Fiscal Year 2013-14 for $93,380 and is within the budgeted amount.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the purchase of new firearms and exchange of used firearms with L.C. Action in the amount of $76,591 from the approved Fiscal Year 2013-14 budget for equipment replacement.

Prepared by: Michael Vieira, Police Lieutenant

Reviewed by: Gary R. Hampton, Chief of Police

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

Attachment: - List of Firearms for Exchange

Police Firearms List for Trade-in

	A	B	C	D	E
1	GLOCK	22	CXA144US	4761303100429	PISTOL
2	GLOCK	22	DHK741US	4769930201004	PISTOL
3	GLOCK	22	AYM816US	4769912600669	PISTOL
4	GLOCK	22	BWS805US	4769912600549	PISTOL
5	GLOCK	22	CXU575US	4769912600667	PISTOL
6	GLOCK	22	DBN699US	4760015701491	PISTOL
7	GLOCK	22	CPT420US	4769912600654	PISTOL
8	GLOCK	22	CXU574US	4760015701488	PISTOL
9	GLOCK	22	CXU572US	4769912600668	PISTOL
10	GLOCK	22	DHK748US	4769930201011	PISTOL
11	GLOCK	22	CXU573US	4761303100424	PISTOL
12	GLOCK	22	BWS803US	4769912600665	PISTOL
13	GLOCK	22	BGZ618US	4769912600662	PISTOL
14	GLOCK	22	DHK742US	4769930201005	PISTOL
15	GLOCK	22	DHK745US	4769930201008	PISTOL
16	GLOCK	22	DHK746US	4769930201009	PISTOL
17	GLOCK	22	DHK747US	4769930201010	PISTOL
18	GLOCK	22	DHK743US	4769930201006	PISTOL
19	GLOCK	22	DHK744US	4769930201007	PISTOL
20	GLOCK	22	CPT425US	4760006000808	PISTOL
21	GLOCK	22	ANB999US	4760106400557	PISTOL
22	GLOCK	22	DHK926US	4760015701492	PISTOL
23	GLOCK	22	VS874US	4769905001235	PISTOL
24	GLOCK	22	DSW928US	4760015701480	PISTOL
25	GLOCK	22	DSW929US	4760015701481	PISTOL
26	GLOCK	22	DSW658US	4760015701482	PISTOL
27	GLOCK	22	DSW660US	4760015701480	PISTOL
28	GLOCK	22	DSW661US	4760015701484	PISTOL
29	GLOCK	22	DSW662US	4760015701479	PISTOL
30	GLOCK	22	CPT421US	4760016501165	PISTOL
31	GLOCK	22	DSW659US	4760015701483	PISTOL
32	GLOCK	22	DVG390US	4760024401424	PISTOL
33	GLOCK	22	DVG391US	4760024401425	PISTOL
34	GLOCK	22	DVG392US	4760024401426	PISTOL
35	GLOCK	22	DVG393US	4760024401427	PISTOL
36	GLOCK	22	DVG394US	4760024401428	PISTOL
37	GLOCK	22	DVG395US	4760024401429	PISTOL
38	GLOCK	22	DVG396US	4760024401430	PISTOL
39	GLOCK	22	EEX230US	4760115600413	PISTOL
40	GLOCK	22	EKF524US	4760125100025	PISTOL
41	GLOCK	22	EKF525US	4760125100027	PISTOL
42	GLOCK	22	EKF526US	4760125100028	PISTOL
43	GLOCK	22	EKF527US	4760125100029	PISTOL
44	GLOCK	22	EKF528US	4760125100030	PISTOL
45	GLOCK	22	EKF529US	4760125100031	PISTOL
46	GLOCK	22	EKF530US	4760125100032	PISTOL

Police Firearms List for Trade-in

	A	B	C	D	E
47	GLOCK	22	EKF531US	4760125100033	PISTOL
48	GLOCK	22	EKF532US	4760125100036	PISTOL
49	GLOCK	22	EKF533US	4760125100037	PISTOL
50	GLOCK	22	EKF534US	4760125100038	PISTOL
51	GLOCK	22	EKF535US	4760125100039	PISTOL
52	GLOCK	22	EKF536US	4760125100041	PISTOL
53	GLOCK	22	EXM343US	4760228000878	PISTOL
54	GLOCK	22	EXM341US	4760228000879	PISTOL
55	GLOCK	22	EXM342US	4760228000880	PISTOL
56	GLOCK	22	GGE248	4760418301523	PISTOL
57	GLOCK	22	GGE255	4760418301522	PISTOL
58	GLOCK	22	GGE246	4760418301520	PISTOL
59	GLOCK	22	GGE254	4760418301525	PISTOL
60	GLOCK	22	GGE249	4760418301524	PISTOL
61	GLOCK	22	GVR941	4760513900544	PISTOL
62	GLOCK	22	GVR940	4760513900543	PISTOL
63	GLOCK	22	GVR939	4760513900542	PISTOL
64	GLOCK	22	GVR938	4760513900541	PISTOL
65	GLOCK	22	HUM749	4760636001426	PISTOL
66	GLOCK	22	HUM748	4760636001432	PISTOL
67	GLOCK	22	HUM747	4760636001423	PISTOL
68	GLOCK	22	HUM752	4760636001427	PISTOL
69	GLOCK	22	HUM753	4760636001424	PISTOL
70	GLOCK	22	HUM755	4760636001425	PISTOL
71	GLOCK	22	HUM754	4760636001430	PISTOL
72	GLOCK	22	HUM757	4760636001429	PISTOL
73	GLOCK	22	HUM756	4760636001431	PISTOL
74	GLOCK	22	SF646US	4760510101051	PISTOL
75	GLOCK	22	KLB916	4760626800841	PISTOL
76	GLOCK	22	KLB918	4760626800840	PISTOL
77	GLOCK	22	KLB917	4760626800839	PISTOL
78	GLOCK	22	KLB919	4760626800838	PISTOL
79	GLOCK	22	KLB920	4760626800837	PISTOL
80	GLOCK	22	KLB927	4760626800836	PISTOL
81	GLOCK	22	KLB922	4760626800835	PISTOL
82	GLOCK	22	KLB923	4760626800834	PISTOL
83	GLOCK	22	KLB928	4760626800833	PISTOL
84	GLOCK	22	KLB921	4760626800832	PISTOL
85	GLOCK	22	KLB925	4760626800831	PISTOL
86	GLOCK	22	KLB926	4760626800830	PISTOL
87	GLOCK	22	KLB924	4760626800829	PISTOL
88	GLOCK	22	HYN478	4760636001418	PISTOL
89	GLOCK	22	HYN487	4760636001428	PISTOL
90	GLOCK	22	HYN560	4760636001419	PISTOL
91	GLOCK	22	HYN562	4760636001420	PISTOL
92	GLOCK	22	HYN564	4760636001421	PISTOL

Police Firearms List for Trade-in

	A	B	C	D	E
93	GLOCK	22	HYN499	4760636001422	PISTOL
94	GLOCK	22	HYN563	4760636001433	PISTOL
95	GLOCK	22	HYN484	4760636001416	PISTOL
96	GLOCK	22	KMF707	4760709200860	PISTOL
97	GLOCK	22	KMF698	4760709200852	PISTOL
98	GLOCK	22	KZA287	4760711800543	PISTOL
99	GLOCK	22	KZA285	4760711800545	PISTOL
100	GLOCK	22	KZA290	4760711800546	PISTOL
101	GLOCK	22	KZA345	4760711800547	PISTOL
102	GLOCK	22	KZA286	4760711800544	PISTOL
103	GLOCK	22	KMF705	4760709200859	PISTOL
104	GLOCK	22	KMF706	4760709200855	PISTOL
105	GLOCK	22	LPA742	4760803701450	PISTOL
106	GLOCK	22	LPA743	4760803701449	PISTOL
107	GLOCK	22	LPA744	4760803701448	PISTOL
108	GLOCK	22	LPA749	4760803701447	PISTOL
109	GLOCK	22	LPA740	4760803701445	PISTOL
110	GLOCK	22	LPA748	4760803701444	PISTOL
111	GLOCK	22	LPA741	4760803701442	PISTOL
112	GLOCK	22	LPA735	4760803701441	PISTOL
113	GLOCK	22	ANB990US	4769912600661	PISTOL
114	GLOCK	23	AFU227US	4769905000003	PISTOL
115	GLOCK	27	NFV608	4761303100430	PISTOL
116	GLOCK	27	EFH800US	4760120601486	PISTOL
117	GLOCK	27	EFH801US	4760120601488	PISTOL
118	GLOCK	27	EFH792US	4760120601490	PISTOL
119	GLOCK	27	EFH793US	4760120601492	PISTOL
120	GLOCK	27	EFH798US	4760120601494	PISTOL
121	GLOCK	27	EFH799US	4760120601543	PISTOL
122	GLOCK	27	EFH794US	4760120601546	PISTOL
123	GLOCK	27	EFH795US	4760120601548	PISTOL
124	GLOCK	27	EFH796US	4760120601550	PISTOL
125	GLOCK	27	KPH733	4760703201456	PISTOL
126	GLOCK	27	LFF339	4760723400569	PISTOL
127	GLOCK	27	LFF335	4760723400570	PISTOL
128	GLOCK	27	LFF336	4760723400571	PISTOL
129	GLOCK	27	LFF369	4760734501075	PISTOL
130	GLOCK	27	EFH797US	4760120601551	PISTOL
131	HECKLER & KOCH	HK416	88002603	4761303100620	RIFLE
132	HECKLER & KOCH	HK416	88002604	4761303100633	RIFLE
133	HECKLER & KOCH	HK416	88004792	4761303100617	RIFLE
134	HECKLER & KOCH	HK416	88004777	4761303100614	RIFLE
135	HECKLER & KOCH	HK416	88004776	4761303100612	RIFLE
136	HECKLER & KOCH	HK416	88004779	4761303100610	RIFLE
137	HECKLER & KOCH	HK416	88004778	4761303100607	RIFLE
138	HECKLER & KOCH	HK416	88004781	4761303100605	RIFLE

Police Firearms List for Trade-in

	A	B	C	D	E
139	HECKLER & KOCH	HK416	88004782	4761303100603	RIFLE
140	HECKLER & KOCH	HK416	88004780	4761303100601	RIFLE
141	HECKLER & KOCH	HK416	88004775	4761303100598	RIFLE
142	REMINGTON	870	C198497M	4761303100465	SHOTGUN
143	REMINGTON	870	C198513M	4761303100466	SHOTGUN
144	REMINGTON	870	C200021M	4761303100507	SHOTGUN
145	REMINGTON	870	C198482M	4761303100491	SHOTGUN
146	REMINGTON	870	C198490M	4761303100463	SHOTGUN
147	REMINGTON	870	C200024M	4761303100508	SHOTGUN
148	REMINGTON	870	C198472M	4761303100464	SHOTGUN
149	REMINGTON	870	C198492M	4761303100494	SHOTGUN
150	REMINGTON	870	C198469M	4761303100498	SHOTGUN
151	REMINGTON	870	C200028M	4761303100503	SHOTGUN
152	REMINGTON	870	C198493M	4761303100504	SHOTGUN
153	REMINGTON	870	C198521M	4761303100505	SHOTGUN
154	REMINGTON	870	C198507M	4761303100470	SHOTGUN
155	REMINGTON	870	V940571V	4761303501829	SHOTGUN
156	REMINGTON	870	V498458V	4761303100473	SHOTGUN
157	REMINGTON	870	C970672M	4760118500217	SHOTGUN
158	REMINGTON	870	C990324MZ	4760118500218	SHOTGUN
159	REMINGTON	870	D273507M	4760228000688	SHOTGUN
160	REMINGTON	870	D306460M	4760228000689	SHOTGUN
161	REMINGTON	870	D306467M	4760228000692	SHOTGUN
162	REMINGTON	870	D306472M	4760228000696	SHOTGUN
163	REMINGTON	870	D380117M	4760303800807	SHOTGUN
164	REMINGTON	870	D382034M	4760303800806	SHOTGUN
165	REMINGTON	870	AB270507M	4760814500559	SHOTGUN
166	REMINGTON	870	AB270531M	4760814500560	SHOTGUN
167	REMINGTON	870	AB270534M	4760814500561	SHOTGUN
168	REMINGTON	870	AB389750M	4760814500564	SHOTGUN
169	REMINGTON	870	AB389752M	4760814500565	SHOTGUN
170	REMINGTON	870	AB389773M	4760814500566	SHOTGUN
171	REMINGTON	870	AB402477M	4760814500567	SHOTGUN
172	REMINGTON	870	AB373147M	4761303100509	SHOTGUN
173	REMINGTON	870	AB270544M	4761303100506	SHOTGUN
174	REMINGTON	870	AB394452M	4761303100489	SHOTGUN
175	REMINGTON	870	AB391905M	4761303100487	SHOTGUN
176	REMINGTON	870	AB389759M	4761303100461	SHOTGUN
177	REMINGTON	870	AB394458M	4761303100485	SHOTGUN
178	REMINGTON	870	AB732863M	4761104501146	SHOTGUN
179	REMINGTON	870	AB761700M	4761104501147	SHOTGUN
180	REMINGTON	870	AB732841M	4761104501138	SHOTGUN
181	REMINGTON	870	AB732852M	4761104501142	SHOTGUN
182	REMINGTON	870	AB761712M	4761104501145	SHOTGUN

RESOLUTION 2013-____

AUTHORIZING AWARD FOR THE EXCHANGE OF USED FIREARMS AND PURCHASE OF NEW FIREARMS INVENTORY TO L.C. ACTION OF SAN JOSE, CALIFORNIA

WHEREAS, The procurement of a new firearms inventory, including the exchange of the current used inventory and the purchase of a new firearms inventory, has been budgeted in the 2013-14 fiscal year equipment replacement budget, and

WHEREAS, L.C. Action will take the City's used firearms inventory for credit value towards new inventory purchase, and

WHEREAS, L.C. Action is able to acquire all of the new firearms and related equipment needed;

NOW, THEREFORE, BE IT RESOLVED, That City Council does hereby authorize the exchange of the used firearms inventory and the purchase of a new firearms inventory from L.C. Action in the amount of $76,591, as authorized in account number 605-59310-676-E1093.

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

The foregoing Resolution was adopted by the Tracy City Council on this 3rd day of September, 2013 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

September 3, 2013

AGENDA ITEM 1.E

REQUEST

AUTHORIZE A FIVE-YEAR GROUND LEASE AGREEMENT BETWEEN THE CITY OF TRACY AND GPX WHOLESALE, INC., A CALIFORNIA CORPORATION, FOR NUT SHELL STOCKPILING OPERATIONS ON CITY PROPERTY LOCATED AT THE NEW JERUSALEM AIRPORT AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

The City owns 395 acres of land known as the New Jerusalem Airport property. The property has been under a Lease Agreement to farm the property since 2001. The runway portion of the property is not under the current lease agreement. A new lease agreement will be entered into with GPX Wholesale, Inc., to utilize the closed runway for the purpose of storing nut shells through the winter.

DISCUSSION

The City has leased the New Jerusalem Airport property (approximately 395 acres) to J. Lombardi Farms since 2010. Approximately 320 acres of the property are in suitable farming condition.

Approximately 75 acres of property make up the runway area at New Jerusalem Airport and are not included as part of the lease to J. Lombardi Farms. The runway area is comprised of two runways and taxiways. Only one runway and taxiway is currently operable and open for public use. The other is in a deteriorating state and currently marked as closed.

GPX Wholesale, Inc. would like to lease a portion of the closed runway, totaling approximately 4.5 acres, for the purpose of storing nut shells through the winter before being distributed to their customers. The agreement calls for a minimum annual payment of $5,000 plus $1.50 per ton of shells stored on the site each year. The first year of the agreement will only bring in $5,000 due to the lateness in the harvesting season which this agreement is being executed in. It is estimated that only 2,500 tons of shells will be store the first year. It is anticipated that approximately 10,000 tons of shells will be stored each year after the first, with the potential for increase.

The City currently has a similar agreement on 40 acres of the Holly Sugar property. The lease agreement for that property nets approximately $48,000 annually, or approximately $1,200 per acre. The agreement with GPX Wholesale, Inc. will net approximately $20,000 annually on 4.5 acres, or approximately $4,400 per acre.

Attachment “A” is a copy of the lease outlining the terms and conditions agreed to by the City and GPX Wholesale, Inc.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no impact to the General Fund. The City's Airport Fund will receive a fixed amount of $5,000 for the first year. Additional years will yield $5,000 per year plus a variable amount of approximately $15,000 the per year of the agreement based on estimates from the Lessee. It is anticipated that in subsequent years of the agreement the variable amount will be equal or greater than the first year's amount.

RECOMMENDATION

Staff recommends that the City Council approve, by resolution, a five-year ground lease agreement between the City of Tracy and GPX Wholesale, Inc. for nut shell stockpiling operations at the New Jerusalem Airport property and authorize the Mayor to execute the agreement.

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: David Ferguson, Director of Public Works

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

Attachment "A" – Lease Agreement

ATTACHMENT "A"

LEASE AGREEMENT

THIS LEASE AGREEMENT (hereinafter "Lease") is made and entered into by and between the CITY OF TRACY, a municipal corporation (hereinafter "CITY"), and GPX Wholesale, Inc.**,** a California Corporation (hereinafter "LESSEE")

RECITALS

A. CITY owns approximately 395 acres of land known as the New Jerusalem Airport property (the Airport), of which approximately 320 acres are used for agricultural purposes, and 75 acres which are presently used for non-agricultural purposes. Assessor's Parcel Number 255-27-008.
B. LESSEE is a corporation engaged in acquiring nut shells during the nut harvest season (typically August through November), stockpiling them through the winter, and delivering them to LESSEE's customer (typically March through July).
C. CITY desires to lease an approximate 4.5 acre portion of the abandoned east-runway to LESSEE, and LESSEE desires to lease said property from CITY for the purpose of nut shell storage, a non-agriculture use, which is the subject of this Lease.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **PROPERTY:** CITY leases to LESSEE, and LESSEE leases from CITY, an approximate 4.5 acre portion of the abandoned east runway situated in the County of San Joaquin, State of California, commonly known as New Jerusalem Airport, and situated on APN 255-27-008. The leased property consists of a 100 foot wide by 2,000 foot long section of the abandoned runway beginning 1,000 feet south of the end of the runway and running parallel to the center-line of that runway (the "Property").

2. **TERM.** The term of this Lease is from September 4, 2013 through June 30, 2018. In the event of a third party purchase of the property, this Lease shall terminate June 30 of the same year that escrow closes on the property sale. In the event CITY determines a non-agricultural non-public use is not in the best interest of CITY, this Lease shall terminate June 30 of the year that an agricultural use Lease is executed between CITY and a third party. In the event that CITY determines that a public use of the property is in the best interest of CITY, this Lease shall terminate June 30 of the year that the property is put to a public use.

3. **LEASE PAYMENT.** LESSEE must pay CITY monthly and annual rent payments ("Rent") as set forth herein.

   3.1 In addition to the annual rent set forth in section 3.3, LESSEE must pay CITY monthly rent, due on the fifteenth day of each month, in the amount of one dollar and fifty cents for each ton of nut shell delivered to the Property during the preceding month.

   3.2 LESSEE must provide, on a monthly basis, a report showing the total weight of nut shells delivered to the Property during the preceding month, which must include a copy of all delivery receipts or bills of lading for the preceding month showing the weight of each delivery. Any disputes or controversies between the parties with

respect to this Section and this Agreement shall be resolved in accordance with the provisions of this Agreement.

3.3 Upon execution of this Agreement, LESSEE must pay to City the sum of Five Thousand Dollars as an additional annual rent payment. Thereafter, LESSEE must pay the City an annual payment of Five Thousand Dollars by July 15th of each year. Additional monthly payments as outlined in Section 3.1 will begin July 2014. Such payment is due whether or not CITY sends LESSEE notice.

3.4 LESSEE must send payments to:

City of Tracy Finance Department
333 Civic Center Plaza
Tracy, CA 95376

4. **USE.** LESSEE must prepare the Property, properly locate and construct the piles of nut shells, install temperature sensing devices, and cover the piles with plastic to control moisture, in accordance with commercially acceptable methods of stockpiling nut shell, all at LESSEE's own cost and expense. LESSEE must, within the limitations set forth above, determine the crops that shall be planted upon each field of the Property at all times during the term of this Lease.

4.1 Use of the Property must conform to all applicable rules and regulations governing the property, including, but not limited to, local building and fire codes. All repair and maintenance work done on the Property is subject to Federal Aviation Administration (FAA) and airport regulations in addition to applicable local, county and state laws.

4.2 LESSEE may not sub-lease any portion of the Property without prior written permission by CITY.

4.3 LESSEE is responsible for all costs associated with providing water or electricity to the Property.

4.4 LESSEE is responsible for safely securing all property and farming equipment and for safely storing all chemicals and other hazardous materials in accordance with State and local laws.

4.5 LESSEE must keep the Property free and clear of all rubbish, trash and other growth generally considered to be foul, noxious or objectionable.

4.6 LESSEE agrees not to apply any herbicides or soil sterilant, which would affect any crop or landscaping that may be planted on the Property after the termination of the Lease.

4.7 CITY reserves for its own use and benefit all the runways located on the premises, together with as much ground surrounding and surrounded by the runways as may be required by the FAA or any other governmental authority, and the right to ingress or egress between said runways and the County road for the public use of the runways for all lawful purposes. Lessee must not enter upon the active west runway identified as runway 12/30 or adjacent taxiway.

4.8 It is understood that crop dusters may request a use permit to conduct flight operations for agricultural spraying from the Airport. If such a request is made, the City may issue such permit at its sole discretion. It is understood that by separate agreement, approximately 320 acres of the Property is under long-term lease for agricultural purposes and accessing any such portions of the property is forbidden. Furthermore, it is also understood that, by separate agreement, the Tracy Skyliners, a model airplane club, has permission to use the North 1,000 feet of the

abandoned runway at the New Jerusalem Airport property for the term of this agreement.

4.9 Upon termination of lease, LESSEE agrees to remove all nut shells, equipment, pile-covering materials, and personal property from the Property.

5. **ACCEPTANCE AND MAINTENANCE OF PREMISES.** All activities related to the delivery, storage, and removal of nut shells will be the responsibility of LESSEE. LESSEE further agrees that:

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

5.2 LESSEE has no right to use in any manner, the water furnished by the well, pump, and motor located thereon, which shall continue to be the property of CITY.

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

5.4 LESSEE must not permit water or nut shells to seep or flow onto the runways reserved by CITY or onto agricultural land, nor allow any obstruction of said runways or navigable air space at any time.

5.5 LESSEE is not responsible for any portion of Property reserved or used by CITY or used for agricultural purposes.

6. **ALTERATIONS AND MODIFICATIONS.** LESSEE covenants and agrees not to install any fixtures or make any alterations, additions, erecting of structures or improvements to the Property without the prior written approval of CITY. All fixtures installed or additions and improvements made to the Property shall become CITY's property and must remain on the Property at the termination of this Lease, however such is terminated, without compensation or payment to LESSEE.

7. **SUBLEASE.** LESSEE may not voluntarily or involuntarily assign or sublease this Lease without first obtaining CITY's written consent.

8. **REGULATIONS.** LESSEE's use of the Property must comply with all Federal, State and local rules, regulations, laws, ordinances, and directives of competent authority applicable to the use of CITY's property.

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

10. **TAXES.** LESSEE must pay, when due, any real property taxes levied against the leased Property as a result of any possessory interest taxes which may be imposed on LESSEE's interest in the leased Property. This provision constitutes written notice to LESSEE pursuant to California Revenue and Taxation Code Section 107. CITY shall not be responsible for payment of any such tax. No such tax shall in any way reduce or substitute

for the charges or fees required to be paid as a condition of this Lease or as otherwise required by CITY.

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

12. **DEFAULT.** If LESSEE defaults on the payment of any installment or rent or of any amount owed to CITY, or defaults on the performance of any covenants or conditions of this Lease, CITY may, at any time while any default exists, serve on LESSEE a 30-day notice in writing to cure the default or quit the Property. If LESSEE fails to do either, CITY may bring a statutory proceeding in unlawful detainer to regain possession of the Property.

13. **INSURANCE.** LESSEE must procure and maintain, for the duration of the Lease, liability insurance against claims for injuries to persons or damages to property which may arise from or in connection with the LESSEE's operation and use of the leased Property. The cost of such insurance shall be borne by the LESSEE.

    13.1 Coverage must be at least as broad as:
        13.1.1 General Liability insurance coverage on a per occurrence basis which insures against all liability of CITY and its agents arising out of and in connection with LESSEE's use of the property.
        13.1.2 Property insurance against all risks of loss to any tenant improvements or betterments.
    13.2 LESSEE must maintain limits no less than:
        13.2.1 General Liability: $2,000,000 per occurrence for bodily injury or property damage.
        13.2.2 Property Insurance: Full replacement cost with no coinsurance penalty provisions.
        13.2.3 Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, either: the insurer must reduce or eliminate such deductibles or self-insured retentions as respects CITY, its officers, officials, employees, and volunteers; or the LESSEE must procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
    13.3 Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to CITY, its officers, officials, employees or volunteers.
    13.4 Each insurance policy required under this Lease must be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage, scope or in limits except after thirty days' prior written notice by certified mail, return receipt requested, has been given to CITY.
    13.5 Each insurance policy required under this Lease must name CITY as an additional named insured.

13.6 Insurance is to be placed with insurers authorized to do business in the State of California with a current A.M. Best's rating of no less than A:VII.

13.7 LESSEE must furnish CITY with original certificates and endorsements affecting coverage required under this Lease. The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All documents are to be received and approved by CITY before this Lease commences.

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

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

16. **LESSEE'S DEFAULT.** The occurrence of any of the following events shall constitute a default by LESSEE:

16.1 Failure to pay rent when due.

16.2 Failure to perform any other provision of this Lease, if the failure to perform is not cured within ten days after written notice thereof is given by CITY to LESSEE; if the failure to perform cannot reasonably be cured within thirty days LESSEE shall not be in default if LESSEE commences to cure the default within the ten day period and diligently continues to cure the default.

17. **RELATIONSHIP OF PARTIES.** The relationship between CITY and LESSEE shall always and only be that of lessor and LESSEE. LESSEE shall never at any time during the term of this Lease become the agent of CITY, and CITY shall not be responsible for the acts or omissions of LESSEE or its agents.

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

19. **RENEWAL OPTION.** Upon further written mutual consent between CITY and LESSEE, LESSEE , if it is not in default under this Lease, may renew this Lease for two additional periods of two years each, from July 1, 2018 through June 30, 2020 (the First Extension Period), and from July 1, 2020 through June 30, 2022 (the Second Extension Period). Intent of the LESSEE to invoke this renewal option shall be exercised by written notice delivered to CITY at least 90 days prior to the expiration of the initial term of this Lease and, if extended, at least 90 days prior to expiration of the First Extension Period. All terms, including annual CPI increases to Rent, shall remain in full force and effect throughout the First Extension Period and Second Extension Period.

If LESSEE holds over and retains possession of the premises or any part thereof after the expiration of this Lease, then such holding over shall be deemed to be a month to month tenancy only and all other terms of this Lease shall remain in full force and effect.

20. **RECORDATION.** Pursuant to Government Code § 37393, the Lease must be recorded in the Office of the County Recorder, County of San Joaquin, State of California.

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

CITY (LESSOR):
City of Tracy
Director of Public Works
520 Tracy Blvd.
Tracy, CA 95376

LESSEE:
GPX Wholesale, Inc.
Erik Durrer
2132 Finney Road
Modesto, CA 95358

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

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written:

CITY OF TRACY

By: _____
Brent H. Ives
Title: Mayor

Date: _____

GPX Wholesale, Inc.

By: _____

Title: _____

Federal Tax ID:_____

Date: _____

Attest:

By: _____
Sandra Edwards
Title: City Clerk

Date: _____

By: _____

Title: _____

Date: _____

Approved As To Form:

By: _____
Daniel G. Sodergren
Title: City Attorney

Date: _____

RESOLUTION _____

AUTHORIZING A FIVE-YEAR GROUND LEASE AGREEMENT BETWEEN THE CITY OF TRACY AND GPX WHOLESALE, INC., A CALIFORNIA CORPORATION, FOR NUT SHELL STORAGE OPERATIONS ON CITY PROPERTY LOCATED AT THE NEW JERUSALEM AIRPORT AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The City owns 395 acres of land known as the New Jerusalem Airport property; and

WHEREAS, The current lease agreement for the property does not include approximately 75 acres of the runway area; and

WHEREAS, The terms of the proposed agreement with GPX Wholesale, Inc. are comparable to similar leases with the City; and

WHEREAS, Staff recommended that the City enter into a five-year lease agreement with GPX Wholesale, Inc.

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby authorizes a five-year ground lease agreement between the City of Tracy and GPX Wholesale, Inc. for nut shell storage operations on the New Jerusalem Airport Property and authorizes the Mayor to execute the agreement.

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

The foregoing Resolution _____ was passed and adopted by the City Council of the City of Tracy on the _____ day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

September 3, 2013

AGENDA ITEM 3

REQUEST

PUBLIC HEARING TO CERTIFY THE ENVIRONMENTAL IMPACT REPORT FOR THE CORDES RANCH DEVELOPMENT AGREEMENT, GENERAL PLAN AMENDMENT, CORDES RANCH SPECIFIC PLAN, AND CORDES RANCH SITE ANNEXATION APPLICATIONS, AND TO CONSIDER THE APPLICATIONS FOR A GENERAL PLAN AMENDMENT, CORDES RANCH SPECIFIC PLAN, PREZONING AND ANNEXATION OF THE CORDES RANCH SITE TO THE CITY OF TRACY, AND INTRODUCING AN ORDINANCE AMENDING VARIOUS TRACY MUNICPAL CODE SECTIONS TO CREATE THE CORDES RANCH SPECIFIC PLAN ZONE DISTRICT. THIS IS ALSO A PUBLIC HEARING TO INTRODUCE AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH PROLOGIS, LP. THE CORDES RANCH SPECIFIC PLAN SITE IS APPROXIMATELY 1783 ACRES LOCATED NORTH OF SCHULTE ROAD, SOUTH OF I-205, AND EAST AND WEST OF MT HOUSE PARKWAY, APPLICATION NUMBERS GPA13-0002, A/P13-0001. APPLICANT IS DAVID BABCOCK AND ASSOCIATES. THE PROPERTY SUBJECT TO THE DEVELOPMENT AGREEMENT IS APPROXIMATELY 1238 ACRES OF LAND LOCATED NORTH OF SCHULTE ROAD AND EAST OF MOUNTAIN HOUSE PARKWAY, APPLICATION NUMBER DA11-0001; THE APPLICANT IS PROLOGIS, LP.

EXECUTIVE SUMMARY

The agenda item involves certifying an Environmental Impact Report (EIR) and approval of several applications related to the Cordes Ranch project, all of which would lead to development of the Cordes Ranch site. Specifically, in addition to certifying the EIR, City Council is requested to approve an amendment to the City's General Plan to establish land use designations throughout the area currently labeled Urban Reserve 6 in the General Plan (Cordes Ranch site), and approval of a comprehensive zoning and development standards document called the Cordes Ranch Specific Plan. Approval of annexation of the approximately 1780-acre site to the City limits is requested as part of this agenda item as well as the introduction of two ordinances. One ordinance amends several sections of the Tracy Municipal Code to establish the zoning for the Cordes Ranch project (in the text of the code as well as on the Zoning Map) and the second ordinance approves a development agreement with Prologis, LP, a major property owner within the Cordes Ranch Specific Plan area.

DISCUSSION

This agenda item involves a public hearing to consider applications for a General Plan Amendment, Cordes Ranch Specific Plan, annexation of the Cordes Ranch Specific Plan site to the City of Tracy and a development agreement (DA), all of which lead to development of the Cordes Ranch project. The applications also require minor amendments to the Tracy Municipal Code Zoning Ordinance to add the Cordes Ranch Specific Plan Zone (CRSP) to the list of zoning districts of the City and prezoning the Cordes Ranch Specific Plan area as CRSP. The zoning of the Cordes Ranch project site as CRSP, including amendment of the Zoning Map, would take effect upon annexation

of the site. The foregoing first requires certification of an Environmental Impact Report (EIR) consistent with the California Environmental Quality Act (CEQA). Specifically, the City Council is requested to take action on the following items:

- Certification of the Cordes Ranch Specific Plan EIR, which includes making findings of fact, findings related to alternatives, adopting a statement of overriding considerations, and adopting a mitigation monitoring and reporting plan
- Approval of a General Plan Amendment (application number GPA13-0002)
- Approval of the Cordes Ranch Specific Plan
- Approval of an amendment to the Tracy Municipal Code Sections 10.08.980 and 10.08.3021 to add the Cordes Ranch Specific Plan Zone (application number ZA13-0001)
- Annexation and prezoning of the Cordes Ranch Specific Plan site to the City of Tracy (application number A/P13-0001)
- Approval of a DA with Prologis, LP for lands they own within the Cordes Ranch Specific Plan area (application number DA-11-0001)

Brief Project History and Overview of the Cordes Ranch Specific Plan

The Cordes Ranch Specific Plan project has undergone significant community, Planning Commission, and City Council review of the last several years. The review and involvement by the Planning Commission and City Council spanned the General Plan update process (concluding in 2006) where the focus on Cordes Ranch related to land use visions for the site. This was carried forward in the comprehensive General Plan amendment process (concluding in 2011) where the City Council adjusted the City's Sphere of Influence (future annexation areas) and retained the Cordes Ranch site as a future jobs center at the same time as adjusting and shrinking the Sphere of Influence in other areas to address new Local Agency Formation Commission (LAFCo) policies directed at limiting the size of these areas. These City Council decisions set the stage for comprehensive land and infrastructure planning which culminated in recent adoption of seven new City Infrastructure Master Plans that identify infrastructure solutions for the Cordes Ranch area and other development areas within the City and Sphere of Influence.

Since that time, a group of four property owners representing the majority of the Cordes Ranch Specific Plan site has undertaken a comprehensive planning process to fine-tune the vision, zoning, development standards, roadway network, required infrastructure, and design standards, which are now included in the comprehensive Cordes Ranch Specific Plan (Attachment A to the staff report is the Cordes Ranch Specific Plan). Containing eight chapters, the proposed Specific Plan first organizes and explains the intended build out vision of the entire site in broad terms and briefly notes existing land use characteristics (chapters 1 and 2). Chapter 3 would establish the permitted land uses and development standards (setbacks, parking, minimum landscaping, and signage, for example), including the I-205 Overlay area that has additional land use limitations, design, and permit processing requirements. Chapter 4 contains the proposed Design Guidelines broken down into standards and guidelines for each zoning district (General Commercial, General Office, Business Park Industrial, and the I-205 Overlay). Images of intended designs have been incorporated to illustrate the written architectural standards and guidelines.

A major element of the Cordes Ranch Specific Plan has been the attention to landscaping details outside of the public right-of-way to create an aesthetically pleasing environment. Chapter 5 of the Specific Plan identifies and illustrates these concepts, which include entry monuments along the I-205 freeway, landscaping along the freeway, and a central green area that can serve as a park, among other features to enhance streetscapes. Chapter 6 of the Specific plan describes, in general terms, several key components of the required infrastructure to serve the project, including descriptions of the storm drainage system, water and wastewater utilities, and detailed street locations and cross sections. Chapter 7 describes the efforts aimed at conserving resources during the course of the implementation of this business park, and includes water conservation measures, energy conservation measures, solid waste, and public health related measures. Chapter 8 identifies the key implementation processes, providing that future subdivisions, conditional use permits, and development review permits would be reviewed in accordance with the Specific Plan. Development Review permits proposed for property within the I-205 overlay area would require Planning Commission review and City Council approval; otherwise they would be reviewed and acted upon at the Director of Development Services level after a noticed public hearing.

The Specific Plan was developed after City Council and Planning Commission review, most notably during City Council meetings on August 7, 2012, where the I-205 corridor was discussed and on November 7, 2012 when land uses, freeway signage and the proposed DA were discussed. The Planning Commission also discussed the Cordes Ranch Specific Plan on several occasions over the course of the last few years, beginning on December 21, 2011, when a hearing was conducted on the Notice of Preparation for the EIR, and again on April 24, 2013, to receive comments on the Draft EIR. The Planning Commission also conducted study sessions on the draft Specific Plan and General Plan amendment, most recently on April 10, 2013. Additionally, the applicants have met with the remaining property owners on a number of occasions, who, mainly, own property along Mt House Parkway and just east of Hansen Road south of I-205. The purpose of these meetings has been to explain the Specific Plan process and content of the draft Specific Plan which includes new zoning and annexation of these areas to Tracy.

Overview of the General Plan Amendment

Attachment B to the staff report is the proposed General Plan Amendment for the Cordes Ranch Project. The General Plan identifies several Urban Reserve areas within the City and Sphere of Influence. Each Urban Reserve contains specific policies and a development profile establishing various land use intensities and densities. The Cordes Ranch site is identified as Urban Reserve 6 in the City's General Plan, and the proposed General Plan Amendment would replace the designation of Urban Reserve 6 with the land use designations of Industrial, Office, Commercial, and Park, which would enable the underlying zoning (the Cordes Ranch Specific Plan described above) to be implemented upon annexation. As shown in Attachment B, there are also a number of text changes to the General Plan clarifying tables and acreages as a result of the conversion from Urban Reserve 6 to the specific land use designations. There is also a policy change to remove reference to high density housing, which is not a component of the project.

Overview of the EIR

The California Environmental Quality Act (CEQA) required a 45-day public review period on the Draft EIR which began on April 5, 2013 and extended through May 20, 2013 (Attachment C to the staff report is the Draft EIR). The Draft EIR document was made available at the Development Services Department front counter at City Hall as well as the Tracy Library. Copies of the document were also made available on compact disks (CDs), and the document was posted to the City's website, where it remains accessible in a *pdf* file format, broken down by chapter. Additionally, CDs were sent to various local, regional and State agencies and individuals that commented on the Draft EIR Notice of Preparation, and to individuals who have contacted the City asking to be included on a mailing list, as well as all property owners within the project boundaries and in the vicinity of the Cordes Ranch site.

The Draft EIR was published along with a 4,200 page Technical Appendices to the Draft EIR (also posted to the City's website). As discussed with the Planning Commission on April 24, 2013, there are several potential environmental impacts associated with implementation of the Cordes Ranch Project which generally mimic the potential impacts from development of Urban Reserve 6 that were described in the General Plan EIR, certified in 2011. More specifically, and as described in the Draft EIR, the significant and unavoidable impacts are associated with the following areas (references to the Draft EIR are provided below and Table 2.1 of the Final EIR includes a summary of each impact):

- Aesthetics (See Chapter 4.1 of the Draft EIR)
- Ag Resources (See Chapter 4.2)
- Air Quality (See Chapter 4.3)
- Biological Resources (See Chapter 4.4)
- Greenhouse Gas Emissions (See Chapter 4.7)
- Noise (See Chapter 4.11)
- Traffic (See Chapter 4.14)
- Storm Drainage (See Utilities Chapter 4.15)

Currently, the City Council is requested to certify the Final EIR (Attachment D to the staff report is the Final EIR and Errata), and adopt findings of fact, findings related to alternatives, a statement of overriding considerations, and a Mitigation Monitoring and Reporting Plan (these are included as exhibits to the City Council EIR Resolution).

The Final EIR is the document that contains the responses to comments received on the Draft EIR and it includes revisions to the text and analysis in the Draft EIR made in response to comments. A month after the close of the comment period, San Joaquin County Department of Public Works submitted a letter with two comments related to road segments that cross jurisdictional boundaries. The letter and response are not included in the Final EIR because they were received after the comment period and after the Final EIR was completed. Similarly, the community of Mt. House submitted a letter after the comment period addressed to the Tracy Planning Commission outlining a fiscal issue of concern to them, which was addressed by City staff at the Planning Commission hearing. Horizon Planet, ostensibly an environmental group (their website is a single page), presented a letter at the Planning Commission identifying several environmental concerns already addressed in the EIR, which was reviewed by staff during a recess in the hearing and then responded to as the hearing resumed. These three letters and City

responses are attached to the staff report (Attachment E to the staff report includes these three letters and responses).

Overview of the DA

Attachment F to the staff report is the DA. The DA would only apply to that property owned by Prologis, LP (Prologis), which consists of approximately 1200-acres of the total 1,780 acres of the Cordes Ranch Specific Plan. A brief summary of the DA is provided below. The proposed DA is divided into the recitals and 12 sections. Sections 1 through 6 contain the principal terms of the agreement and the remaining 6 sections contain legal provisions related to contracts and transactions generally. Sections 1 through 6 are briefly discussed below.

Section 1: This includes the definitions of terms used throughout the DA.

Section 2: This would establish the term of the agreement at 25 years.

Section 3: This section identifies the City obligations and contains several subsections. The agreement would provide vested rights to Prologis, meaning that their approvals are "locked in" with limitations on how they can be changed. Section 3 also establishes that the City will allow the use of certain public utilities, specifically wastewater treatment and conveyance and water conveyance utilities, subject to Prologis' payment of its fair share of applicable costs. The other main term under this Section relates to the City's intent to prioritize work on the I-580/Mt House interchange and City's intent to pursue inclusion of the I-205/Mt House interchange in the County Regional Transportation Impact Fee.

Section 4: This section would require Prologis to build certain necessary infrastructure to accommodate development and would enable Prologis to temporarily use existing infrastructure in order to get the project started.

Section 5: The DA provides that Prologis has the right to build certain "Program" infrastructure (backbone infrastructure that is part of the Citywide Master Plan systems) in lieu of paying full development impact fees. The City would still collect a portion of the fees in order to manage the development of the infrastructure systems, complete plan checking, inspections, and other services related to the installation of the infrastructure, which would become public infrastructure after completion. This Section also would require Prologis to construct certain landscaping, entry monuments, parks, etc. largely identified in Chapter 5 of the Specific Plan.

Section 6: This section relates to public benefit payments and development impact fees. It would require Prologis to pay the City $5 million over 5 years, to be used at the City Council's discretion, as a public benefit to the community. This Section also establishes payment obligations for required wastewater infrastructure. A major term outlined in this Section would allow Prologis to defer payment of a portion of its development impact fees on the first 600-acres of development, subject to its paying the deferred portion (along with the normally applicable fees) during development of the remaining approximately 600-acres. Over the life of the project, all applicable development impact the obligations are

fully met, yet done so in a way to catalyze the initial portion of the project. The balance of this Section lets limits on how the City can modify fees over time and provides procedures for how to reconcile required fee amounts to be paid to the City when infrastructure is paid for under the initial 600-acre reduced fee, or when Prologis elects to build a component of Program infrastructure that otherwise would have been built by the City.

The DA would be approved via an ordinance. Attached to the staff report is a list of the consistency findings between the General Plan and the DA (Attachment G).

Overview of the Zoning Text Amendments, Annexation, and Prezoning

The Cordes Ranch Specific Plan will become the zoning for the site upon annexation by LAFCo. The proposed ordinance amending the Zoning Ordinance of the Tracy Municipal Code would add a reference within the zoning code to the Cordes Ranch Specific Plan. This is the same process that was followed when the Northeast Industrial Area Planned Unit Development was rezoned into a Specific Plan. Section 10.08.980 will add to the list of zone districts, the Cordes Ranch Specific Plan, and Section 10.08.3021 establishes the Cordes Ranch Specific Plan Zone and pre-zones it in anticipation of annexation by the Local Agency Formation Commission (LAFCo).

Finally, the City Council is requested to approve annexation of the entire Cordes Ranch Specific Plan site to the City limits. This action takes the form of approving a petition to LAFCo to annex the site. LAFCo is the agency that conducts public hearings and approves the annexation.

Planning Commission Review and Recommendation

As mentioned earlier, the Planning Commission worked on the General Plan Amendment, Specific Plan, and EIR on a number of occasions, including workshop formats. On July 30, 2013 the Planning Commission conducted a public hearing to consider recommendations to the City Council on all the applications. By unanimous vote, the Planning Commission recommend certification of the EIR and approval of all the applications.

FISCAL IMPACT

The Cordes Ranch project will result in 1,780-acres of industrial and commercially zoned land being added to the City limits. These lands will generate higher property taxes as land is developed, and will result in increased sales tax receipts to the City as businesses become established throughout the business park.

RECOMMENDATION

Staff recommends that City Council conduct a public hearing on the Environmental Impact Report and applications for a Development Agreement with Prologs, LP, a General Plan Amendment, Cordes Ranch Specific Plan, and Annexation and Prezoning

of the Cordes Ranch site to the City. Staff further recommends that the City Council take the following actions:

1) Certify the Cordes Ranch Specific Plan EIR, and make findings of fact, findings related to alternatives, adopt a statement of overriding considerations, and adopt a mitigation monitoring and reporting program, and
2) Approve a General Plan Amendment (application number GPA13-0002), and
3) Approve the Cordes Ranch Specific Plan, and
4) Introduce an ordinance approving an amendment to the Tracy Municipal Code Sections 10.08.980 and 10.08.3021 to add the Cordes Ranch Specific Plan Zone (application number ZA13-0001), and
5) Approve annexation of the Cordes Ranch Specific Plan site to the City of Tracy, including prezoning (application number A/P13-0001), and
6) Introduce an ordinance approving a development agreement with Prologis, LP for lands they own within the Cordes Ranch Specific Plan area (application number DA-11-0001)

Prepared by: Bill Dean, Assistant Development Services Director

Reviewed by: Andrew Malik, Development Services Director

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

ATTACHMENTS

Attachment A: Cordes Ranch Specific Plan (provided under separate cover)
Attachment B: General Plan Amendment (Provided under separate cover)
Attachment C: Draft Environmental Impact Report (provided under separate cover)
Attachment D: Final Environmental Impact Report and Errata
Attachment E: Letters from San Joaquin County Department of Public Works, Community of Mt. House, Horizon Planet, and Department of Transportation, and City responses
Attachment F: Development Agreement with Prologis, LP (provided under separate cover)
Attachment G: Consistency findings between the General Plan and the DA

All project documents are posted to the City's website

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

DEVELOPMENT SERVICES
DEPARTMENT

MAIN 209.831.6400
FAX 209.831.6439
www.ci.tracy.ca.us

September 3, 2013

Attachments related to the Cordes Ranch item for the September 3, 2013 Tracy City Council meeting are available on the City of Tracy's website. The files can be viewed and downloaded from the following locations:

Attachment A: Cordes Ranch Specific Plan (By Chapter)

- Chapter 1
  http://www.ci.tracy.ca.us/documents/CRSP_Chapter_1.pdf
- Chapter 2
  http://www.ci.tracy.ca.us/documents/CRSP_Chapter_2.pdf
- Chapter 3
  http://www.ci.tracy.ca.us/documents/CRSP_Chapter_3.pdf
- Chapter 4
  http://www.ci.tracy.ca.us/documents/CRSP_Chapter_4.pdf
- Chapter 5
  http://www.ci.tracy.ca.us/documents/CRSP_Chapter_5.pdf
- Chapter 6
  http://www.ci.tracy.ca.us/documents/CRPS_Chapter_6.pdf
- Chapter 7
  http://www.ci.tracy.ca.us/documents/CRPS_Chapter_7.pdf
- Chapter 8
  http://www.ci.tracy.ca.us/documents/CRSP_Chapter_8.pdf

Attachment B: Final Draft - General Plan Amendment

- http://www.ci.tracy.ca.us/documents/Final_Draft_General_Plan_Amendment.pdf

Attachment C: Draft EIR

The Draft EIR consists of multiple documents. All of the documents can be downloaded from the following location:

- http://www.thinkinsidethetriangle.com/?navid=595

Attachment D: Final EIR, Errata & Appendices

- FINAL EIR & Errata
  http://www.ci.tracy.ca.us/documents/CR_FINAL_EIR.pdf
- FINAL EIR – Appendices
  http://www.ci.tracy.ca.us/documents/CR_Final_EIR_Appendices.pdf

Attachment E: SJCPW, MHCSD, Caltrans, Horizon Planet Letters and Responses

- http://www.thinkinsidethetriangle.com/documents/?d=SJCPW_MHCSD_Caltrans_Horizon_Planet_Letters_and_Responses.pdf

Attachment F: Development Agreement with Prologis, LP

- http://www.ci.tracy.ca.us/documents/CR_Development_Agreement_and_Exhibits.pdf

Attachment G: Consistency findings between the General Plan and the DA

- http://www.ci.tracy.ca.us/documents/CR_Consistency_Findings.pdf

This documentation is also available at the City of Tracy Development Services Department and City Clerk's Office at 333 Civic Center Plaza, Tracy, CA 95376, and the Tracy Library at 20 E. Eaton Ave., Tracy, CA 95376.

RESOLUTION 2013 – _____

RESOLUTION OF THE TRACY CITY COUNCIL CERTIFYING THE CORDES RANCH SPECIFIC PLAN FINAL ENVIRONMENTAL IMPACT REPORT AND ADOPTION OF FINDINGS OF FACT, A STATEMENT OF OVERRIDING CONSIDERATIONS, AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN PROJECT

(APPLICATION #GPA 13-0002, A/P 13-0001, DA 11-0001, ZA 13-0001)

WHEREAS, David Babcock & Associates and Prologis, L.P., (collectively, the Project Applicant), submitted planning applications to the City of Tracy (City) requesting approval of various land use approvals and permits that are necessary to annex and develop approximately 1,780 acres of land located in unincorporated San Joaquin County, within the City's sphere of influence and adjacent to the City's existing municipal boundaries, which is currently designated in the City's General Plan as Urban Reserve 6; and

WHEREAS, development of Urban Reserve 6 with employment-generating uses is a major component of the City's economic development strategy as described more fully in the General Plan; and

WHEREAS, on February 1, 2011, the Tracy City Council adopted an update to the City of Tracy General Plan (General Plan), which guides land use planning for City (Resolution No. 2011-029); and

WHEREAS, the development proposed by the Project Applicant would result in approximately thirty one (31) million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, in Urban Reserve 6, also referred to herein as the "Specific Plan Area," and is described more fully in the Cordes Ranch Specific Plan (Specific Plan); and

WHEREAS, the initial land use applications for the Project include a request to amend the General Plan; amend the City of Tracy Municipal Code to reflect Zoning Map and Text Amendments; adopt the Specific Plan; approve a development agreement that covers a portion of the Specific Plan Area; and approve a resolution to initiate annexation proceedings for the Specific Plan Area. The City's action on these land use applications, together with the San Joaquin County Local Agency Formation Commission's (LAFCO) action on the proposed annexation and the anticipated development described in the Cordes Ranch Specific Plan, comprise the "Project" subject to environmental review by the City under the California Environmental Quality Act (CEQA); and

WHEREAS, a Draft Environmental Impact Report (Draft EIR) was prepared and published for the Project in April 2013 (SCH# 2011122015), and was subject to a 45-day public review period from April 5, 2013 to May 20, 2013. During the public review period, the Tracy Planning Commission held a public meeting for the proposed Project on April 24, 2013 to receive public comments on the Draft EIR; and

WHEREAS, the City received and evaluated numerous comments from public agencies, organizations, and members of the public who reviewed the Draft EIR, and has prepared responses to comments on the Draft EIR; and

WHEREAS, a Final EIR/Responses to Comments (FEIR/RTC) was prepared and published on July 24, 2013, which consisted of an edited Draft EIR and responses to all comments that raise environmental issues on the Draft EIR. The responses to comments address all written and verbal comments on environmental issues received during the public review and comment period regarding the Draft EIR, and an inventory of agencies, organizations, and persons commenting on the Draft EIR during the public review and comment period; and

WHEREAS, after the publication of the July 2013 FEIR/RTC, the City received additional written comments on the Draft EIR and the July 2013 FEIR/RTC. In response to these additional comments, on August 22, 2013, the City published an updated FEIR/RTC (dated September 3, 2013 to correspond to the date of the scheduled City Council hearing on the Project), which addressed and contained responses to the additional written comments received on the July 2013 FEIR/RTC; and

WHEREAS, on August 28, 2013, the City published an Errata to the updated FEIR/RTC to correct certain typographical errors and eliminate the resulting inconsistencies in the updated FEIR/RTC; and

WHEREAS, the Final EIR for the Project is comprised of the Draft EIR, the updated FEIR/RTC, the August 28, 2013 Errata to the updated FEIR/RTC, and all Appendices; and

WHEREAS, consistent with CEQA requirements, a Mitigation Monitoring and Reporting Program (MMRP) has been prepared to outline the procedures for implementing all mitigation measures identified in the Final EIR (see attached Exhibit D), and

WHEREAS, the City desires and intends to use the Final EIR for the proposed Project as the environmental document required by CEQA in connection with the discretionary actions necessary for this Project by the City; and

WHEREAS, the Planning Commission held a duly noticed public hearing on July 30, 2013, and reviewed all evidence presented both verbally and in writing, and intends to make certain findings in compliance with CEQA, which are more fully set forth in this Resolution, and

WHEREAS, the Planning Commission via resolution number 2013-0014 unanimously recommended that the City Council certify the Final EIR and adopt the MMRP, based on the findings set forth in the that resolution;

NOW, THEREFORE the Tracy City Council resolves as follows, based on substantial evidence in the administrative record:

1. Certification:
    a. The Final EIR has been completed in compliance with the requirements of CEQA and the CEQA Guidelines, as set forth in attached Exhibits A, B, and C. (CEQA Guidelines §15090(a)(1))

b. The Final EIR was presented to the City Council, which reviewed and considered the information contained in the administrative record of proceedings, including in the Final EIR, prior to making its recommendation on the Project. (CEQA Guidelines §15090(a)(2))

c. The Final EIR reflects the independent judgment and analysis of the City. (CEQA Guidelines §15090(a)(3))

d. Therefore, the City Council finds that the Final EIR has been c ompleted in compliance with the requirements of CEQA and t he CEQA Guidelines. (CEQA Guidelines §15090(a)(1))

2. Significant Impacts:

a. The Final EIR identifies potentially significant environmental impacts of the proposed Project that can be mitigated to a less-than-significant level. The City Council makes the findings with respect to these significant impacts as set forth in Exhibit A. (CEQA Guidelines §15091)

b. The Final EIR identifies potentially significant environmental impacts of the proposed Project that cannot be mitigated to a less-than-significant level and are thus considered significant and unavoidable. The City Council makes the findings with respect to these significant impacts as set forth in attached Exhibit A. (CEQA Guidelines §15091)

c. All other potential impacts identified in the Final EIR would be less than significant without mitigation. Therefore, further findings are not required for those impacts.

3. Alternatives:

The Final EIR includes four project alternatives, including the mandatory No Project Alternative. These alternatives are found to be infeasible based on the findings set forth in attached Exhibit B. (Public Resources Code § 21002; CEQA Guidelines §15091)

4. Statement of Overriding Considerations:

The adoption of all feasible mitigation measures will not avoid or reduce to a less-than-significant level all potentially significant adverse environmental effects caused by the proposed Project. However, the City Council finds that the proposed Project's benefits override and outweigh its unavoidable impacts on the environment, and adopts a Statement of Overriding Considerations, as set forth in attached Exhibit C. (CEQA Guidelines § 15091 and 15093)

5. Mitigation Monitoring and Reporting Program:

The City Council adopts the Mitigation Monitoring and Reporting Program set forth in attached Exhibit D. (CEQA Guidelines §15097)

6. Other Findings and Information:

The documents and other materials which constitute the administrative record of proceedings upon which the City Council bases its actions with respect to the Project are located at City Hall, 333 Civic Center Plaza, Tracy, CA. The

custodians of these documents are the City Clerk and Director of Development Services. (CEQA Guidelines §15091(e))

The foregoing Resolution 2013 – ____ is hereby passed and adopted by the City Council of the City of Tracy on the 3rd day of September, 2013 by the following vote:

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

_____
Mayor

ATTEST:

_____
City Clerk

EXHIBIT A

FINDINGS RELATED TO SIGNIFICANT IMPACTS

This Exhibit A contains findings related to significant impacts identified in the Final EIR. The Final EIR, prepared in compliance with CEQA, the State CEQA Guidelines, and the provisions of the City of Tracy, constitutes an accurate, adequate, objective, and complete report that evaluates the potentially significant and significant adverse environmental impacts that could result from approval of the Project. As described more fully in the Specific Plan and the Final EIR, the Project, at full buildout, would result in the development of the approximately 1,783-acre Plan Area with approximately thirty one (31) million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, as described more fully therein.

As the Final EIR concludes that implementation of the Project may result in significant adverse environmental impacts, the City is required under CEQA and the State CEQA Guidelines to make certain findings with respect to these impacts. (CEQA Guidelines §15091) These required findings appear in the following sections of this Exhibit A. This Exhibit A lists and describes the following, as analyzed in the Final EIR:

a) Significant impacts that can be avoided, minimized, mitigated, or substantially reduced with the implementation of feasible mitigation measures.

b) Impacts that are significant and unavoidable. As explained in the Statement of Overriding Considerations (Exhibit C), these effects are considered to be acceptable when balanced against the economic, legal, social, technological, and/or other benefits of the Project.

As a threshold matter, CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when significant new information is added to the EIR after public notice is given of the availability of the Draft EIR, but before certification of the Final EIR. New information added to an EIR is not “significant” unless the EIR is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or a feasible way to mitigate or avoid such an effect that the project proponent declines to implement. The CEQA Guidelines provide examples of significant new information under this standard. The Planning Commission recognizes that the Final EIR incorporates information obtained by the City since the Draft EIR was completed, and contains additions, clarifications, modifications, and other changes. With respect to this information, the City finds that various changes and edits have been made to the Draft EIR, as set forth in the Final EIR. Many of these changes are generally of an administrative nature such as correcting typographical errors, making minor adjustments to the data, and adding or changing certain phrases to improve readability. In addition, other changes have been made to provide refinements to the analysis, in response to the comments received, that amplify and clarify the information provided in the Draft EIR. Finally, several mitigation measures have been modified to respond to input by various agencies, organizations and members of the public, and enhance the clarity of the mitigation measures, but do not cause any new or substantially more severe significant adverse environmental impacts.

The City finds this additional information does not constitute significant new information requiring recirculation, but rather that the additional information merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.

In addition to the changes and corrections described above, the Final EIR provides additional information in Responses to Comments and questions from agencies and the public. The City finds that information added in the Final EIR does not constitute significant new information requiring recirculation, but rather that the additional information clarifies or amplifies an adequate EIR. Specifically, the City finds that the additional information, including the changes described above, does not show that:

(1) A new significant environmental impact would result from the Project or from a new mitigation measure proposed to be implemented.

(2) A substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted that reduce the impact to a level of insignificance.

(3) A feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project's proponents decline to adopt it.

(4) The Draft EIR was so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.

Based on the foregoing, and having reviewed the information contained in the Final EIR and in the record of City's proceedings, including the comments on the Draft EIR and the responses thereto, and the above-described information, the City finds that no significant new information has been added to the Final EIR since public notice was given of the availability of the Draft EIR that would require recirculation of the Final EIR.

In making its determination to certify the Final EIR and to approve the Project, the City recognizes that the Project involves several controversial environmental issues and that a range of technical and scientific opinion exists with respect to those issues. The City has acquired an understanding of the range of this technical and scientific opinion by its review of the Draft EIR, the comments received on the Draft EIR and the responses to those comments in the Final EIR, as well as testimony, letters, and reports regarding the Final EIR and its own experience and expertise in assessing those issues. The City has reviewed and considered, as a whole, the evidence and analysis presented in the Draft EIR, the evidence and analysis presented in the comments on the Draft EIR, the evidence and analysis presented in the Final EIR, the information submitted on the Final EIR, and the reports prepared by the experts who prepared the EIR, the City's consultants, the applicants' consultants, and by staff, addressing those comments. The City has gained a comprehensive and well-rounded understanding of the environmental issues presented by the Project. In turn, this understanding has enabled the City to make its decisions after weighing and considering the various viewpoints on these important issues.

Accordingly, the City Council certifies that the findings set forth herein are based on full appraisal of all of the evidence contained in the Final EIR, as well as the evidence and other information in the record addressing the Final EIR.

A. Findings associated with significant impacts that are mitigated to a less-than-significant level

Based on the information in the administrative record of proceedings, including the Final EIR, the following environmental effects are found to be potentially significant but would be mitigated to a less-than-significant level. (CEQA Guidelines §15091)

Impact AES-4: The Project would create new sources of light and glare, which, despite existing regulations, may result in a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.1-21 to 4.1-23 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Specific Plan would introduce new sources of light coming out from new commercial, office, and business park industrial uses and new surface parking lots, streets, pedestrian paths and recreational and open space facilities. In addition, the Project would create new sources of glare from windows and walls on new commercial, office, and business park industrial buildings, windshields of vehicles on new roads and on new surface parking lots. Accordingly, the Project has the potential to result in light and glare impacts to nearby existing residences, and other uses.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above and in the Final EIR, both individually and cumulatively. The City hereby adopts Mitigation Measure AES-4, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

Development of the Project will be required to adhere to various standards, guidelines, and policies that require shielding of lighting to minimize uplighting and to prevent light spillage from shining directly onto adjacent properties, and also require that streetlights be subdued and focused to reduce light pollution. Additionally, as described in Section A.3.b and c of Chapter 4.1 of the Draft EIR, the Tracy General Plan Policy P5 of OBJ: CC-1.1 and the City's Standard Plans for streetscapes and parks also calls for minimizing light spillage to adjacent properties. Further, changes to the maximum height of light poles that may be conditionally permitted (from 40 feet to 60 feet) would require additional review and approval through the City's conditional use permit process, which would ensure that all applicable requirements are imposed as part of the approval.

The City finds that implementation of lighting design measures would substantially lessen the remaining environmental effects, both individually and cumulatively, to less-than-significant levels. These lighting design measures are more fully detailed in Mitigation Measure AES-4, as set forth in the Draft EIR at page 4.1-2 and in the attached Mitigation

and Monitoring Reporting Program. Mitigation Measure AES-4 provides that prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light on to public rights-of-way or adjacent residential property, consistent with City standards.

Impact AG-2: Implementation of the Project could result in a significant impact on agricultural activities on the adjacent land due to potential incompatibilities.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on page 4.2-13 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, to protect the agriculture operations from the impacts of potentially incompatible development, the City's General Plan Policy (OSC-2.2 P1) calls for the use of buffers, such as setbacks, open space, parks, trails, and roads, between agricultural uses and urban uses. As the Specific Plan Area is bounded on the north by Interstate 205, on the west by urban uses, and on the south by Old Schulte Road, the area of concern would be the agricultural lands immediately east of the Specific Plan Area. Although urban uses have been approved for the northern half of these lands (including approximately 538 acres of commercial, office/research and development, and open space/golf course development), potential impacts relating to incompatibility may occur until the planned conversion occurs. In addition, the remainder of this agricultural land east of the Specific Plan Area could experience negative impacts on its agricultural activities from development of the Project.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure AG-2, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure AG-2 would reduce the environmental effects associated with Impact AG-2 to less-than-significant levels. Mitigation Measure AG-2, as provided in the Draft EIR at page 4.2-15 and in the attached MMRP, provides that, as construction occurs along the eastern Specific Plan Area boundary, buffers such as roadways, building setbacks, and parking areas, shall be required prior to occupancy of those structures, in compliance with General Plan Policy. (e.g., OSC-2.2 P1) These measures in combination would reduce any potential land use incompatibilities to a less than significant level.

Impact AQ-6: Day care centers may be located within the Specific Plan Area and have the potential to be exposed to elevated concentrations of Toxic Air Contaminants (TACs). This is a significant impact of the Project.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.3-67 and 4.3-69 of the Draft EIR, and in the Final EIR Responses to Comments (e.g., responses RA3-8 to RA3-19; LA1-21; and ORG1-2) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, day care centers are an allowed use within the Specific Plan Area. At this time, the exact location of any potential day care centers is unknown. However, based on the results of the health risk modeling shown in Table 4.3-11 and 4.3-12 in Chapter 4.3 of the Draft EIR, day care centers have the potential to be exposed to elevated concentrations of TACs and may be exposed to cancer risks that exceed the applicable thresholds. This level of exposure is not an impact cognizable under CEQA, as it is unnecessary to study and mitigate for impacts on future users and occupants of a project under applicable law. Nevertheless, the City desires from the standpoint of the public welfare to assess and mitigate air quality impacts to occupants of future day care centers, and impose all feasible mitigation measures for any significant impacts.

Findings

The City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure AQ-6, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure AQ-6 would reduce the environmental effects associated with Impact AQ-6 to less-than-significant levels. Mitigation Measure AQ-6, as provided in the Draft EIR at page 4.3-79 and in the attached MMRP, provides that no day care center shall be located within 1,000 feet of a major source of TACs (e.g., warehouses, other industrial uses, or roadways with traffic volumes over 10,000 vehicle per day), as measured from the property line of the development at issue to the property line of the source/edge of the nearest travel lane, unless a health risk assessment (HRA) is submitted and approved that demonstrates that the incremental cancer risk for the individual development at issue would not exceed ten in one million or the appropriate non-cancer hazard index would not exceed 1.0. Such HRA shall be prepared in accordance with policies and procedures of the state Office of Environmental Health Hazard Assessment (OEHHA) and the San Joaquin Valley Air Pollution Control District (SJVAPCD), including the then-current OEHHA guidelines that address age sensitivity factors, breathing rates, and body weights appropriate for children age 0 to 6 years. These measures will ensure that users and occupants of daycares will not be exposed to levels of TACs that exceed the applicable thresholds.

Impact BIO-1: Proposed development would result in a significant impact on certain special-status animal species known or with potential to utilize the existing habitat on the Specific Plan Area.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pag es 4.4-22 and 4.4-23 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, development of the Specific Plan Area would result in the conversion of an estimated 1,728 acres of existing grassland and agricultural habitat to urban development, eliminating its suitability for numerous special-status animal species. This includes foraging habitat for Swainson's hawk, burrowing owl and numerous other bird species, possible nesting habitat for burrowing owl, and possible foraging and dispersal habitat for San Joaquin kit fox, among others. Suitable grassland and agricultural habitat occurs for all of these species in the Specific Plan Area.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure BIO-1, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure BIO-1 would reduce the environmental effects associated with Impact BIO-1 to less-than-significant levels. Mitigation Measure BIO-1, as set forth in the Draft EIR at page 4.4-29 and in the attached MMRP, provides that to mitigate the potential adverse impacts on certain special-status species, and provide for the incidental take of State and/or federally listed species (if necessary), the applicant of an i ndividual, site-specific development shall either: (1) participate in the San Joaquin Multi-Species Conservation Open Space Plan (SJMSCP) and comply with all required Incidental Take Minimization Measures or (2) secure incidental take authorizations for State and/or federally-listed species directly from the California Department of Fish and Wildlife (CDFW) and US Fish and Wildlife Service (USFWS) respectively. Participation in the SJMSCP shall include compliance with all relevant Incidental Take Minimization Measures pertinent to the Specific Plan Area, including pre-construction surveys for covered species to confirm presence or absence and provide for their relocation, if necessary. Issuance of grading and building permits shall be contingent on providing evidence of either (1) compliance with the SJMSCP or (2) a 2081 Permit from the CDFW and Biological Opinion from the USFWS to the City of Tracy Development Services Director (if necessary) to ensure compliance with applicable regulations and ensure adequate compensatory mitigation has been provided. The SJMSCP and the applicable state and federal regulatory framework constitute detailed and stringent mechanisms for reducing impacts to biological resources, and are administered by agencies with expertise; adherence to requirements under this regulatory framework would reduce environmental effects under Impact BIO-1 to less-than-significant levels.

Impact BIO-2: Proposed development could result in inadvertent loss of bird nests in active use, which would be a violation of the Migratory Bird Treaty Act and California Fish & Game Code.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.4-23 and 4.4-24 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, no evidence of any tree nesting activity was observed during the surveys conducted during preparation of the Biological Resource Assessment by the EIR biologist, but new nests could be established in trees and dense scrub vegetation, or in burrows for burrowing owl. If nests are established in the future, ground disturbance or vegetation removal could inadvertently result in the destruction of a nest in active use, which would be a violation of the Migratory Bird Treaty Act and California Fish & Game Code. The Migratory Bird Treaty Act (16 USC 703) prohibits the taking, hunting, killing, selling, purchasing, etc. of migratory birds, parts of migratory birds, and their eggs and nests. Most native bird species within the Specific Plan Area and vicinity are covered by this act. Section 3503.5 of the Fish & Game Code specifically protects the nests and eggs of raptors and essentially overlaps with the Migratory Bird Treaty Act. Potential impacts on any nests in active use are considered to be a potentially significant impact.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure BIO-2, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure BIO-2 would reduce the environmental effects associated with Impact BIO-2 to less-than-significant levels. Mitigation Measure BIO-2, as set forth in the Draft EIR at pages 4.4-29 to 4.4-30 and in the attached MMRP, provides that, to avoid the potential for disturbance of nesting birds on or near the Specific Plan Area, the Project applicant for an individual, site-specific development must schedule the initiation of any vegetation removal and grading for the period of September 1 through February 15. If construction work cannot be scheduled during this period, a qualified biologist shall conduct pre-construction surveys for nesting birds according to the following guidelines:

- The preconstruction surveys shall be conducted by the qualified biologist no later than 14 days prior to the start of vegetation removal or initiating project grading.
- If birds protected under the Migratory Bird Treaty Act are found nesting, then appropriate construction buffers shall be established to avoid disturbance of the nests until such time that the young have fledged. The size of the nest buffer shall be determined by the biologist in consultation with CDFW, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of

disturbance. Typically, these buffers range from 75 to 250 feet from the nest location.

- Nesting activities shall be monitored periodically by a qualified biologist to determine when construction activities in the buffer area can resume.
- Once the qualified biologist has determined that young birds have successfully fledged, a monitoring report shall be prepared and submitted to the City of Tracy Development Services for review and approval prior to initiating construction activities within the buffer area. The monitoring report shall summarize the results of the nest monitoring, describe construction restrictions currently in place, and confirm that construction activities can proceed within the buffer area without jeopardizing the survival of the young birds. Construction within the designated buffer area shall not proceed until the written authorization is received by the applicant from the Development Services Director. The above provisions are in addition to the preconstruction surveys to confirm presence or absence of nesting Swainson's hawk, burrowing owl, and other special-status species that may be required under applicable Incidental Take Minimization Measures of the SJMSCP.

These precautions would ensure that risks to nests belonging to special-status avian species are avoided, and thus less-than-significant.

Impact BIO-3: Fill and modifications to potential wetlands and other jurisdictional waters would require authorization from the Corps and RWQCB while bridge crossings and pipe outfalls over the central drainage would require authorizations from the CDFW (Streambed Alteration Agreement).

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.4-24 and 4.4-25 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, construction of certain aspects of the Project may entail direct modifications to potential wetlands and other jurisdictional waters, resulting in the elimination of the two seasonal wetland features, the construction of new crossings and pipe outfalls, the re-grading of segments of the central drainage channel, and the culverting of the man-made drainage ditch that conveys surface flows from the central drainage channel to Interstate 205. The Specific Plan Area also would include structures and parking over the two-acre potential seasonal wetland in the northwestern portion of the Specific Plan Area, and a reconstructed series of detention basins and redesign of stormwater flows that would eliminate the potential seasonal wetland in the man-made basin at the southwest corner of the Interstate 205 and Hansen Road overcrossing. A detailed wetland delineation would have to be prepared and verified by the Corps to confirm the extent of jurisdictional waters but, based on the preliminary wetland assessment conducted as part of the technical review for the EIR, it appears that an estimated 2.86 acres of wetlands and other jurisdictional waters of the US may be filled or modified as a result of Project implementation. In addition, indirect impacts to wetlands and aquatic habitat could result from increased erosion and water quality degradation associated with typical urban development. Creation of impervious surfaces tends to magnify the volume of runoff and potential for urban pollutants, with perhaps the greatest potential damage resulting from

sedimentation during the construction phase of a project and from new non-point discharge of automobile by-products, fertilizers, and herbicides. The above constitutes a potentially significant impact.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure BIO-3, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure BIO-3 would reduce the environmental effects associated with Impact BIO-3 to less-than-significant levels. Mitigation Measure BIO-3, as set forth in the Draft EIR at pages 4.4-31 through 4.4-33 and in the attached MMRP, provides for implementation of the following measures:

- In connection with an individual, site-specific development that may affect wetlands or other jurisdictional waters, a formal wetland delineation shall be prepared by a qualified wetland consultant and submitted to the Corps for verification.
- Where verified waters of the US are present and cannot be avoided, authorization for modifications to these features shall be obtained from the Corps through the Section 404 permitting process. Similarly, a Section 401 Certification shall be obtained from the Regional Water Quality Control Board (RWQCB) where waters of the US are directly affected by the Project. All conditions required as part of the authorizations by the Corps and RWQCB shall be implemented as part of the individual, site-specific development at issue.
- A CDFW Streambed Alteration Agreement shall also be obtained where necessary under applicable laws and regulations, for any proposed Project activities that would affect the bed or banks of the central drainage and other features regulated by the CDFW in the Specific Plan Area. The applicant who is proposing to construct these improvements as part of an individual site-specific development proposal shall submit a notification form to the CDFW, shall obtain all legally required agreements, and implement any conditions contained within that agreement.
- The acreage of waters of the US and any riparian scrub habitat along the central drainage that would be removed by the Project shall be replaced or restored/enhanced on a "no-net loss basis" in accordance with Corps, RWQCB, and CDFW regulations, to the extent required by applicable laws and regulations.
- In connection with an individual, site-specific development that would affect delineated wetlands or other jurisdictional waters, a detailed mitigation plan shall be prepared by a qualified wetland consultant for any jurisdictional wetlands or waters of the US affected by proposed development, with replacement provided at a minimum 1:1 ratio or as required by the regulatory agencies. The plan shall

clearly identify the total wetlands and other jurisdictional areas affected by proposed improvements, as well as wetlands to be created, restored, or enhanced as part of the wetland mitigation. This shall preferably be accomplished on-site through adjustments to the proposed limits of grading, with any replacement wetlands consolidated to the degree possible to improve existing habitat values. The plan shall specify performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures, and shall adhere to all applicable requirements and conditions imposed by the regulatory agencies.

- Consultation or incidental take permitting may be required under the California and federal Endangered Species Acts (as discussed above under Mitigation Measures BIO-1). To the extent required under applicable laws and regulations, an applicant for an individual site-specific development shall obtain all legally required permits or other authorizations from the USFWS and CDFW for the potential "take" of protected species under the Endangered Species Acts, either though participation in the SJMSCP or through separate incidental take authorizations.
- Temporary orange construction fencing shall be installed around the boundary of any delineated jurisdictional waters to the extent they are being preserved so they are not disturbed during construction. The fencing shall be placed a minimum of 25 feet out from the boundary of the wetland but may need to be adjusted if construction and/or restoration activities are to be conducted within this area. Grading, trail construction and restoration work within any wetland buffer zones shall be conducted in a way that avoids or minimizes disturbance of existing wetlands to be preserved in accordance with any mitigation measures imposed by the regulatory agencies.
- Written evidence shall be provided to the City of Tracy Development Services that the applicant has secured all authorizations required by the Corps, RWQCB, and CDFW in connection with the individual, site-specific development proposal prior to issuance of a grading permit for that individual development at issue to ensure compliance with applicable regulations.

Impact CUL-1: The Project potentially could cause inadvertent damage to unique buried archaeological deposits during construction, resulting in a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including without limitation the analysis contained on pages 4.5-13 and 4.5-14 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, although no prehistoric resources such as ethnographic camps or villages have been reported within the Specific Plan Area, there is potential that previously undiscovered prehistoric sites or other archaeological resources may exist in the Specific Plan Area or vicinity. As such, buildout of the Project has the potential to impact unknown archaeological resources because of its grading and construction activities. Inadvertent damage to unique, buried archaeological deposits during construction would result in a significant impact prior to mitigation.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure CUL-1, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure CUL-1 would reduce the environmental effects associated with Impact CUL-1 to less-than-significant levels. Mitigation Measure CUL-1, as set forth in the Draft EIR at pages 4.5-17 and 4.5-18 and in the attached MMRP, provides that if any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and a qualified archaeologist shall be consulted to assess the significance of the find according to CEQA Guidelines Section 15064.5. If any find is determined to be significant, representatives from the City and the archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation. All significant cultural materials recovered shall be, as necessary and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards. In considering any suggested mitigation proposed by the consulting archaeologist to mitigate impacts to historical resources or unique archaeological resources, the City shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the Specific Plan Area while mitigation for historical resources or unique archaeological resources is being carried out.

Impact CUL-2: While fossils are not expected to be discovered during construction, it is possible that significant fossils could be discovered during excavation activities, even in areas with a low likelihood of occurrence. Fossils encountered during excavation could be inadvertently damaged. If a unique paleontological resource is discovered, the impact to the resource could be significant.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pag es 4.5-14 and 4.5-15 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, several fossils have been found in the Specific Plan Area in 1948 during construction of the Delta Mendota Canal. These fossils include mammoth/mastodon, horse, pocket gopher, and other unspecified rodents, and unidentified artiodactyl (hoofed mammal) bone. As such, Project development has the potential to impact unknown paleontological resources because of its grading and construction activities.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure CUL-2, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure CUL-2 would reduce the environmental effects associated with Impact CUL-2 to less-than-significant levels. Mitigation Measure CUL-2, as set forth in the Draft EIR at pages 4.5-18 and 4.5-19 and in the attached MMRP, provides that in the event that fossils or fossil-bearing deposits are discovered during construction, excavations within 50 feet of the find shall be temporarily halted or diverted. The contractor shall notify a qualified paleontologist to examine the discovery. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If, in consultation with the paleontologist, it is determined that the avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the Project on the qualities that make the resource important. The plan shall be submitted to the City for review and approval and the Project proponent shall implement the approved plan.

Impact CUL-3: It is unlikely that human remains would be encountered during construction in the Specific Plan Area. However, in the unlikely event that human remains, including those interred outside of formal cemeteries, are discovered during subsurface activities, the human remains could be inadvertently damaged. This would be a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.5-15 and 4.5-16 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, four Native American burial sites were recorded in the general Tracy area in 1939. While these burial sites were not located in the Specific Plan Area or vicinity, there is still the possibility that as of yet undiscovered human remains may exist in the Specific Plan Area. As such, Project grading and construction activities in the Specific Plan Area have the potential to impact unknown human remains.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in

the Final EIR. The City hereby adopts Mitigation Measure CUL-3, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure CUL-3 would reduce the environmental effects associated with Impact CUL-3 to less-than-significant levels. Mitigation Measure CUL-2, as set forth in the Draft EIR at pages 4.5-19 and 4.5-20 and in the attached MMRP, provides that if human skeletal remains are uncovered during construction, the contractor (depending on the Project component) shall immediately halt work within 50 feet of the find, contact the San Joaquin County coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5(e)(1) of the CEQA Guidelines. If the county coroner determines that the remains are Native American, the Project proponent shall contact the NAHC, in accordance with Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by AB 2641). Per Public Resources Code 5097.98, the contractor shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the human remains are located, is not damaged or disturbed by further development activity until the contractor has discussed and conferred, as prescribed in this section (California Public Resources Code Section 5097.98), with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains. This mitigation measure and associated regulatory framework would adequately mitigate the risk of harm to human remains to a level of insignificance.

Impact GEO-1: Without appropriate mitigation measures in place, construction and operation activities associated with the Project could be associated with substantial soil erosion and loss of topsoil, thereby resulting in a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.6-16 and 4.6-17 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Project's construction activities could result in the loss of topsoil and soil erosion. However, construction activities in the Specific Plan Area would be required to adhere to the applicable grading requirements in the then-current California Building Code. Furthermore, such construction would be regulated under a construction-related stormwater control permit, generally administered by the State Water Resources Control Board (SWRCB), as described more fully in Chapter 4.9 (Hydrology and Water Quality) of the Draft EIR. The SWRCB's Construction General Permit (CGP) requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP) that describes the BMPs that would be used to prevent erosion and protect storm water runoff. The construction of new buildings and structures as part of the Project would also create new impervious areas, such as sidewalks, driveways, parking lots, and rooftops. These impervious areas often result in increased stormwater runoff which can exacerbate soil erosion. As discussed more fully in Chapter 4.9 (Hydrology and Water Quality), the Project would be subject to the City of Tracy's Storm Water Management Program and

the City's Stormwater Quality Control Standards that require the design and implementation of a range of stormwater control measures that include: general site design control measures, site-specific source control measures, treatment measures, and other controls. Without imposition of these controls and safeguards, the Project's impacts associated with substantial soil erosion and loss of topsoil would be significant.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure GEO-1, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure GEO-1 would reduce the environmental effects associated with Impact GEO-1 to less-than-significant levels. Mitigation Measure GEO-1, as set forth in the Draft EIR at page 4.6-19 and in the attached MMRP, provides for the implementation of the following mitigation measures listed below: Mitigation Measures HYDRO-1a, HYDRO-1b, HYDRO-2a, HYDRO-2b, and HYDRO-2c, as described in Chapter 4.9 of this Draft EIR. These mitigation measures and their efficacy are further identified and discussed in those findings related to Impact HYDRO-1 and HYDRO-2 and the facts in support thereof, which are incorporated herein by this reference.

Impact HAZ-1: The routine use, transport, and disposal of hazardous materials associated with implementation of the Project could result in a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.8-28 and 4.8-29 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, implementation of the Project would include land uses that may involve the routine use, transport, and disposal of hazardous materials and waste within the Specific Plan Area. Additionally, implementation of the Project would result in an intensification of land use throughout the Specific Plan Area and a corresponding increase in the amount of hazardous materials stored, transported, and disposed of in the Specific Plan Area. Although the risks related thereto are lessened through the implementation of and compliance with federal, State, and local regulations and policies, the impact of the routine use, transport, and disposal of hazardous materials associated with the Project would be significant without mitigation.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which

mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure HAZ-1, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure HAZ-1 would reduce the environmental effects associated with Impact HAZ-1 to less-than-significant levels. Mitigation Measure HAZ-1, as set forth in the Draft EIR at page 4.8-39 and in the attached MMRP, provides that the Project applicant shall fully implement the applicable provisions of the San Joaquin County Hazardous Material Area Plan and the Tracy General Plan, including but not limited to:

- Ensuring that any business locating in the Specific Plan Area which stores particular quantities of hazardous materials (e.g. larger than 55 gallons of liquid, 500 pounds of solid or 200 cubic feet of some compressed gases) as stipulated under Chapter 6.95 of the California Health and Safety Code annually files a hazardous materials business plan establishing incident prevention measures, hazardous material protocols, and emergency response and evacuation procedures;
- Providing adequate separation between areas where hazardous materials are present and sensitive uses; and
- Submitting an emergency response plan for any large generators of hazardous waste located or proposed to be located in the Specific Plan Area.

Impact HAZ-2: Construction of the Project could cause exposure to contamination associated with hazardous material sites, potential pesticide hot spot areas, and demolition of older structures that contain ACBM or lead based paint.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on page 4.8-40 of the Draft EIR, and in the Final EIR Responses to Comments (e.g., responses SA2-2, -3, -4; ORG2-2 to -4, -6, -8, -10, -12 to -19) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, one hazardous material site located within the Specific Plan Area (Shell pipeline cleanup site) is undergoing active investigation of soil, soil vapor and groundwater contamination, and is subject to future remedial actions. One hazardous material site located up gradient from the Specific Plan Area (ARCO #6610 UST cleanup site) is undergoing active investigation and is subject to future remedial action, with potential for the contamination to extend to groundwater and soil vapor beneath the Specific Plan Area. In addition, historical agricultural activities and associated pesticide use and storage potentially may have resulted in localized contamination areas. Also, there is one known plugged abandoned well approximately 200 feet east of Hansen Road. The Specific Plan Area also includes structures that, because of their age, potentially may contain ACBM and lead-based paint. Without mitigation, exposure to contamination associated with these hazardous material sites,

potential pesticide hot spot areas, and demolition of older structures that contain ACBM or lead based paint, would result in potential impacts that are considered significant.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measures HAZ-2a, HAZ-2b, HAZ-2c, and HAZ-2d, and further finds that the changes or alterations in the Project or the requirement to impose the mitigations as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigations are appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measures HAZ-2a, HAZ-2b, HAZ-2c, and HAZ-2d would reduce the environmental effects associated with Impact HAZ-2 to less-than-significant levels. These mitigation measures, as set forth in the Draft EIR at pages 4.8-40 through 4.8-42, in the Final EIR Responses to Comments (e.g., response ORG2-3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), and in the attached MMRP, are as follows:

Mitigation Measure HAZ-2a: A Soil Management Plan and companion Sampling and Analysis Plan, as well as a Health and Safety Plan (HASP), shall be prepared and implemented during and following any soil excavation and compaction associated with implementation of the Project where such activities may encounter residual soil, soil vapor, or groundwater contamination that exceeds risk-based levels established by the RWQCB or Cal-EPA. As part of the Soil Management Plan, the applicant shall retain an experienced, independent environmental monitor to observe all significant earth-moving activities. The monitor shall observe the operations, remaining watchful for stained or discolored soil that could represent residual contamination. The monitor shall also be empowered to alert the City and regulatory agencies, when appropriate, and provide direction to the grading contractor. The monitor shall confirm the location of the one plugged and abandoned well in consultation with the Division of Gas, Oil, and Geothermal Resources, and the applicant shall comply with any remedial measures that may be required in connection therewith under applicable laws and regulations. In addition, in the event that a previously unknown abandoned well is discovered, construction activities that are proximate to said abandoned well shall stop and the Division of Gas, Oil, and Geothermal Resources shall be contacted. No structures shall be built on a discovered abandoned well until it is deemed safe by the State Oil and Gas Supervisor in accordance with applicable laws and regulations.

Mitigation Measure HAZ-2b: A plan shall be developed for installation a vapor barrier and venting system beneath buildings to be constructed at the site in those areas where residual petroleum hydrocarbons in soil vapor exceed risk-based levels established by the RWQCB or Cal-EPA, where exposure pathways are considered potentially complete. The system shall be designed to eliminate potentially significant indoor air quality health risks associated with subsurface contaminant vapor intrusion. The Plan shall be prepared by a California professional engineer experienced in vapor intrusion mitigation and who shall certify the installation.

Mitigation Measure HAZ-2c: Soil sampling shall occur within the portions of the Specific Plan Area that have historically been utilized for mixing or storing pesticides and that may contain pesticide residues in the soil, prior to issuance of grading permits in such areas. The sampling shall be performed in accordance with a Sampling and Analysis Plan and Soil Management Plan prepared by a qualified Environmental Professional and/or California professional engineer experienced in Phase II site characterization. The sampling shall be conducted in accordance with applicable guidance from DTSC and San Joaquin County Environmental Health Department, and shall determine if pesticide concentrations exceed established regulatory thresholds. Should pesticide contaminated soil be identified as a result of the evaluation, further site characterization and remedial activities, if necessary, will be implemented in accordance with the Soil Management Plan.

Mitigation Measure HAZ-2d: Existing structures shall be evaluated for the presence of ACBM and lead-based paints prior to their renovation or demolition. The evaluation shall be conducted by a Cal-OSHA certified ACBM and lead-based paint contractor. Any ACBM or lead identified as a result of the evaluation shall be removed by a Cal-OSHA certified ACBM and lead-based paint contractor and be transported and disposed off-site in accordance with regulatory requirements.

The above measures, undertaken by the identified experts, would adequately mitigate risks associated with the exposure to contamination from hazardous material sites, potential pesticide hot spot areas, abandoned wells, and demolition of older structures that may contain ACBM or lead based paint to less-than-significant levels.

Impact HYDRO-1: Construction of the Project would occur in phases over a period of ten to thirty years and Project-related construction activity could negatively affect downstream surface water quality during that time period. Therefore, the Project's construction impacts to water quality would be significant without mitigation measures.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-28 through 4.9-30 and 4. 9-34 through 4.9-38, and in the Final EIR Responses to Comments (e.g., response LA1-13) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Project includes grading and construction on approximately 1,780 acres of land within the Specific Plan Area. Grading and vegetation removal would increase erosion potential and could negatively affect water quality and lead to downstream sedimentation in receiving waters. This construction activity also would substantially alter the Specific Plan Area's existing charge pattern in a manner that may result in substantial erosion or siltation on or off-site without adequate mitigation. Of particular concern is the potential contribution of additional sediments and other urban pollutants to the Old River, which has been identified as a water quality limited segment under the CWA Section 303(d). Receiving waters may also include Patterson Run through the proposed detention basins. Though the Project would be regulated under local, state, and federal programs, and implement various stormwater control measures, impacts would be significant without mitigation.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measures HYDRO-1a and HYDRO-1b, and further finds that the changes or alterations in the Project or the requirement to impose the mitigations as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigations are appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measures HYDRO-1a and HYDRO-1b would reduce the environmental effects associated with Impact HYDRO-1 to less-than-significant levels. These mitigation measures, as set forth in the Draft EIR at pages 4.9-43 through 4.9-44 and in the attached MMRP, are as follows:

Mitigation Measure HYDRO-1a: Grading and ground disturbance on the Specific Plan Area shall be implemented in accordance with each individual development's approved grading plans and related grading permit. For the required treatment of urban pollutants and application of pesticides in the Specific Plan Area, each Project developer shall comply with the approved grading plan and related permit and conditions of approval.

Mitigation Measure HYDRO-1b: In accordance with the then-applicable regulations, as part of the application process for each individual development under the Specific Plan, each applicant shall file a Notice of Intent with the SWRCB to obtain coverage under the construction general permit (CGP) and shall comply with all of the requirements associated with the CGP, as necessary to mitigate those impacts that would result from the specific development proposed by that applicant. In addition, as part of the application process for each individual development under the Specific Plan, each applicant shall prepare and obtain City approval of a SWPPP which shall adequately address stormwater management during each construction phase of the Project. The SWPPP shall be consistent with the then-applicable RWQCB standards and NPDES permit requirements, and s hall be designed to protect water quality during the course of construction. Said BMPs may include, without limitation, the following:

- Schedule earthwork to occur primarily during the dry season to prevent most runoff erosion.
- Protect drainages and storm drain inlets from sedimentation with berms or filtration barriers, such as filter fabric fences, hay bales, or straw wattles.
- Divert runoff from exposed slopes to on-site sediment basins before the runoff is released off-site.
- Install gravel construction entrances to reduce tracking of sediment onto adjoining streets.
- Sweep on-site paved surfaces and surrounding streets daily to collect sediment before it is washed into the storm drains or the Old River.

- After construction is completed, clean all drainage culverts of accumulated sediment and debris.
- Stabilize stockpiles of topsoil and fill material by watering daily, or by the use of chemical agents.
- Store all construction equipment and material in designated areas away from waterways and storm drain inlets. Surround construction staging areas with earthen berms.
- Wash and maintain equipment and vehicles in a separate bermed area, with runoff directed to a lined retention basin.
- Collect construction waste daily and deposit in covered dumpsters.

The aforementioned measures, implemented in compliance with existing regulatory frameworks, would reduce the environmental effects associated with Impact HYDRO-1 to less-than-significant levels.

Impact HYDRO-2: Operational activities associated with the Project could negatively affect downstream surface water quality without ensuring compliance with applicable State and local requirements. Therefore, the Project's impacts to water quality during operation of the Project would be significant without mitigation measures.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-30 through 4.9-33 and 4.9-38 through 4.9-40, and in the Final EIR Responses to Comments (e.g., response LA1-13, -14, -16, -18, -19, and -20) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the operational activities associated with the Project have the potential to degrade water quality in downstream water bodies, in particular Old River, which is already impaired. The Specific Plan Area is primarily undeveloped and does not contain many impervious surfaces. Development of the Project would add significant impervious surfaces to the Specific Plan Area through construction of buildings, parking areas, roadways, and other improvements. An increase in impervious surfaces has the potential to increase runoff from the Specific Plan Area, which in turn could transport urban pollutants to off-site areas. A number of pollutants and chemicals associated with development of the Project that are typical of urban development, including pesticides, fertilizers and landscape maintenance debris, petroleum products, hydrocarbons, litter, and sediment, could enter urban runoff that is discharged from the Specific Plan Area. The impacts of urban runoff would be particularly acute during the first storm event of the year, when accumulations of urban pollutants are flushed into the storm drain system. Changes associated with the Project also would increase flow rates, frequency, and volumes of runoff, which can accelerate erosion along adjacent and downstream flow paths and can produce sedimentation in areas further downstream. Without mitigation, impacts would be significant.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein,

incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measures HYDRO-2a, HYDRO-2b, and HYDRO-2c, and further finds that the changes or alterations in the Project or the requirement to impose the mitigations as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigations are appropriate and feasible. The City further finds that adoption of any additional mitigation is not necessary under CEQA since the identified impacts in this regard would be fully mitigated with implementation of Mitigation Measures HYDRO-2a, HYDRO-2b, and HYDRO-2c. With respect to Mitigation Measures HYDRO-2d and HYDRO-2e, as explained more fully in the administrative record including, without limitation, the Final EIR Responses LA1-12, LA1-13, LA1-15, LA1-17, the EIR fully evaluated the Project's hydrological impacts and no additional analysis or mitigation is required. Nevertheless, in order to further address the commenter's concerns, the City and Applicant have agreed to adhere to certain additional measures, as set forth in Mitigation Measures HYDRO-2d and HYDRO-2e, which will further ensure that no significant impacts occur in this regard.

Facts in Support of Findings

The City finds that implementation of Mitigation Measures HYDRO-2a, HYDRO-2b, and HYDRO-2c would reduce the environmental effects associated with Impact HYDRO-2 to less-than-significant levels. In addition, the City and the Applicant have agreed to adhere to certain additional measures, as set forth in Mitigation Measures HYDRO-2d and HYDRO-2e while, while not required to mitigate any CEQA impacts, will further ensure that no significant impacts occur in this regard. These mitigation measures, as set forth in the Draft EIR at pages 4.9-44 through 4.9-46 and in the attached MMRP, are as follows:

Mitigation Measure HYDRO-2a: As part of the application process for each individual development under the Specific Plan, each applicant shall prepare and obtain approval of a grading plan and related permit in accordance with Mitigation Measure HYDRO-1(a).

Mitigation Measure HYDRO-2b: As part of the application process for each individual development project under the Specific Plan, each applicant shall submit and obtain City approval of a drainage plan to the City of Tracy for on-site measures consistent with the Cordes Ranch Conceptual Drainage Plan, the Cordes Ranch Specific Plan, the Citywide Stormwater Master Plan, and other applicable stormwater standards and requirements that shall be designed to control and treat stormwater for the storm events in compliance with the then-applicable City's Manual of Stormwater Quality Control Standards for New Development and Redevelopment, including those dealing with capacity design of the facilities and contour grading. All such measures shall be implemented as part of the development and operation of the individual development at issue.

Each developer shall construct drainage improvements and ot her required stormwater retention/detention facilities as necessary to serve the specific development proposed by that applicant in conformance with the approved drainage plan, the Specific Plan and the then-applicable City standards including those set forth in the City's Storm Drainage Master Plan. These drainage facilities shall

accommodate events up to and including a 100-year 24-hour storm. Schedule earthwork to occur primarily during the dry season to prevent most runoff erosion.

Any impacts on the operations of Mountain House CSD facilities, including the alteration of cleaning velocities, will require coordination and agreement between Mountain House CSD and the City of Tracy prior to issuance of building permit for any development west of Mountain House Parkway. The proposed mitigation measures will reduce impacts related to storm water runoff to less-than-significant levels.

Mitigation Measure HYDRO-2c: As part of the development of each individual project under the Specific Plan, each developer shall implement the following measures:

- Shall not utilize chemical pesticides in the maintenance of common landscaped areas, open space areas, or parks. Fertilizers shall be applied sparingly, and shall be derived from natural sources, such as fish emulsion or manure.
- Shall cooperate with the City to create a public education program for future business owners to increase their understanding of water quality protection, which should include but not be limited to:
    - Hazardous material use controls;
    - Hazardous materials exposure controls;
    - Hazardous material disposal and recycling.
- Encourage the use of alternative methods to avoid hazardous materials to the extent feasible, and prohibit the dumping of hazardous materials in open space areas or the storm drain system.
- To the extent feasible, direct stormwater runoff to percolation swale and basin areas rather than directing stormwater to storm drain pipes.
- Use biotreatment (natural pollutant filtering) where stormwater runs off paved surfaces onto pervious surfaces.
- Utilize sediment traps, evaporation basins, flow dissipaters, and other methods to reduce the volume and speed of stormwater runoff and reduce pollutant loads.

Mitigation Measure HYDRO-2d: The City shall impose, as a condition of approval of development beyond the first 85 net (developable) acres in the Mountain House Watershed Area located in the western portion of the Specific Plan Area as defined in the City's Storm Drain Master Plan (which acreage comprises approximately one-half (1/2) of the full net (developable) acreage of the Mountain House Watershed Area within the Specific Plan Area) as depicted on Figure 4.9-1a of the Final EIR errata, that the applicant:

(1) Facilitate the preparation of an agreement between the City and the MHCSD establishing a fair share fee, in accordance with applicable laws, to fund future improvements to downstream storm drain facilities which may be constructed by MHCSD in the future to accommodate flows from the Patterson Run (located in

the water shed south of the Specific Plan Area) and flows from the Mountain Watershed Area within the Specific Plan Area by funding the City's and MHCSD's costs to prepare such agreement, and to provide for reimbursements to contributing property owners in appropriate circumstances;

(2) Enter into an agreement with the City to pay its proportionate fair share of the proposed fee after it has been adopted; and

(3) Deposit with the City appropriate security, as determined by the City, to ensure the payment of such fees.

Until such time as this fee has been established, the City will not permit any downstream increases to volume or peak storm water flows from any development in the Mountain House Watershed Area located within the western portion of the Specific Plan Area, as depicted on Figure 4.9-1a of the Final EIR errata. No development will be permitted in the Mountain House Watershed Area of the Specific Plan Area beyond the first 85 net acres described above until the foregoing conditions have been satisfied

Mitigation Measure HYDRO-2e: Until such time as adequate downstream drainage facilities have been constructed by the MHCSD, all new development in the Mountain House Watershed Area of the Specific Plan Area (as depicted on Figure 4.9-1a of the Final EIR errata) will be required to provide adequate on-site detention of storm water flows, as determined by the City. This amounts to 0.4 square miles of the 8.53 square mile watershed.

The aforementioned measures, implemented in compliance with existing regulatory frameworks, would reduce the environmental effects associated with Impact HYDRO-2 to less-than-significant levels.

Impact HYDRO-3: Soil disturbance associated with construction activities, including movement of soils and vegetation removal in the Specific Plan Area, could cause accelerated soil erosion and sedimentation or the release of other pollutants to adjacent or downstream waterways and wetlands.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-28 through 4.9-30 and 4.9-34 through 4.9-38, and in the Final EIR Responses to Comments (e.g., response LA1-13, -14, -16, -18, -19, and -20) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Project includes grading and construction on approximately 1,780 acres of land within the Specific Plan Area. Grading and vegetation removal would increase erosion potential and could negatively affect water quality and lead to downstream sedimentation in receiving waters. Though the Project would be regulated under local, state, and federal programs, and implement various stormwater control measures, impacts would be significant without mitigation.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein,

incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measures HYDRO-3 and HYDRO-1b, and further finds that the changes or alterations in the Project or the requirement to impose the mitigations as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigations are appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measures HYDRO-3 and HYDRO-1b would reduce the environmental effects associated with Impact HYDRO-3 to less-than-significant levels. These mitigation measures, as set forth in the Draft EIR at pages 4.9-43 and 4.9-46 and in the attached MMRP, provide that, in accordance with the then-applicable regulations, as part of the application process for each individual development under the Specific Plan, each applicant shall file a Notice of Intent with the SWRCB to obtain coverage under the construction general permit (CGP) and shall comply with all of the requirements associated with the CGP, as necessary to mitigate those impacts that would result from the specific development proposed by that applicant. In addition, as part of the application process for each individual development under the Specific Plan, each applicant shall prepare and obtain City approval of a SWPPP which shall adequately address stormwater management during each construction phase of the Project. The SWPPP shall be consistent with the then-applicable RWQCB standards and NPDES permit requirements, and shall be designed to protect water quality during the course of construction. Said BMPs may include, without limitation, the following:

- Schedule earthwork to occur primarily during the dry season to prevent most runoff erosion.
- Protect drainages and storm drain inlets from sedimentation with berms or filtration barriers, such as filter fabric fences, hay bales, or straw wattles.
- Divert runoff from exposed slopes to on-site sediment basins before the runoff is released off-site.
- Install gravel construction entrances to reduce tracking of sediment onto adjoining streets.
- Sweep on-site paved surfaces and surrounding streets daily to collect sediment before it is washed into the storm drains or the Old River.
- After construction is completed, clean all drainage culverts of accumulated sediment and debris.
- Stabilize stockpiles of topsoil and fill material by watering daily, or by the use of chemical agents.
- Store all construction equipment and material in designated areas away from waterways and storm drain inlets. Surround construction staging areas with earthen berms.
- Wash and maintain equipment and vehicles in a separate bermed area, with runoff directed to a lined retention basin.
- Collect construction waste daily and deposit in covered dumpsters.

The aforementioned measures, implemented in compliance with existing regulatory frameworks, would reduce the environmental effects associated with Impact HYDRO-1 to less-than-significant levels.

Impact HYDRO-4: The Project would increase the frequency, rate, and volume of storm runoff production when compared to existing conditions. These increases could accelerate erosion along adjacent and downstream flow paths and produce sedimentation in areas further downstream.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-30 through 4.9-33 and 4.9-38 through 4.9-40, and in the Final EIR Responses to Comments (e.g., response LA1-13, -14, -16, -18, -19, and -20) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Project has the potential to degrade water quality in downstream water bodies, in particular Old River, which is already impaired. The Specific Plan Area is primarily undeveloped and does not contain many impervious surfaces. Development of the Project would add significant impervious surfaces to the Specific Plan Area through construction of buildings, parking areas, roadways, and other improvements. An increase in impervious surfaces has the potential to increase runoff from the Specific Plan Area. As a result, the Specific Plan Area would experience an increase in flow rates, frequency, and volumes of runoff, which can accelerate erosion along adjacent and downstream flow paths and can produce sedimentation in areas further downstream. Without mitigation, impacts would be significant.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measures HYDRO-4 and HYDRO-2b, and further finds that the changes or alterations in the Project or the requirement to impose the mitigations as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigations are appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measures HYDRO-4 and HYDRO-2b would reduce the environmental effects associated with Impact HYDRO-3 to less-than-significant levels. These mitigation measures, as set forth in the Draft EIR at pages 4.9-45 and 4.9-46 and in the attached MMRP, provide that, as part of the application process for each individual development project under the Specific Plan, each applicant shall submit and obtain City approval of a drainage plan to the City of Tracy for on-site measures consistent with the Cordes Ranch Conceptual Drainage Plan, the Cordes Ranch Specific Plan, the Citywide Stormwater Master Plan, and other applicable stormwater standards and requirements that shall be designed to control and treat stormwater for the storm events in compliance with the then-applicable City's Manual of Stormwater Quality Control Standards for New Development and Redevelopment, including those dealing with capacity design of the facilities and contour grading. All such

measures shall be implemented as part of the development and operation of the individual development at issue.

Each developer shall construct drainage improvements and other required stormwater retention/detention facilities as necessary to serve the specific development proposed by that applicant in conformance with the approved drainage plan, the Specific Plan and the then-applicable City standards including those set forth in the City's Storm Drainage Master Plan. These drainage facilities shall accommodate events up to and including a 100-year 24-hour storm. Schedule earthwork to occur primarily during the dry season to prevent most runoff erosion.

The aforementioned measures, implemented in compliance with existing regulatory frameworks, would reduce the environmental effects associated with Impact HYDRO-4 to less-than-significant levels.

Impact HYDRO-5: New development within the Specific Plan Area would introduce sediments and constituent pollutants typically associated with urban non-residential development into stormwater runoff and may create opportunities for pollutants to be discharged to downstream areas and on-site wetlands. These pollutants would have the potential of degrading downstream and on-site stormwater quality.

Significant Impact
The facts supporting the impact determinations made under Impact HYDRO-5 are discussed and/or referenced in those findings related to Impact HYDRO-1 and HYDRO-2 and the facts in support thereof, which are incorporated herein by this reference. Without mitigation, impacts would be significant.

Findings
As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measures HYDRO-5, HYDRO-1a, HYDRO-1b, HYDRO-2a, HYDRO-2b, and HYDRO-2c, and further finds that the changes or alterations in the Project or the requirement to impose the mitigations as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigations are appropriate and feasible.

Facts in Support of Findings
The City finds that implementation of Mitigation Measures HYDRO-5, which requires the implementation of Mitigation Measures HYDRO-5, HYDRO-1a, HYDRO-1b, HYDRO-2a, HYDRO-2b, and HYDRO-2c, would reduce the environmental effects associated with Impact HYDRO-5 to less-than-significant levels. These mitigation measures, as set forth in the Draft EIR at pages 4.9-43 through and 4.9-47 and in the attached MMRP, require the development and adherence to permitted grading and drainage plans, compliance with regulatory frameworks designed to address pollutants, and controls on the use of pesticides and other hazardous materials; the specific measures are described above in findings related to Impacts HYDRO-1 and HYDRO-2 and the facts in support thereof, and are incorporated herein by this reference. The aforementioned measures, implemented in

compliance with existing regulatory frameworks, would reduce the environmental effects associated with Impact HYDRO-5 to less-than-significant levels.

Impact NOISE-2: The Project could cause groundborne vibration from construction that could result in a potentially significant impact with respect to perception or architectural damage.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-30 through 4.11-33 through 4.11-36, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, for construction-related vibration, construction activities would be localized, would occur intermittently and variably, and for any individual, site-specific development, would only occur for relatively short periods of time. However, numerous individual sites could be developing concurrently; thereby effectively extending the construction period. Vibration effects could be reduced by a combination of appropriate equipment and process selection and by implementation of proper administrative controls. Even with these vibration reduction approaches, it is still possible that individual, site-specific developments could exceed either the annoyance threshold and/or the architectural damage threshold. This potential situation would be exacerbated with the use of standard pile driving techniques. As such, groundborne vibration from construction could result in a potentially significant impact with respect to perception or architectural damage. Without mitigation, impacts would be significant.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guideline Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measures NOISE-2a, NOISE-2b, and NOISE-4, and further finds that the changes or alterations in the Project or the requirement to impose the mitigations as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigations are appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measures NOISE-2a, NOISE-2b, and NOISE-4 would reduce the environmental effects associated with Impact NOISE-2 to less-than-significant levels. These mitigation measures, as set forth in the Draft EIR at pages 4.11-53 through 4.11-55 and in the attached Mitigation and Monitoring Reporting Program, are as follows:

Mitigation Measure NOISE-4: The following measures, when applicable and feasible, shall be required to reduce noise from construction activities:

1. Ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good operating condition and appropriate for the equipment.
2. Utilize “quiet” models of air compressors and other stationary noise sources where such technology exists.

3. Locate stationary noise-generating equipment as far as reasonable from sensitive receptors when sensitive receptors adjoin or are near a construction Project area.
4. Prohibit unnecessary idling of internal combustion engines (i.e. in excess of five minutes).
5. Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
6. Erect temporary noise control blanket barriers and/or temporary solid plywood fences around construction sites adjacent to operational businesses or noise-sensitive land uses. This mitigation would only be necessary if (a) potential conflicts could not be resolved by proper scheduling and (b) the temporary barrier could demonstrate a benefit at the façade of the receptor building of at least 10 dB.
7. Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.
8. Notify businesses and noise-sensitive land uses adjacent to construction sites of the construction schedule in writing. Designate a "Construction Liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g. starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A telephone number for the Liaison should be conspicuously posted at the construction site.

Mitigation Measure NOISE-2a: The following measures, in addition to the best practices for construction activities (as specified in Mitigation Measure NOISE-4), are recommended to reduce groundborne noise and vibration from construction activities:

1. Avoid impact pile driving process, when feasible. The use of a pre-drilling pile installation process shall be utilized when feasible, where geological conditions permit their use, so as to reduce vibration levels at adjacent receptors.
2. Avoid using vibratory rollers and vibratory tampers near vibration-sensitive uses.

Mitigation Measure NOISE-2b: Before any individual, site-specific development conducts any high vibration-generating activities (such as pile driving or vibratory compacting) within one hundred (100) feet of existing structures, the following mitigation measures shall apply:

1. Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before- and after-construction conditions. Construction contingencies would be identified for when vibration levels approached the limits. Vibration limits shall be applied to all vibration-sensitive structures located within 100 feet of each individual, site-specific development that is subject to this mitigation measure. Limits shall be based on Table 4.11-5 to preclude architectural damage and on Table 4.11-4 to preclude vibration annoyance. For the Specific Plan Area proposed development

types (i.e. “institutional land uses with primarily daytime use”), the Table 4.11-4 Category 3 land uses would indicate a t hreshold of 83 V dB. For future developments that have special, vibration-sensitive operations or equipment, the criteria in the FTA Guideline Manual, Table 8-3 should be i mplemented. The monitoring and construction contingency plan shall include the following contents described in Numbers 2 through 4 below.

2. At a minimum, monitor vibration during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements.
3. When vibration levels approach the above limits, construction should be suspended and contingencies should be implemented to either lower vibration levels or to secure the affected structures.
4. Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage has been m ade. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.

Impact NOISE-4: Project construction could create a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-30 through 4.11-46 through 4.11-48, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, possible future construction activities in close proximity to land uses with sensitive receptors may cause notable sound level increases (by 15 to 20 dBA or more). In addition, pile driving conceivably could occur at some individual development sites during the early stages of construction, which can produce approximately 105 dBA at 50 feet. Therefore, this is considered to be a potentially significant impact.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure NOISE-4, and further finds that the change or alteration in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure NOISE-4 would reduce the environmental effects associated with Impact NOISE-4 to less-than-significant levels. This Mitigation Measure, as set forth in the Draft EIR at pages 4.11-56 through 4.11-57 and in the attached Mitigation and Monitoring Reporting Program, is as follows:

Mitigation Measure NOISE-4: The following measures, when applicable and feasible, shall be required to reduce noise from construction activities:

1. Ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good operating condition and appropriate for the equipment.
2. Utilize "quiet" models of air compressors and other stationary noise sources where such technology exists.
3. Locate stationary noise-generating equipment as far as reasonable from sensitive receptors when sensitive receptors adjoin or are near a construction Project area.
4. Prohibit unnecessary idling of internal combustion engines (i.e. in excess of five minutes).
5. Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile.
6. Erect temporary noise control blanket barriers and/or temporary solid plywood fences around construction sites adjacent to operational businesses or noise-sensitive land uses. This mitigation would only be necessary if (a) potential conflicts could not be resolved by proper scheduling and (b) the temporary barrier could demonstrate a benefit at the façade of the receptor building of at least 10 dB.
7. Route construction-related traffic along major roadways and as far as feasible from sensitive receptors.
8. Notify businesses and noise-sensitive land uses adjacent to construction sites of the construction schedule in writing. Designate a "Construction Liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g. starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A telephone number for the Liaison should be conspicuously posted at the construction site.

Impact TRANS-1: Construction of Phase 1 of the Project would cause significant impacts at various intersections under existing traffic conditions. This is a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-30 through 4.14-60 through 4.14-66, and in the Final EIR Responses to Comments (e.g., responses SA3-1, -2, -5, -6, -8, -9, -10; RA2-3, -4; RA4-3; LA1-4, -5, -6, -8) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, construction of Phase 1 of the Project would cause a significant impact at intersections 1, 2, 6, 7, 10, 18, 19, and 20, under Existing Plus Project Phase 1 conditions. This is a significant impact. With respect to the addition of measures relating to costs associated with maintaining the Mountain House Parkway/I-205 Bridge, as explained more fully in the administrative record, including, without limitation Final EIR Responses to Comments (e.g., Response LA1-7), the issue raised is not a cognizable impact under CEQA and does not require any additional analysis or mitigation. Nevertheless, in order to address

the commenter's concerns, the City and Applicant have agreed to adhere to an additional measure to provide for a mechanism to help fund the costs of future maintenance to this improvement.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guideline Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure TRANS-1, and further finds that the changes or alterations in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-1 would reduce the significant impacts to intersections 10, 18, 19, and 20, as described under Impact TRANS-1, to less-than-significant levels. Impacts to intersections 1, 2, 6, and 7 cannot be reduced to a less-than-significant level, and are addressed by separate findings below. Mitigation Measure TRANS-1 (as it relates to intersections 10, 18, 19 and 20), as set forth in the Draft EIR at pages 4.14-112 through 4.14-113 and in the attached MMRP, is as follows:

Mitigation Measure TRANS-1: The Project will construct the following improvements, in accordance with then-applicable engineering standards and requirements, and as determined by the City Engineer:

- *Intersection #10 (Old Schulte Road/Hansen Road):* Signalize the intersection, and construct an additional westbound left turn lane, eastbound left-turn and right-turn lanes, and a southbound left-turn lane.
- *New Schulte Road:* Construct New Schulte Road from the eastern terminus of the Project Phase 1 network (east of Hansen Road) east to Lammers Road, as a two-lane road. At Intersection #18, New Schulte Road/Lammers Road, signalize the intersection and construct a left-turn lane on the eastbound approach, and right-turn lanes on the northbound and southbound approaches.
- *New Schulte Road:* Construct New Schulte Road between Hansen Road (the end of the Phase 1 proposed network) and Lammers Road as a two-lane road.
- *Intersection #18 (New Schulte Road/Lammers Road):* Install a signal and construct a left-turn lane on the eastbound approach, and right-turn lanes on the northbound and southbound approaches.
- *Intersection #19 (Old Schulte Road/Lammers Road):* Install a signal and construct a left-turn lane on the eastbound approach, and right-turn lanes on the northbound and eastbound approaches.
- *Intersection #20 (Valpico Road/Lammers Road):* Signalize the intersection and construct a left-turn lane on the southbound approach.

- A "trigger" analysis, provided in Table 4.14-12 of the Draft EIR, provides the estimated timing for provision of each of the above mitigations, based on Project AM and PM peak hour trip generation. In terms of when the above improvements would need to be constructed, as part of the application process for each individual, site-specific development under the Specific Plan, the applicant will submit a trip generation study for the development at issue or will fund the preparation of this study by the City's consultants. This information will be utilized by the City to determine whether the relevant trip generation thresholds are met, taking into account past Project trip generation studies and the running cumulative total.
- Mountain House Parkway/I-205 Bridge Maintenance: At the time a development application is submitted to the City within the area north of new Schulte Road, the city will implement a monitoring program, with yearly traffic counts to compare the increase in traffic volumes from the pre-existing base line condition that uses I-205/Mountain House interchange. The difference or increase in the traffic volume will be used to determine City's fair share maintenance cost for on-going bridge maintenance activities. Once 300 acres of the Specific Plan area has developed, the City of Tracy will either enter into a tri party agreement between Caltrans, MHCSD and the City to pay its fair share maintenance cost or enter in to a separate agreement with MHCSD to pay its fair share maintenance cost thereafter.
- The City may also take actual traffic counts and operations at the mitigation locations into account (funded by the applicant), in determining when specific improvements need to be constructed. With construction of the required improvements at intersections 10, 18, 19, and 20, impacts to these identified intersections would be less than significant.

Impact TRANS-8: Construction of Phase 1 of the Project would cause significant impacts at various intersections under the 2035 Plus Phase 1 scenario. This is a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-30 through 4.14-70 through 4.14-95 and 4.14-118 through 4.14.-119, and in the Final EIR Responses to Comments (e.g., responses SA3-1, -2, -5, -6, -8 to -16, -20, -21; RA2-3, -4; RA4-3; LA1-4, -5, -6, -8) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, construction of Phase 1 of the Project results in significant impacts at four intersections (1, 4, 18, and 20), based on 2035 conditions with the Tracy Roadway and Transportation Master Plan roadway network in place. This is a significant impact.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in the Final EIR. The City hereby adopts Mitigation Measure TRANS-8, and further finds that the changes or alterations in the Project or the requirement to impose the mitigation

as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible. With respect to the addition of ramp metering, the City hereby finds that the EIR's traffic analysis fully evaluated all impacts, and that no additional analysis or mitigation is required, and to the extent technical experts disagree on this point the City hereby affirms its decision to rely on the conclusions of its traffic expert, which are based on substantial evidence in the record. Nevertheless, the City and the Applicant have agreed to this additional measure in order to respond to commenter's concerns. In so doing, this will further reduce any impacts in this regard.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-8 would reduce the significant impacts to intersections 1, 4, 18, and 20, as described under Impact TRANS-8 and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), to less-than-significant levels. This mitigation measure, as set forth in the Draft EIR at pages 4.14-119 through 4.14-120, Chapter 3 of the Final EIR, and in the attached Mitigation and Monitoring Reporting Program, is as follows:

Mitigation Measure TRANS-8: The Project will construct the following improvements, in accordance with then-applicable engineering standards and requirements and as determined by the City Engineer:

- *Intersection #1 (Mountain House Parkway/I-205 Westbound Ramps):* Change the striping from two left turns and one through-right (which is recommended in Mitigation Measure TRANS-1 to mitigate the Existing Plus Phase 1 impact) to one through-left and two right-turn lanes, and change the signal phasing to allow westbound right turns and southbound throughs to run concurrently on the same phase. This mitigation would provide LOS C in the AM peak hour and LOS D in the PM peak hour, for 2035 Plus Phase 1 Project conditions. This mitigation will be implemented, in coordination with Caltrans, when appropriate, based on periodic traffic volume monitoring by the City, and is expected to be needed when both the southbound through and westbound left-turn volumes grow substantially (in either peak hour), relative to the current volumes.
- Intersection #4 (New Schulte Road/Mountain House Parkway): Signalize the intersection.
- *Intersection #18 (New Schulte Road/Lammers Road):* Add a right-turn lane to the eastbound approach, for a mitigated configuration of one left turn lane, two through lanes, and one right-turn lane.
- *Intersection #20 (Valpico Road/Lammers Road):* Add a second southbound left-turn lane, for a mitigated configuration of two left-turn lanes, three through lanes, and one right-turn lane.
- Ramp metering, with two mixed-flow lanes and 1 HOV bypass lane for the eastbound I-205 loop on-ramp.

Impact PS-1: The Project could have potential environmental impacts relating to fire protection and emergency medical services.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.13-10 through 4.13-12 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the service demand from the Project would result in the need for new or expanded facilities to house equipment or staff to maintain applicable performance objectives, which may impact the SCFA's fire operations. As a result, there would be a significant impact without mitigation.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above and identified in the Final EIR. The City hereby adopts Mitigation Measure PS-1 and Improvement Measure PS-1, and further finds that the changes or alterations in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible, and that implementation of an additional measure will further reduce the Project's impacts.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure PS-1 would reduce the significant effects under Impact PS-1 to less-than-significant levels, and that implementation of Improvement Measure PS-1 will further reduce impacts in this regard. These measures, as set forth in the Draft EIR at page 4.13-13 and in the attached MMRP, provide as follows:

> Mitigation Measure PS-1: As part of the application process for each individual development under the Specific Plan, the Project applicant shall be required to pay the applicable development impact fee as set forth in an adopted Cordes Ranch FIP.
>
> Improvement Measure PS-1: As part of the Development Review process for each individual development under the Specific Plan, each Project applicant shall adhere to all conditions of approval that are related to fire protection and emergency response services, such as those relating to fire flows, hydrants and other design and safety features (including any necessary and specialized fire protection equipment to service to individual uses proposed).

Impact PS-2: The Project could have potential environmental impacts relating to law enforcement services.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.13-17 through 4.13-20 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the service demand from the Project would result in the need for new or expanded facilities to house equipment or staff to maintain applicable performance

objectives, which may impact the Tracy Police Department's operations. As a result, there would be a significant impact without mitigation.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above and identified in the Final EIR. The City hereby adopts Mitigation Measure PS-2 and Improvement Measure PS-2, and further finds that the changes or alterations in the Project or the requirement to impose the mitigation as a condition of project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible, and that implementation of an additional measure will further reduce the Project's impacts.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure PS-2 would reduce the significant effects under Impact PS-2 to less-than-significant levels, and that implementation of Improvement Measure PS-2 would further reduce impacts in this regard. These measures, as set forth in the Draft EIR at page 4.13-20 and in the attached MMRP, provide as follows:

> Mitigation Measure PS-2: As part of the application process for each individual development under the Specific Plan, the Project applicant shall be required to pay the applicable development impact fee as set forth in an adopted Cordes Ranch FIP.
>
> Improvement Measure PS-2: As part of the Development Review process for each individual development under the Specific Plan, each Project applicant shall adhere to all conditions of approval that are related to police protection services, such as safety features, emergency access, and physical improvements to the proposed site plan and/or to police facilities and equipment to ensure adequate service is maintained.

Impact UTIL-1: Project water demands would significantly impact water infrastructure unless the City constructed new water facilities or expanded existing facilities.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.15-19 through 4.15-31 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), new water facilities would be required to serve the Project, including additional transmission and distribution, water storage facilities, pumping stations, and pressure reducing stations, as identified in the WSMP. This is a significant impact.

Findings

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), the City finds that changes or alterations have been required herein, incorporated into the Project, or required as a condition of Project approval, which mitigate or avoid the significant environmental impact listed above, and as identified in

the Final EIR. The City hereby adopts Mitigation Measure UTIL-1, and further finds that the changes or alterations in the Project or the requirement to impose the mitigation as a condition of Project approval is within the jurisdiction of the City to require, and that the mitigation is appropriate and feasible.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure UTIL-1 would reduce the significant effects under Impact UTIL-1 to less-than-significant levels. Mitigation Measure UTIL-1, as set forth in the Draft EIR at pages 4.14-119 through 4.14-120 and in the attached MMRP, ensures the implementation of WSMP facilities, and provides as follows:

> Mitigation Measure UTIL-1: To ensure the construction of the necessary WSMP facilities, the Project shall be required to pay appropriate development impact fees as contemplated by WSMP.

The WSMP is incorporated herein by this reference. Note, the potential environmental impacts from construction and operation of the WSMP improvements were evaluated and mitigated through the environmental review process for the WSMP, where such environmental review documents also are incorporated herein by this reference.

B. Findings associated with significant and unavoidable impacts

As authorized by Public Resources Code Section 21081(a)(1) and CEQA Guidelines Sections 15091 and 15092, the Final EIR is required to identify the significant impacts that cannot be reduced to a less-than-significant level through mitigation measures. Based upon the Final EIR, public comments, and the entire record before the City Council, the City Council finds that the Project will cause the following significant and unavoidable impacts after the implementation of mitigation measures with respect to the impacts identified below. As explained in the Statement of Overriding Considerations (attached Exhibit C), these effects are considered to be acceptable when balanced against the economic, legal, social, technological, and/or other benefits of the Project.

Impact AES-1: The Project would change the visual aspect of and views from, to, and across the Specific Plan Area, resulting in a significant impact to scenic vistas.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.1-15 and 4.1-18 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, development of the Project would involve an overall change to the visual aspect of and views from, to, and across the approximately 1,780-acre Specific Plan Area. These public views — while of features and vistas not identified in the City's General Plan as significant scenic vistas — are treated by the City generally as important assets. Therefore, given the scope and nature of the Project, there would be a significant impact.

Findings

The City finds that the impacts on scenic vistas are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that impacts on scenic vistas are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure AES-1, as set forth in the Draft EIR at pages 4.14-119 through 4.14-120 and in the attached MMRP, is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact AES-1, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure AES-1, as set forth on page 4.1-23 of the Draft EIR and in the attached MMRP, provides that the Specific Plan contains numerous design and landscaping requirements intended to beautify the Project, which shall be imposed on individual, site-specific developments under the Specific Plan. The City finds that the design and landscaping requirements contained in the Cordes Ranch Specific Plan would lessen the environmental effects identified in Impact AES-1. For example, the Specific Plan requires wide setbacks along Mountain House Parkway, Hansen Road, Capital Parks Drive, and Pavilion Parkway that would help preserve views to the mountains. Additionally, a range of parks, trails, and open space in the Specific Plan Area, including the Central Green, Eastside Park, and other recreational and open space features, would provide continuous landscaped view corridors. Landscaping would be provided in three tiers adjacent to Interstate 205. Publicly visible sides of commercial buildings would be designed with a complementary level of detailing and quality so that there is equal visual interest on all sides. Sign design standards would regulate the size, height, lighting, location, and appearance of signs. Landscaping would screen views of the truck trailer parking, service doors, and loading docks from public streets.

However, these design and landscaping requirements would not reduce Impact AES-1 to a less-than-significant level. The only way to eliminate potentially significant impacts would be to preserve existing agricultural and other non-urban uses within the Specific Plan Area. As there is no feasible mitigation to reduce impacts to scenic vistas, this impact remains significant and unavoidable. This impact is overridden, though, by the public benefits as set forth in the Statement of Overriding Considerations (Exhibit C). Note, the No Project Alternative, which evaluates a scenario where existing uses are preserved, is discussed in Chapter 5 of the Draft EIR at pages 5-8 to 5-15, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Impact AES-2: The Project would add new development to the viewsheds, with the potential to adversely affect a State-designated route, which would be a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.1-18 and 4.1-19 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, some of the Specific Plan Area is within the viewsheds of Interstate 580, a State-designated scenic highway. The views from Interstate 580 to the Specific Plan Area

are limited because of small hills and commercial buildings along Interstate 580 and given high speeds of travel; for these reasons, impacts in this regard would be limited. Nevertheless, new development proposed by the Project in the viewsheds would have the potential to adversely affect a State-designated route.

Findings

The City finds that the impacts on viewsheds are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that impacts on viewsheds are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure AES-2, as set forth in the Draft EIR at page 4.1-24 and in the attached MMRP, is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact AES-2, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure AES-2, as set forth on page 4.1-24 of the Draft EIR and in the attached MMRP, provides that the Specific Plan contains numerous design and landscaping requirements intended to beautify the Project, which shall be imposed on individual, site-specific developments under the Specific Plan. The City finds that the design and landscaping requirements contained in the Cordes Ranch Specific Plan would lessen the environmental effects identified in Impact AES-2. For example, proposed development would be appropriately set back and screened with landscaping to reduce impacts on views. In addition, proposed development would be generally consistent in scale and type as compared to existing nearby uses.

However, these design and landscaping requirements would not reduce Impact AES-2 to a less-than-significant level. The only way to eliminate potentially significant impacts would be to preserve existing agricultural and other non-urban uses within the Specific Plan Area. As there is no feasible mitigation to reduce impacts to scenic vistas, this impact remains significant and unavoidable. This impact is overridden, though, by the public benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C). Note, the No Project Alternative, which evaluates a scenario where existing uses are preserved, is discussed in Chapter 5 of the Draft EIR at pages 5-8 to 5-15, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Impact AES-3: The Project would bring urban development to a rural and agricultural area, thereby changing its character and resulting in a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.1-19 and 4.1-21 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Specific Plan Area's character is generally rural and agricultural in nature. The Project would bring urban development (including buildings ranging from 30 feet to 100 feet high, with office, commercial, and business park industrial uses) to the Specific Plan Area.

Findings

The City finds that the impacts regarding visual character are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that impacts regarding visual character are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure AES-3, as set forth in the Draft EIR at page 4.1-24 and in the attached MMRP, is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact AES-3, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure AES-3, as set forth on page 4.1-24 of the Draft EIR and in the attached MMRP, provides that the Specific Plan contains numerous design and landscaping requirements intended to beautify the Project, which shall be imposed on individual, site-specific developments under the Specific Plan. The City finds that the design and landscaping requirements contained in the Cordes Ranch Specific Plan would lessen the environmental effects identified in Impact AES-3. For example, proposed development would be designed to establish a sense of place and would use a consistent landscape theme to provide a gateway. Site planning and building orientation would support the opportunities of the Project, and development options would provide flexibility.

However, these design and landscaping requirements would not reduce Impact AES-3 to a less-than-significant level. The only way to eliminate potentially significant impacts would be to preserve existing agricultural and other non-urban uses within the Specific Plan Area. As there is no feasible mitigation to reduce impacts to scenic vistas, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C). Note, the No Project Alternative, which evaluates a scenario where existing uses are preserved, is discussed in Chapter 5 of the Draft EIR at pages 5-8 to 5-15, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Impact AES-CUM-1: The Project would change the visual aspect of and views from, to, and across the Specific Plan Area, add new development to viewsheds, and bring urban development to a rural and agricultural area, resulting in cumulatively considerable contributions to significant impacts on scenic vistas, scenic resources within a State scenic highway, and visual character.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained in Chapter 4.1 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, and as discussed above in findings related to Impacts AES-1, AES-2, and AES-3, the Project would have significant and unavoidable impacts to scenic vistas, viewsheds, and visual character within and near the Specific Plan Area, and these impacts would constitute considerable contributions to a significant cumulative impact.

Findings

The City finds that the significant and unavoidable aesthetic impacts are considerable contributions to a significant cumulative impact, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that impacts regarding visual character are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure AES-CUM-1, as set forth in the Draft EIR at page 4.1-25 and in the attached MMRP, is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact AES-CUM-1, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure AES-CUM-1, as set forth on page 4.1-25 of the Draft EIR and in the attached MMRP, provides that the Specific Plan contains numerous design and landscaping requirements intended to beautify the Project, which shall be imposed on individual, site-specific developments under the Specific Plan. The City finds that the design and landscaping requirements contained in the Cordes Ranch Specific Plan would lessen the environmental effects identified in Impact AES-CUM-1.

However, these design and landscaping requirements would not reduce Impact AES-CUM-1 to a less-than-significant level. The only way to eliminate potentially significant impacts would be to preserve existing agricultural and other non-urban uses within the Specific Plan Area. As there is no feasible mitigation to reduce impacts to scenic vistas, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C). Note, the No Project Alternative, which evaluates a scenario where existing uses are preserved, is discussed in Chapter 5 of the Draft EIR at pages 5-8 to 5-15, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Impact AG-1: Implementation of the Project would result in the conversion of Prime Farmland and other Important Farmland.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.2-11 through 4.2-12 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, development of the Project would entail the conversion of the entire Specific Plan Area from agricultural uses to urban uses, which includes the conversion of approximately 100 acres of Prime Farmland as well as approximately 1,600 acres of other Important Farmland.

Findings

The City finds that the impacts to Prime and Important Farmland are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that impacts regarding farmland are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to

this end, the City finds that Mitigation Measure AG-1, as set forth in the Draft EIR at page 4.2-215 and in the attached Mitigation and Monitoring Reporting Program, is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact AG-1, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure AG-1, as set forth on page 4.1-15 of the Draft EIR and in the attached MMRP, provides that, as part of the development process for each individual site-specific development project under the Specific Plan, the applicable agricultural mitigation fee for each acre of farmland to be developed shall be paid, in compliance with Chapter 13.28, Agricultural Mitigation Fee, of the Tracy Municipal Code. The fees shall be collected by the City at the time that building permits are issued for such site-specific development project, or as otherwise required by City. As detailed in the Tracy Municipal Code, such fees are used for the preservation of farmland or open space within or adjacent to the Tracy planning area or its adopted sphere of influence (beyond the land deemed necessary for development), to establish an urban boundary or open space buffer zone, or within San Joaquin County. The use of the fee may include outreach, the purchase of land or easements, transaction costs, easement monitoring and enforcement of regulations on the land, and reasonable general administrative costs. Farmland conservation easements should be permanent and the fees may not be used to purchase land or easements already subject to another conservation easement. In addition, as discussed in Chapter 4.2 of the EIR, the Project implements planning efforts set forth in the General Plan, which designates the Project area as Urban Reserve and thus subject to and appropriate for development with urban uses. Accordingly, development of the Project furthers and promotes the protection of open space and agricultural lands as the City by directing and limiting development of urban uses to areas already designated as Urban Reserves. Both the City's General Plan and LAFCO's approval of the City's sphere of influence amendment reflect the City's and LAFCO's determinations that the Project area is appropriate for urban uses and, in fact, constitute each agency's approval of urban uses for the Project area. These actions are consistent with the Project's location in an area of unincorporated San Joaquin County that has been planned for urban development as demonstrated by Patterson Pass Business Park immediately south and the nearby Mountain House community, as well as the Gateway Project in the City of Tracy. The policy decisions underlying these existing developments and the development of urban uses on the Project site were made when the General Plan and other relevant land use determinations were previously approved. And the record underlying the instant Project amply demonstrates that the location of the Project will promote and implement the goals of the General Plan by, for example, appropriately locating projects near existing infrastructure and away from housing and facilitating employment-generating uses.

However, the payment of fees would not reduce Impact AG-1 to a less-than-significant level. The only way to eliminate potentially significant impacts would be to preserve existing agricultural uses within the Specific Plan Area. As there is no feasible mitigation to reduce impacts to Prime and Important Farmland, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C). Note, the No Project Alternative, which evaluates a scenario where existing uses are preserved, is discussed in Chapter 5 of the

Draft EIR at pages 5-8 to 5-15, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Impact AG-3: Development of the Project, together with other cumulative projects, would result in an incremental reduction in agricultural resources. The loss of farmland would be considered significant.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained in Chapter 4.2 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, and as discussed above in findings related to Impacts AG-1, AG-2, and AES-3, the Project would have significant impacts to agricultural lands and activities near the Specific Plan Area, and these impacts would constitute considerable contributions to a significant cumulative impact.

Findings

The City finds that Impacts AG-1 and AG-2 are considerable contributions to a significant cumulative impact, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that impacts regarding agricultural resources are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure AG-3, as set forth in the Draft EIR at page 4.2-16 and in the attached Mitigation and Monitoring Reporting Program, is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact AG-3, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure AG-3, as set forth on page 4.2-16 of the Draft EIR and in the attached MMRP, provides for the implementation of Mitigation Measures AG-1 and AG-2, which generally involve the payment of fees and use of buffers, and which are identified and discussed above in findings related to Impacts AG-1 and AG-2 and the facts in support thereof, where such findings and facts are incorporated herein by this reference.

However, the payment of fees and use of buffers would not reduce Impact AG-3 to a less-than-significant level. The only way to eliminate potentially significant impacts to Prime and Important Farmland would be to preserve existing agricultural uses within the Specific Plan Area. As there is no feasible mitigation to reduce impacts to agricultural resources, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C). Note, the No Project Alternative, which evaluates a scenario where existing uses are preserved, is discussed in Chapter 5 of the Draft EIR at pages 5-8 to 5-15, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Impact AQ-1: The Project would conflict with or obstruct implementation of the applicable air quality plan.

Significant Impact

While the Project is consistent with the City of Tracy General Plan's growth projections and would implement a number of transportation control measures, the Project would exceed the regional significance thresholds and the Project's cumulative contribution to criteria air pollutants and toxic air contaminants (TACs). For this reason and to ensure a conservative analysis, this evaluation treats this as an inconsistency with (San Joaquin Valley Air Pollution Control District's) SJVAPCD's air quality plans. More specifically, as presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.3-47 through 4.3-50 of the Draft EIR and in the Final EIR Responses to Comments (e.g., responses RA3-3, -4, -5, 25, -26; ORG1-2, -3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, Project-related criteria air pollutants were quantified for the Project construction and operation (discussed in further detail under those findings addressing Impacts AQ-2 and AQ-3, incorporated herein by this reference), and the analysis shows the Project would generate a substantial increase in criteria air pollutants that would exceed significance thresholds set by the SJVAPCD. Therefore, the Project would be inconsistent with the SJVAPCD's air quality plans in this regard. Moreover, the Project would result in a significant cumulative contribution of TACs as a result of a substantial increase in truck traffic on major roadways in the Specific Plan Area and vicinity (see findings related to discussion of Impact AQ-5, incorporated herein by this reference).

Findings

The City finds that the impacts related to inconsistencies with SJVAPCD's air quality plans are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that impacts regarding inconsistencies with SJVAPCD's air quality plans are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures AQ-1 and AQ-5, as set forth in the Draft EIR at page 4.3-73 and in the attached MMRP, are feasible, are within the jurisdiction of the City to require, are hereby adopted, and would reduce potential impacts under Impact AQ-1, but not to a level of insignificance. Though impacts would remain significant and unavoidable after the imposition of all feasible mitigation measures, Impact AQ-1 is overridden by Project benefits, as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measures AQ-1, as set forth on page 4.3-73 of the Draft EIR and in the attached MMRP, provides for the implementation of Mitigation Measures AQ-2a and AQ-2b and Mitigation Measures GHG-1b through 1d (set forth on pages 4.7-49 to 4.7-50 of the Draft EIR), which are described more fully in those findings addressing Impact AQ-2 and AQ-3 and the facts in support thereof, which are incorporated herein by this reference. Mitigation Measures AQ-5, as set forth on pages 4.3-78 to 4.3-79 of the Draft EIR and in the attached MMRP, provides for the adoption of best available control technologies in order to reduce TAC levels, or the preparation of a health risk assessment to confirm that an individual use would not exceed applicable thresholds.

Insofar as the SJVAPCD has recommended the adoption of a voluntary emission reduction agreement (VERA) as an additional mitigation measures, the City finds, as

discussed in response to comment RA3-3, that there is not substantial evidence in the record to support a feasibility determination regarding the VERA for the following separate and independent reasons:

- The VERA and the Indirect Source Review Rule (Rule 9150) address similar impacts in a similar manner (e.g., through the financing of SJVAPCD projects) and therefore could be viewed as redundant, and could also raise concerns regarding the legal nexus required for mitigation measures.
- The City is not aware of any evidence that the VERA has effectively mitigated impacts for a particular project. A VERA does not appear to prescribe specific mitigation measures with known, quantifiable reduction values, but rather, appears to be a mechanism to collect funds and allocate them to other programs, the parameters of which have not all been determined. Without knowing these details, there is no evidence to support a claim that the VERA is an effective mitigation measure.
- A VERA could not effectively mitigate any localized impacts (such as health risks from TACs, carbon monoxide hotspots, etc.), since any effective mitigation measure also must also be a localized mechanism. Such measures already are prescribed in the existing Final EIR and Mitigation Monitoring and Reporting Program (e.g., by ensuring construction equipment has filters, etc.). Thus, for many Project-related impacts, it would appear a VERA would not have any mitigation value, that no legal nexus exists for the City to impose it, and thus the measure would be legally infeasible.
- It is impossible to know at this time what costs would be associated with the VERA, especially given the volume of emissions the Project would generate and the lack of specifics inherent in any such arrangement. Without such limits, requiring adherence to a VERA has the potential to make the Project economically infeasible. Separately, the City finds it is against public policy to impose upon development projects a mitigation measure that has no known costs and, accordingly, may operate to place a project in financial jeopardy in the future. Imposing such a measure would both harm the subject project and discourage prospective developers from electing the City of Tracy for future projects.

The City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., response ORG1-3.)

While adoption of feasible mitigation measures would reduce impacts to the extent feasible, it remains uncertain whether the identified impacts may be reduced to a less-than-significant level. As there is no feasible and certain way to mitigate air quality impacts under Impact AQ-1 to a desired level, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact AQ-2: Construction of the Project potentially could violate air quality standards or contribute substantially to an existing or projected air quality standard.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.3-50 through 4.3-58 of the Draft EIR and in the Final EIR Responses to Comments (e.g., responses RA3-3, -4, -5, -25, -26; ORG1-2, -3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, construction of the Project could emit significant levels of ROG, NO_x and PM_{10}, and would cumulatively contribute to the ozone and particulate matter non-attainment designations of the San Joaquin Valley Air Basin. While feasible mitigation measures would be imposed (as set forth below), due to the nature and scope of the Project along with its anticipated buildout horizon, construction period emissions would be considered significant and unavoidable.

Findings

The City finds that the impacts related to the aforementioned construction emissions are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures AQ-2a and AQ-2b, as set forth in the Draft EIR at pages 4.3-74 to 4.3-76 and in the attached Mitigation and Monitoring Reporting Program, are feasible, are within the jurisdiction of the City to require, are hereby adopted, and would reduce potential impacts under Impact AQ-2, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measures AQ-2a and AQ-2b, as set forth on pages 4.3-74 through 4.3-76 of the Draft EIR and in the attached MMRP, are as follows:

> Mitigation Measure AQ-2a: Each applicant for individual, site-specific developments under the Specific Plan shall comply with the San Joaquin Valley Air Pollution Control District (SJVAPCD) rules and regulations, including, without limitation, Indirect Source Rule 9510. The applicant shall document, to the City's reasonable satisfaction, its compliance with this mitigation measure.
>
> Mitigation Measure AQ -2b: Prior to issuance of a grading permit by the City of Tracy, the applicant for an individual, site-specific development under the Specific Plan shall be required to develop and obtain approval of a fugitive dust and emissions control plan to mitigate, as feasible, the identified impacts, which satisfies the requirements set forth under then-applicable SJVAPCD Rules and Regulations, including, without limitation, Regulation VIII. Depending on the size, location, and nature of the individual development at issue, the fugitive dust and emissions control plan shall consider the following mitigation measures, for example:
>
> - All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover;

- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant;
- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking;
- When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inched of freeboard space from the top of the container shall be maintained;
- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.);
- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant;
- Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday; and
- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout;
- Limit traffic speeds on unpaved roads to 15 mph;
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the Specific Plan Area;
- Adhere to Regulation VIII's 20 percent opacity limitation, as applicable;
- Use of construction equipment rated by the United States Environmental Protection Agency (US EPA) as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower that are on-site for more than 5 days, if available and feasible. Tier 3 engines between 50 and 750 horsepower are available for 2006 to 2008 model years. After January 1, 2015, encourage the use of equipment over 50 horsepower that are on-site for more than 5 days to meet the Tier 4 standards, if available and feasible. A list of construction equipment by type and model year shall be maintained by the construction contractor on-site, which shall be available for City review upon request.
- Use of alternative-fueled or catalyst-equipped diesel construction equipment, if available and feasible; and
- Clearly posted signs that require operators of trucks and construction equipment to minimize idling time (e.g. 5-minute maximum).

Insofar as the SJVAPCD has recommended the adoption of a VERA as an additional mitigation measures, the City finds, as discussed in response to comment RA3-3, that a VERA is not feasible for the separate and independent reasons discussed in findings addressing Impact AQ-1 and the facts in support thereof, incorporated herein by this reference. The City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., response ORG1-3.)

While adoption of feasible mitigation measures would reduce impacts to the extent feasible, it remains uncertain whether the identified impacts may be reduced to a less-than-significant level. As there is no feasible and certain way to mitigate air quality impacts under Impact AQ-2 to a desired level, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact AQ-3: Construction of the Project potentially could violate air quality standards or contribute substantially to an existing or projected air quality standard.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.3-58 through 4.3-61 of the Draft EIR and in the Final EIR Responses to Comments (e.g., responses RA3-3, -4, -5, -26; ORG1-2, -3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, operation of the Project could emit significant levels of ROG, NO_x, CO, and PM_{10}, and would cumulatively contribute to the ozone and particulate matter non-attainment designations of the San Joaquin Valley Air Basin. While feasible mitigation measures would be imposed (as set forth below), due to the nature and scope of the Project, impacts would be considered significant and unavoidable.

Findings

The City finds that the impacts related to the aforementioned operations emissions are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures GHG-1a, GHG-1b, GHG-1c, and GHG-1d (which comprise Mitigation Measure AQ-3), as set forth in the Draft EIR at pages 4.3-76 to 4.3-77 and pages 4.7-49 to 4.7-50 and in the attached MMRP, and Mitigation Measures AQ-2a and AQ-2b, as set forth in the Draft EIR at pages 4.3-74 to 4.3-76 and in the attached Mitigation and Monitoring Reporting Program, are feasible, are within the jurisdiction of the City to require, are hereby adopted, and would reduce potential impacts under Impact AQ-3, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measures AQ-2a and AQ-2b are identified above in the findings regarding Impact AQ-2, and are incorporated herein by this reference. Mitigation Measures GHG-1a, GHG-1b, GHG-1c, and GHG-1d (which comprise Mitigation Measure AQ-3), as set forth in the Draft EIR at pages 4.3-76 to 4.3-77 and pages 4.7-49 to 4.7-50 and in the attached MMRP, are as follows:

Mitigation Measure GHG-1a: Applicants for individual, site-specific developments shall conform to the then-applicable requirements of the California Building Code, including the Green Code's provisions relating to "solar readiness." Applicants will be encouraged to utilize or otherwise facilitate the use of alternative energy generation technologies, as feasible, to offset their energy consumption, by, for example, ensuring that roof structures are built such that they can accommodate the weight of solar panels in accordance with the California Building and Energy Standards; providing for energy storage within their buildings; and installing electrical switch gears to facilitate solar usage.

Mitigation Measure GHG-1b: Prior to issuance of a building permit for an individual, site-specific development that requires or is intended to accommodate refrigerated vehicles, the construction documents shall demonstrate an adequate number of electrical service connections at loading docks for plug-in of the anticipated number of refrigerated trailers to reduce idling time and emissions.

Mitigation Measure GHG-1c: Applicants for individual, site-specific developments with truck delivery and loading areas, and truck parking spaces, shall include signage as a reminder to limit idling of vehicles while parked for loading/unloading in accordance with California Air Resources Board Rule 2845 (13 CCR Chapter 10 §2485).

Mitigation Measure GHG-1d: Applicants for individual, site-specific developments shall identify in the grading plans that non-essential idling of construction equipment and vehicles shall be restricted to no more than 5 minutes in accordance with California Air Resources Board Rule 2485 (13 CCR Chapter 10 §2485).

Insofar as the SJVAPCD has recommended the adoption of a VERA as an additional mitigation measure, the City finds, as discussed in response to comment RA3-3, that a VERA is not feasible for the separate and independent reasons discussed in findings addressing Impact AQ-1 and the facts in support thereof, incorporated herein by this reference. The City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., response ORG1-3.)

While adoption of feasible mitigation measures would reduce impacts to the extent feasible, it remains uncertain whether the identified impacts may be reduced to a less-than-significant level. As there is no feasible and certain way to mitigate air quality impacts under Impact AQ-3 to a desired level, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact AQ-4: Emissions of ozone precursors and particulate matter caused by construction and operation of the Project are considered significant.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.3-63 through 4.3-64 of the Draft EIR and in the Final EIR Responses to Comments (e.g., responses

RA3-3, -4, -5, -26; ORG1-2, -3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, individual site-specific development projects under the Specific Plan have the potential to result in construction and operational emissions that exceed the thresholds established by SJVAPCD for ROG, NOx, and PM10. These thresholds include precursor pollutants for ozone and particulate matter (i.e. PM10 and PM2.5). Projects that have emissions above these thresholds are considered to cause a cumulatively considerable net increase in emissions that could contribute or cause the exceedance of a nonattainment air pollutant. Project-related criteria air pollutant emissions would therefore have the potential to result in elevated concentrations of O3, NO2, and PM10 that have the potential to exceed the ambient air quality standards Therefore, the impact is considered significant.

Findings

The City finds that the impacts related to emissions of ozone precursors and particulate matter caused by construction and operation of the Project are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures GHG-1a, GHG-1b, GHG-1c, and GHG-1d (which comprise Mitigation Measure AQ-3), as set forth in the Draft EIR at pages 4.3-76 to 4.3-77 and pages 4.7-49 to 4.7-50 and in the attached Mitigation and Monitoring Reporting Program, and Mitigation Measures AQ-2a and AQ-2b (which comprise Mitigation Measure AQ-4), as set forth in the Draft EIR at pages 4.3-74 to 4.3-76 and in the attached Mitigation and Monitoring Reporting Program, are feasible, are within the jurisdiction of the City to require, are hereby adopted, and would reduce potential impacts under Impact AQ-4, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measures AQ-2a and AQ-2b (which comprise Mitigation Measure AQ-4) are identified above in the findings regarding Impact AQ-2 and the facts in support thereof, and are incorporated herein by this reference. Mitigation Measures GHG-1a, GHG-1b, GHG-1c, and GHG-1d (which comprise Mitigation Measure AQ-3) are identified above in the findings regarding Impact AQ-3, and are incorporated herein by this reference.

Insofar as the SJVAPCD has recommended the adoption of a VERA as an additional mitigation measures, the City finds, as discussed in response to comment RA3-3, that a VERA is not feasible for the separate and independent reasons discussed in findings addressing Impact AQ-1 and the facts in support thereof, incorporated herein by this reference. The City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., response ORG1-3.)

While adoption of feasible mitigation measures would reduce impacts to the extent feasible, it remains uncertain whether the identified impacts may be reduced to a less-than-significant level. As there is no feasible and certain way to mitigate air quality impacts under Impact AQ-4 to a desired level, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact AQ-5: Operation of the Project could expose sensitive receptors to substantial pollutant concentrations.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.3-64 through 4.3-69 of the Draft EIR and in the Final EIR Responses to Comments (e.g., responses RA3-3, -4, -5, -8 to -19, -26; LA1-21; ORG1-2, -3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, operation of the Project would emit TACs, primarily from diesel particulate matter emitted by trucks, that would cause increased cancer risk, that exceeds 10 excess cancer cases per million, at residents on-site (Phase 1 only) and off-site. While individual, site-specific development projects under the Specific Plan may not individually result in excess cancer risk above the SJVAPCD threshold, the cumulative contribution of diesel truck traffic from Project developments would significantly contribute to a substantial increase in concentrations of TACs at sensitive receptors in the Project vicinity. This is a significant and adverse impact of the Project.

Findings

The City finds that the impacts related to TAC emissions associated with operation of the Project are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure AQ-5, as set forth in the Draft EIR at pages 4.3-78 to 4.3-79 and in the attached MMRP, are feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact AQ-5, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measures AQ-5 provides as follow:

> Applicants for industrial or warehousing land uses that: 1) are expected to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered transport refrigeration units (TRUs), and 2) are located within 1,000 feet of a sensitive receptor, as measured from the property line of the development at issue to the property line of the nearest sensitive receptor, shall adhere to applicable Best Available Control Technologies for Toxics (T-BACT), as set forth in CARB or SJVAQPD guidance (as applicable), for the purpose of reducing potential cancer and non-cancer risks to below the applicable thresholds, as feasible (e.g., restricting idling onsite, electrifying warehouse docks, requiring use of newer equipment and/or vehicles, restricting off-site truck travel through the creation of truck routes). Provided, however, that an applicant may submit a health risk assessment (HRA) to the City of Tracy prepared in accordance with policies and procedures of the state Office of Environmental Health Hazard Assessment (OEHHA) and the San Joaquin Valley Air Pollution Control District (SJVAPCD); if this HRA demonstrates that the incremental cancer risk for the individual development at issue would not exceed ten in one million (10E-06) or the appropriate non-cancer hazard index would not exceed 1.0, then no further mitigation shall be required.

Insofar as the SJVAPCD has recommended the adoption of a VERA as an additional mitigation measures, the City finds, as discussed in response to comment RA3-3, that a VERA is not feasible for the separate and independent reasons discussed in findings addressing Impact AQ-1 and the facts in support thereof, incorporated herein by this reference. The City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., response ORG1-3.)

While adoption of feasible mitigation measures would reduce impacts to the extent feasible, it remains uncertain whether the identified impacts may be reduced to a less-than-significant level. As there is no feasible and certain way to mitigate air quality impacts under Impact AQ-5 to a desired level, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact BIO-4: The Project could interfere substantially with the movement of wildlife species.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.4-25 through 4.4-26 of the Draft EIR and in the Final EIR Responses to Comments (e.g., response ORG1-4) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Project would have a substantial impact on the existing agricultural and grassland cover on the Specific Plan Area, and the associated wildlife habitat functions and values. Opportunities for terrestrial wildlife movement beyond the Specific Plan Area are currently limited by Interstate 205 to the north and the California Aqueduct to the west, and the Delta-Mendota Canal and existing industrial and commercial development to the southwest. Accordingly, the California Aqueduct and Interstate 205 already pose substantial impediments to terrestrial wildlife movement, but both have locations where wildlife can move under or over these barriers, and Interstate 205 is passable by wildlife late at night when traffic volumes are relatively low. However, wildlife currently has only limited obstructions for movement within the Specific Plan Area itself and to undeveloped lands to the east and southeast. Proposed development would encompass all but the central drainage channel and around the detention basins along the northern edge of the Specific Plan Area. Due to the extent of development and changes in habitat conditions on the Specific Plan Area, the proposed Project would permanently alter the suitability of much of the Specific Plan Area as natural habitat and potential movement corridor for a number of terrestrial wildlife species, such as coyote, gray fox, long-tailed weasel, black-tailed jackrabbit, burrowing owl, and Swainson's hawk, among many other species. While the Project would include various parklands and trails, these open spaces would be fragmented by roadways and structures, with limited opportunities for wildlife to move between these features and other enhanced areas on the Specific Plan Area. For the above reasons, this loss of movement opportunities for common terrestrial wildlife would be significant.

Findings

The City finds that the impacts to wildlife corridors are potentially significant. As set forth more fully in the Final EIR, Mitigation Measure BIO-1 would address the loss of suitable

habitat for special species, and provide adequate compensatory mitigation for these species. However, there exist no feasible mitigation measures that would reduce these impacts on wildlife corridors to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure BIO-1, as set forth in the Draft EIR at page 4.4.29 and in the attached Mitigation and Monitoring Reporting Program, and as discussed and identified in findings regarding Impact BIO-1 and the facts in support thereof, would address the loss of suitable habitat for special-status species, and provide adequate compensatory mitigation for these species. However, no feasible measures are available to mitigate adverse impacts on w ildlife movement opportunities to a level of insignificance without a substantial reduction in the extent of development and retention of existing grassland and agricultural cover on the Specific Plan Area.

As there is no feasible way to mitigate Impact BIO-4, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C). Note, the Reduced Intensity Alternative, which evaluates a scenario where existing uses are preserved, is discussed in Chapter 5 of the Draft EIR at pages 5-15 to 5-24, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Impact GHG-1: The Project may generate greenhouse gas (GHG) emissions, either directly or indirectly, that may have a significant impact on the environment.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.7-23 through 4.7-30 of the Draft EIR and in the Final EIR Responses to Comments (e.g., responses to comments ORG1-2, -3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, despite the incorporation of numerous sustainability measures, GHG emissions generated by the proposed Project (both construction and operational-related) would exceed the applicable threshold set forth in SJVAPCD's guidance because the Project's GHG emissions cannot feasibly be reduced to 29 percent below the Business As Usual standard, set and defined by the California Air Resources Board in its Scoping Plan as emissions levels in year 2020 that would occur if California continued to grow and add new GHG emissions but did not adopt any measures to reduce emissions.. This would be a significant impact.

Findings

The City finds that the impacts regarding greenhouse gas emissions are potentially significant, and t hat there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures GHG-1a, GHG-1b, GHG-1c, and GHG-1d, as set forth in the Draft EIR at pages 4.7-49 to 4.7-50 and in the attached Mitigation and Monitoring Reporting Program, are feasible, are within the jurisdiction of the City to require, are hereby adopted, and would reduce potential impacts under Impact GHG-1, but not to a

level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

In addition to evaluating the Project's GHG-related impacts in accordance with the Air District's methodologies, the Draft EIR evaluates the Project's consistency with applicable plans, policies, regulations and strategies relating to GHG emissions and climate change impacts. As described more fully in the Draft EIR, the Project was evaluated against policies and measures set forth in the City of Tracy Sustainability Action, policies and mitigations of the California Air Pollution Control Officer's Association (CAPCOA), and measures of the California Attorney General's office, among others. (See tables 4.7-7, 4.7-8, & 4.7-9.) The Project incorporates a number of green practices that reduce greenhouse gas emissions, as set forth on pages 4.7-27 to 4.7-29 of the Draft EIR. Furthermore, Mitigation Measures GHG-1a, GHG-1b, GHG-1c, and GHG-1d, as set forth in the Draft EIR at pages 4.7-49 to 4.7-50 and in the attached MMRP, would reduce the Project's GHG emissions. They are as follows:

Mitigation Measure GHG-1a: Applicants for individual, site-specific developments shall conform to the then-applicable requirements of the California Building Code, including the Green Code's provisions relating to "solar readiness." Applicants will be encouraged to utilize or otherwise facilitate the use of alternative energy generation technologies, as feasible, to offset their energy consumption, by, for example, ensuring that roof structures are built such that they can accommodate the weight of solar panels in accordance with the California Building and Energy Standards; providing for energy storage within their buildings; and installing electrical switch gears to facilitate solar usage.

Mitigation Measure GHG-1b: Prior to issuance of a building permit for an individual, site-specific development that requires or is intended to accommodate refrigerated vehicles, the construction documents shall demonstrate an adequate number of electrical service connections at loading docks for plug-in of the anticipated number of refrigerated trailers to reduce idling time and emissions.

Mitigation Measure GHG-1c: Applicants for individual, site-specific developments with truck delivery and loading areas, and truck parking spaces, shall include signage as a reminder to limit idling of vehicles while parked for loading/unloading in accordance with California Air Resources Board Rule 2845 (13 CCR Chapter 10 §2485).

Mitigation Measure GHG-1d: Applicants for individual, site-specific developments shall identify in the grading plans that non-essential idling of construction equipment and vehicles shall be restricted to no more than 5 minutes in accordance with California Air Resources Board Rule 2485 (13 CCR Chapter 10 §2485).

Insofar as the SJVAPCD may have recommended the adoption of a VERA as an additional mitigation measures, the City finds, as discussed in response to comment RA3-3, that a VERA is not feasible for the separate and independent reasons discussed in findings addressing Impact AQ-1 and the facts in support thereof, incorporated herein by this reference. The City finds that all other measures, programs, or policies suggested

are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., response ORG1-3.)

In summary, no feasible measures are available to further reduce Project-related GHG emissions to 29 percent below BAU — i.e., to a level of insignificance. As there is no feasible way to mitigate Impact GHG-1, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (Exhibit C).

Impact NOISE-1: Regarding land use compatibility with respect to the City of Tracy General Plan Noise Element, exterior noise levels could potentially reach the Noise Element's 'unacceptable' noise level thresholds due to future traffic noise.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including without limitation the analysis contained on page 4.11-31 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, based on the noise measurement survey results and traffic noise contour distances contained in the City of Tracy General Plan Noise Element, exterior noise levels could exceed the City of Tracy's 'normally acceptable' noise and land use compatibility standard levels near on-site residential land uses and within about 1,000 feet of the centerline of Interstate 205, about 200 feet of the centerline of Mountain House Parkway and about 70 feet of the centerline of New Schulte Road. While noise levels could potentially reach or exceed the Noise Element's 'unacceptable' noise level thresholds, where construction or development "should generally not be undertaken" (General Plan Noise Element, Figure 9-3), the General Plan does not prohibit such development projects in all circumstances, but rather provides for the application of exceptions to such generally applicable thresholds under appropriate circumstances. Further, the City finds that impacts to future Project users are not cognizable under CEQA, and that information in the Final EIR concerning such users has been provided for informational purposes only.

Findings

The City finds that the noise impacts from mobile sources to existing on-site receptors may exceed levels of acceptability and would be potentially significant. The City further finds that there exist no feasible mitigation measures that would reduce the aforementioned noise levels to an acceptable level, and that such impacts are significant and unavoidable. Both CEQA and the General Plan require the adoption of feasible mitigation where a proposed project could generate noise at an unacceptable level; however, the General Plan provides the City with significant flexibility in approving exceptions to the otherwise applicable standards, which when granted, ensures that the development at issue is not treated as exceeding the applicable standard. The City finds that Mitigation Measure NOISE-1, as set forth in the Draft EIR at pages 4.7-52 to 4.7-53 and in the attached MMRP, is feasible to a limited extent (as detailed below), is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under NOISE-1, but not to a level of insignificance. The City further finds this noise impact is overridden by Project benefits, as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure NOISE-1, as set forth in the Draft EIR at pages 4.7-52 to 4.7-53 and in the attached MMRP, would reduce the Project's noise levels. It provides:

> As part of the development process for each individual, site-specific project under the Specific Plan, the development at issue shall adhere to all applicable Building Code and Municipal Code provisions and standards and other requirements, as noted in the above Regulatory Framework discussion. Regarding mitigation of impacts relating to mobile sources for an individual, site-specific project, the City will consider, as appropriate and feasible, a variety of techniques to reduce noise, which may include, for example, building setbacks, berms, walls, fences of various materials, and rubberized asphalt, taking into account relevant General Plan policies (as they relate to sound walls) and the nature and location of sensitive receptors at issue.

However, implementation of these measures could have unacceptable aesthetic and safety impacts on the design of the Project (e.g., an urban canyoning of local roadways that the City finds would frustrate citywide design goals), as well as raise those concerns discussed more fully on page 4.11-45 of the Draft EIR, including, without limitation, that the use of rubberized asphalt would not effectively reduce noise from truck traffic. Separately and independently, implementation of this measure at properties belonging to existing on-site receptors is legally infeasible insofar as the City does not have sufficient control over said properties to construct soundwalls and implement other sound-reducing mechanisms. Ultimately, no feasible measures are available to reduce impacts to on-site receptors to a level of acceptability. As there is no feasible way to mitigate Impact NOISE-1, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact NOISE-3: Mobile noise sources could generate substantial noise levels in the vicinity of the Project.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.11-38 to 4.11-46 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, implementation of the proposed Project would result in substantial traffic noise level increases on several on-site and off-site roadway segments around the Specific Plan Area. These increases would start with the initial implementation of the Project and would continue to grow as the Project approached full buildout. The traffic noise assessment focused on the full buildout conditions and followed the general development timeline assessed in the Project's traffic analysis. As such, the exact time at which each segment would be expected to cross the impact threshold is dependent on how fast the Specific Plan is implemented and on when each specific parcel was developed. The City finds that impacts to future Project users are not cognizable under CEQA, and that information in the Final EIR has been provided for informational purposes only. Impacts to existing on-site and off-site users are cognizable, however, and the City finds that impacts to these sensitive receptors are significant.

Findings

The City finds that the noise impacts from Project-related mobile sources are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure NOISE-3, as set forth in the Draft EIR at page 4.11-55, which requires the implementation of NOISE-1, as set forth in the Draft EIR at pages 4.7-52 to 4.7-53 and in the attached MMRP, is feasible to a limited extent (as detailed below), is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact NOISE-3, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure NOISE-3, as set forth in the Draft EIR at page 4.11-55, which requires the implementation of NOISE-1, as set forth in the Draft EIR at pages 4.7-52 to 4.7-53 and in the attached MMRP, would reduce impacts from mobile sources on off-site receptors. However, insofar as these measures must be implemented at off-site locations (e.g., construction of berms, walls, and fences; retrofitting of windows), they are not legally feasible, as neither the Project applicant nor the City has the legal right to implement such measures because doing so could be found to constitute a constitutional taking. Moreover, implementation of these measures would have unacceptable aesthetic impacts on the community, as discussed in those findings related to Impact NOISE-1 and the facts in support thereof, as well as raise those concerns discussed more fully on page 4.11-45 of the Draft EIR, including, without limitation, that the use of rubberized asphalt would not effectively reduce noise from truck traffic. Ultimately, the City finds that no feasible measures are available to reduce impacts to on-site receptors to a level of insignificance. As there is no feasible way to mitigate Impact NOISE-3, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact NOISE-5: For the purpose of this analysis, a cumulative impact would occur when an overall increase over 5 dBA occurs, and the project contribution is greater than 3 dBA; the Project's mobile noise sources, when combined with other past, present, and reasonably foreseeable future development projects, could generate substantial noise.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.11-49 to 4.11-52 of the Draft EIR, and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, and as more specifically shown in Tables 4.11-13 and 4.11-14 of the Draft EIR, cumulative traffic noise impacts from mobile noise sources would occur at several segments in the Specific Plan Area and vicinity. The City finds that impacts to future Project users are not cognizable under CEQA, and that information in the Final EIR has been provided for informational purposes only. The City finds that impacts to other sensitive receptors are significant.

Findings

The City finds that cumulative noise impacts from Project-related mobile sources are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure NOISE-5, as set forth in the Draft EIR at page 4.11-57, which requires the implementation of NOISE-1, as set forth in the Draft EIR at pages 4.7-52 to 4.7-53 and in the attached MMRP, is feasible to a limited extent, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact NOISE-3, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

Mitigation Measure NOISE-5, as set forth in the Draft EIR at page 4.11-57, which requires the implementation of NOISE-1, as set forth in the Draft EIR at pages 4.7-52 to 4.7-53 and in the attached MMRP, would reduce impacts from mobile sources on off-site receptors. However, insofar as these measures must be implemented at off-site locations (e.g., construction of berms, walls, and fences; retrofitting of windows), they are not legally feasible, as neither the Project applicant or City has the legal right to implement such measures because doing so could be found to constitute a constitutional taking. Moreover, implementation of these measures would have unacceptable aesthetic impacts on the community, as discussed in those findings related to Impact NOISE-1 and the facts in support thereof, as well as raise those concerns discussed more fully on page 4.11-45 of the Draft EIR, including, without limitation, that the use of rubberized asphalt would not effectively reduce noise from truck traffic. Ultimately, the City finds that no feasible measures are available to reduce impacts to on-site receptors to a level of insignificance. As there is no feasible way to mitigate Impact NOISE-5, this impact remains significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact TRANS-1: Construction of Phase 1 of the Project would cause a significant impact at intersections 1, 2, 6, and 7 under Existing Plus Project Phase 1 conditions. This is a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.9-30 through 4.14-60 through 4.14-66 of the Draft EIR, and in the Final EIR Responses to Comments (e.g., responses to comments SA3-1 to -6, -8 to -16, -20, -21; RA2-3, -4; RA4-3; LA1-4 to -6, -8, -9; ORG1-3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, construction of Phase 1 of the Project would cause a significant impact at intersections 1, 2, 6, and 7 under Existing Plus Project Phase 1 conditions. This is a significant impact.

Findings

Impacts and mitigations regarding intersections 10, 18, 19, and 20 are fully addressed in previous findings related to Impact TRANS-1 and the facts in support thereof, which concern impacts that are significant but could be mitigated to levels of insignificance. These

findings and facts are incorporated herein by this reference, as they also identify and adopt mitigation measures for intersections 1, 2, 6, and 7.

The City finds that impacts to intersections 1, 2, 6, and 7 under Existing Plus Project Phase 1 conditions are potentially significant, and that there exist no feasible mitigation measures that, with certainty, would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City further reaffirms its decision to rely on the City's traffic experts with respect to, among other things, the methodologies used to assess traffic impacts, and accepts, based on substantial evidence in the record (including, without limitation, for the reasons set forth in the FEIR Response to Comments, SA3-2) the conclusions of that analysis. The City acknowledges that commenters have raised concerns in this regard, and have requested that additional analysis using different methodologies be conducted and that specified mitigation be imposed. For the reasons set forth in the Draft EIR and the Final EIR (including, without limitation, FEIR Response to Comments, SA3-2), the City hereby accepts its traffic expert's conclusions that conducting the analysis as requested is not necessary to fully evaluate traffic impacts under CEQA and could lead to unreliable conclusions and disserve the information-disclosure purpose of CEQA, including, without limitation, the development of mitigation that is based on unreliable and/or speculative information. Nevertheless, in an effort to respond to the commenters' concerns, the City conducted the additional analysis and developed additional mitigation based on this analysis; further, the City and the Applicant have agreed to impose said additional mitigation subject to confirmation of the underlying technical analysis utilizing the appropriate cumulative conditions forecasts available at the time of PSR-PDS preparation, which will help ensure that improvements are implemented in a manner that reflects the best technical information available at the appropriate time. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure TRANS-1 is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact TRANS-1, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-1 would reduce the significant impacts to intersections 1, 2, 6, and 7, as described under Impact TRANS-1, to less-than-significant levels. This mitigation measure is set forth in the Draft EIR at pages 4.14-112 through 4.14-113, in the attached MMRP, and provide that the Project will construct the following improvements, in accordance with then-applicable engineering standards and requirements, and as determined by the City Engineer:

- *Intersection #1 (Mountain House Parkway/I-205 Westbound Ramps):*
    - Restripe westbound off-ramp to provide two left-turn lanes and one shared through/right lane, and optimize signal timings.
    - Lengthen the northbound Mountain House Parkway right-turn lane to provide additional storage capacity and access to the eastbound I-205 on-ramp.
    - Ramp metering, with two mixed-flow and 1 HOV by-pass lane for the eastbound I-205 diagonal on-ramp.

- *Intersection #2 (Mountain House Parkway/I-205 Eastbound Ramps):* Convert the northbound right-turn lane to a free right with an acceptance lane on the eastbound on-ramp, and optimize signal timings.
- *Intersection #6 (Mountain House Parkway/I-580 Westbound Ramps):* Signalize the intersection with eastbound/westbound split phasing, or install a roundabout.
- *Intersection #7 (Mountain House Parkway/I-580 Eastbound Ramps):* Signalize the intersection with eastbound/westbound split phasing, or install a roundabout.

The City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., responses to Comments ORG1-3, SA3-2, SA3-5, and LA1-4.)

In summary, the measures concerning intersections 1, 2, 6, and 7 would mitigate Project-related impacts to a level of insignificance, but the City finds that, because the improvements to the freeway interchange intersections require the approval of Caltrans, their implementation is uncertain and thus impacts at these intersections remain significant and unavoidable. This impact is overridden, though, by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact TRANS-2: Construction of Phase 1 of the Project would cause a significant impact to a freeway segment under Existing Plus Project Phase 1 conditions. This is a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.14-66 and 4.14-114 of the Draft EIR, and in the Final EIR Responses to Comments (e.g., responses to comments SA3-1 to -4, -6, -8, -9 to -16, -20, -21; RA2-5; LA1-4 to -6, -8, -9; ORG1-3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, construction of Phase 1 of the Project would cause a significant impact to one freeway segment – I-205 Eastbound between Mountain House Parkway and Tracy Boulevard – which would fall from LOS D to LOS E in the PM peak hour (refer to Table 4.14-13). This is a significant impact.

Findings

The City finds that impacts to the aforementioned freeway segment under Existing Plus Project Phase 1 conditions are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures TRANS-2 is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact TRANS-2, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-2 could result in the construction of traffic improvements that could reduce the significant impacts to the aforementioned freeway segment, as described under Impact TRANS-2, to less-than-

significant levels. This mitigation measure is set forth in the Draft EIR at page 4.14-114, in the attached MMRP, and requires the payment of regional traffic fees. However, the City finds that neither full funding for the necessary improvements, which would involve the widening of Interstate 205, nor prioritization of such improvements above others in the RTIF can be assured, and thus the payment of regional traffic fees does not guarantee to fully mitigate this impact. Finally, the City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., responses to Comments ORG1-3, SA3-2, SA3-5, and LA1-4.) For each of the above reasons, Impact TRANS-2 remains significant and unavoidable. Nevertheless, this impact is overridden by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact TRANS-7: Project Buildout under Existing Conditions would cause over-capacity conditions on the existing roadway and freeway network. This is a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.14-66 to 4.14-70, 4.14-71 to 4.14-74, 4.14-78 to 4.14-79 and 4.14-117 to 4.14-118 of the Draft EIR, and in the Final EIR Responses to Comments (e.g., responses to Comments SA3-1 to -4, -6, -8 to -16, -20, -21; RA2-5; RA4-3; LA1-4 to -6, -8, -9; ORG1-3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the buildout of the Project would cause a significant overloading on many segments of the existing City roadway system, and cause significant impacts on two segments of I-205 in the AM and PM peak hours. This is a significant impact.

Findings

The City finds that impacts to the aforementioned impacts are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures TRANS-7 is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact TRANS-7, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-7 could result in the construction of traffic improvements that could reduce the significant impacts to the aforementioned freeway segment, as described under Impact TRANS-7, to less-than-significant levels. This mitigation measure is set forth in the Draft EIR at page 4.14-118, in the attached MMRP, and requires the payment of various traffic impact fees. However, as discussed on page 4.14-118 of the Draft EIR, while the City is planning many roadway network improvements to accommodate traffic growth generated by the Project and other development areas in the City, and while the San Joaquin Council of Governments is also planning capacity improvements on I-205 to handle regional growth over the coming decades, as part of the RTIF program — and while the Project applicant's payment of fees would fund these improvements — it is not certain such improvements could be

timely constructed (since they are Master Plan improvements dependent on funding from development throughout Tracy).

Separately and independently, the construction of prescribed improvements by a single developer is economically infeasible and, because the improvements to the impacted freeway segments require the approval of Caltrans, their implementation is uncertain. Finally, the City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., responses to Comments ORG1-3, SA3-2, SA3-5, and LA1-4.) For each of the above reasons, Impact TRANS-2 remains significant and unavoidable. Nevertheless, this impact is overridden by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact TRANS-9: In 2035, the addition of Phase 1 Project traffic to the 2035 No Project volumes causes significant impacts to various freeway segments.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.14-95 and 4.14-121 of the Draft EIR, and in the Final EIR Responses to Comments (e.g., responses SA3-1 to -4, -6, -8 to -16, -20, -21; RA2-5; LA1-4, -5, -6, -8, -9; ORG1-3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, construction of Phase 1 of the Project would cause a significant impacts freeway segment as follows:

- In the AM peak hour, the Project adds more than 5 percent to the total 2035 Plus Phase 1 Project volume on I-205 westbound east of Tracy Boulevard, which is projected to operate at LOS E without the Project.
- In the PM peak hour, the LOS falls from D (2035 No Project) to E (2035 Plus Phase 1 Project) on I-205 eastbound between I-580 and Mountain House Parkway.

This is a significant impact.

Findings

The City finds that impacts to the aforementioned freeway segment under the year 2035 Plus Phase 1 conditions are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, finds that Mitigation Measure TRANS-9 is feasible, within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact TRANS-9, but not to a level of insignificance. Separately and independently, the construction of any improvements by a single developer is economically infeasible and, because the identified improvements to the impacted freeway segments require the approval of Caltrans, the implementation is uncertain. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-9 could result in the construction of traffic improvements that could reduce the significant impacts to the aforementioned freeway segments, as described under Impact TRANS-9, to less-than-significant levels. This mitigation measure is set forth in the Draft EIR at pages 4.14-120 to 4.14-121 and in the attached MMRP, and requires the payment of regional traffic fees. However, the City finds that neither full funding for the necessary improvements, which would involve the widening of Interstate 205, nor prioritization of such improvements above others in the RTIF can be assured, and thus the payment of regional traffic fees does not guarantee to fully mitigate this impact. Separately and independently, construction of the identified improvements would require Caltrans approval, and therefore such construction remains uncertain. Finally, the City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., responses to Comments ORG1-3, SA3-2, SA3-5, and LA1-4.) For each of the above separate and independent reasons, Impact TRANS-9 remains significant and unavoidable. Nevertheless, this impact is overridden by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact TRANS-10: Project Build-out would cause over-capacity conditions on the 2035 roadway and freeway network, in the 2035 Plus Project Build-Out scenario with the 2035 Transportation Master Plan in place. Impact locations include, but are not limited to, the I-205/Mountain House Parkway Interchange and the I-580/Patterson Pass Road interchange. This is a *significant* impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.14-95 to 4.14-111 and 4.14-121 of the Draft EIR, and in the Final EIR Responses to Comments (e.g., responses SA3-1 to -4, -6, -8 to -16, -20, -21; RA2-3, -4; LA1-4, -5, -6, -8, -9; ORG1-3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the applicable land use plans and roadway networks are likely to change between now and year 2035, making detailed analysis and infrastructure planning infeasible. Nevertheless, based on substantial evidence, the Draft EIR has included a high-level view of roadway volumes at Project Buildout in year 2035 based on reasonably available information that the City's technical experts determined to be reliable. Accordingly, buildout of the Project would cause a significant overloading on many segments of the TMP roadway system assumed in year 2035, and cause significant impacts on several segments of I-205 and I-580 in the AM and PM peak hours. Though conservatively determined, as buildout of the Project is expected to occur well beyond year 2035, the above represents a potentially significant impact. The City acknowledges that commenters have raised concerns regarding the methodologies used in evaluating the Project's cumulative traffic impacts; while the City conducted additional analysis in an effort to be responsive to comments received, the City hereby affirms the conclusions of its traffic experts wherein it has been determined that no modifications to the analysis are necessary to ensure the Project's traffic impacts were fully evaluated and mitigated.

Findings

The City finds that the aforementioned impacts are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures TRANS-10 is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact TRANS-10, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

The City further affirms its decision to rely on the City's traffic experts with respect to, among other things, the methodologies used to assess traffic impacts, and accepts, based on substantial evidence in the record (including, without limitation, for the reasons set forth in the FEIR Responses to Comments), the conclusions of that analysis. The City acknowledges that commenters have raised concerns in this regard, and have requested that additional analysis using different methodologies be conducted and that specified mitigation be imposed. For the reasons set forth in the Draft EIR and the Final EIR and elsewhere in the administrative record (including, without limitation, Response SA3-5), the City hereby accepts its traffic expert's conclusions that conducting the analysis as requested was not necessary to fully evaluate traffic impacts under CEQA and could lead to unreliable conclusions, disserve the information-disclosure purpose of CEQA, and lead to the development of mitigation based on unreliable and/or speculative information. Nevertheless, in an effort to respond to the commenters' concerns, the City conducted the additional analysis and developed mitigation based on this analysis; further, the City and the Applicant have agreed to impose certain additional mitigation subject to confirmation of the underlying technical analysis utilizing the appropriate cumulative conditions forecasts available at the time of PSR-PDS preparation, which will help ensure that improvements are implemented in a manner that reflects the best technical information available at the appropriate time.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-10 could result in the construction of traffic improvements that could reduce the significant impacts described under Impact TRANS-10 to less-than-significant levels. This mitigation measure is set forth in the Draft EIR at page 4.14-121, in the attached MMRP, and requires the payment of various traffic impact fees. However, as discussed on page 4.14-121 of the Draft EIR, while the roadway network improvements to accommodate traffic growth generated by the Project and other development areas in the City are planned — and while the Project applicant's payment of fees would fund these improvements — it is not certain such improvements could be timely constructed.

Separately and independently, the construction of prescribed improvements by a single developer is economically infeasible and, because the improvements to the impacted freeway segments require the approval of Caltrans, and would also be dependent on future actions by SJCOG, San Joaquin County, and the Mountain House Community Services District, their implementation is uncertain. Moreover, impacts occurring in year 2035 occur not only from Project-related traffic volume, but traffic generated by other reasonably foreseeable development projects, and it would be legally infeasible for the City to impose the burden of financing improvements solely on the Project applicant while respecting constitutional guarantees against unlawful takings and exactions. Finally, the

City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., responses to Comments ORG1-3, SA3-2, SA3-5, and LA1-4.) For each of the above separate and independent reasons, Impact TRANS-10 remains significant and unavoidable. Nevertheless, this impact is overridden by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact TRANS-14: Full Buildout of the Project may result in inadequate emergency access. This is a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analyses contained in Chapter 4.14 of the Draft EIR, including pages 4.4-123 to 4.4-124, and in the Final EIR Responses to Comments (e.g., responses SA3-1 to -4, -6, -8 to -16, -20, -21; RA2-3, -4; LA1-4, -5, -6, -8, -9; ORG1-3) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), the Project would contribute substantial traffic to roadway networks under the Existing Plus Full Buildout and 2035 Plus Full Buildout analysis. The findings addressing Impact TRANS-7 and TRANS-10 and the facts in support thereof better detail these impacts, and are incorporated herein by this reference. Such congestion has the potential to result in inadequate emergency access, and this is a potentially significant impact.

Findings

The City finds that the aforementioned impacts are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures TRANS-14, which requires the implementation of Mitigation Measures TRANS-7 and TRANS-10, is feasible, is within the jurisdiction of the City to require, is hereby adopted, and would reduce potential impacts under Impact TRANS-14, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations.

Facts in Support of Findings

The City finds that implementation of Mitigation Measure TRANS-14 would result in the construction of traffic improvements that could reduce the significant impacts described under Impact TRANS-14. This mitigation measure is set forth in the Draft EIR at page 4.14-124, as well as in the attached MMRP, and requires the implementation of Mitigation Measures TRANS-7 and TRANS-10, which are discussed above and incorporated herein by this reference. However, as discussed in findings related to Impacts TRANS-7 and TRANS-10 and the facts in support thereof, incorporated herein by this reference, the construction of necessary roadway improvements is uncertain. Separately and independently, the construction of prescribed improvements by a single developer is economically infeasible and, because the improvements to the freeway segments require the approval of Caltrans (as well as future actions by other agencies), their implementation is uncertain. Moreover, impacts occurring in year 2035 occur not only from Project-related traffic volume, but traffic generated by other reasonably foreseeable development projects, and it would be legally infeasible for the City to impose the burden of financing improvements solely on the Project applicant while respecting constitutional

guarantees against unlawful takings and exactions. Finally, the City finds that all other measures, programs, or policies suggested are not feasible for the reasons set forth in the Final EIR Responses to Comments (e.g., responses to Comments ORG1-3, SA3-2, SA3-5, and LA1-4.) For each of the above separate and independent reasons, Impact TRANS-14 remains significant and unavoidable. Nevertheless, this impact is overridden by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact UTIL-2: The Project, in combination with other reasonably foreseeable development, would require new or expanded wastewater facilities to serve full buildout, in accordance with the City's Wastewater Master Plan (WWMP). This is a significant impact.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.15-31 through 4.15-45 of the Draft EIR and in the Final EIR Responses to Comments (e.g., response LA1-22) and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the City's master infrastructure planning process has planned for existing needs and future growth to be accommodated through the construction of new and expanded facilities, the impacts of which have been evaluated by the City as part of that master planning process. Because new and expanded facilities would be needed to serve the Project, along with other cumulative development, this would constitute a cumulatively considerable contribution to this impact.

Findings

The City finds that the aforementioned impacts are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measures UTIL-2a, UTIL-2b, and UTIL-2c are feasible, are within the jurisdiction of the City to require, are hereby adopted, and would reduce potential impacts under Impact UTIL-2, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations

Facts in Support of Findings

The City finds that implementation of Mitigation Measures UTIL-2a, UTIL-2b, and UTIL-2c would result in the construction of wastewater improvements that could reduce the significant impacts described under Impact UTIL-2. These mitigation measures are set forth in the Draft EIR at page 4.15-54, as well as in the attached MMRP, and are as follows:

Mitigation Measure UTIL-2a: At no cost to the City, flow monitoring equipment shall be installed in the Hansen Sewer Line, as approved by the City, prior to the issuance of the certificate of occupancy for the first (1st) building constructed as part of the Project. Flow monitoring shall be used to determine available capacities to serve site-specific developments proposals under the Specific Plan. In monitoring flows for purposes of determining available capacity, the initial 0.145 shall be attributable to those lands within the Specific Plan identified in the proposed development agreement.

Mitigation Measure UTIL-2b: As part of the development process for each individual site-specific development under the Specific Plan, the applicant shall pay its applicable development impact fees for wastewater facilities prior to issuance of building permits.

Mitigation Measure UTIL-2c: As part of the development process for each individual site-specific development under the Specific Plan, the City shall review flow monitoring, at the applicant's cost, to determine available capacity. If the City determines, based on technical and legal constraints and other relevant data, that existing capacity is available to serve the development at issue, then no f urther mitigation is required. However, if the City determines, based on technical and legal constraints and other relevant data, that existing capacity is not available to serve the development at issue, then the improvements as identified in the Wastewater Master Plan must be constructed that are necessary to create the additional capacity required, subject to any applicable credit and/or reimbursement provisions, as determined by the City.

While the construction of improvements under the City's WWMP ultimately would reduce impacts to a level of insignificance, given the Citywide nature of the necessary improvements, which would require significant funding from other developments, the construction of such improvements cannot be guaranteed when the need is triggered by the Project. It would be l egally infeasible for the City to impose the burden of financing citywide improvements solely on the Project applicant and respect constitutional guarantees against unlawful takings and exactions. Therefore, Impact UTIL-2 remains significant and unavoidable. Nevertheless, this impact is overridden by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

Impact UTIL-3: Construction of the Project's stormwater drainage facilities may result in significant impacts without mitigation.

Significant Impact

As presented in and determined by the analysis in the administrative record of proceedings, including, without limitation, the analysis contained on pages 4.15-45 through 4.15-67 of the Draft EIR and in the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), which are incorporated herein by this reference, the Project would build stormwater drainage facilities to accommodate the Project's drainage, as well as to address some existing drainage issues on properties adjacent to the Specific Plan Area. The construction of new stormwater drainage facilities or expansion of existing facilities could cause significant environmental effects. These effects have been evaluated in other chapters of the Draft EIR, including Chapter 4.2 (Agricultural Resources), Chapter 4.3 (Biological Resources), Chapter 4.5 (Cultural Resources), Chapter 4.6 (Geology, Soils and Seismicity), Chapter 4.8 (Hazards and Hazardous Materials), and Chapter 4.9 (Hydrology and Water Quality). Findings addressing these impacts are included above, and incorporated herein by this reference. To the extent that significant impacts in any of the above environmental topic areas are identified, then feasible mitigation has been included as well. Accordingly, because construction of the Project's stormwater drainage facilities may have significant impacts without mitigation, the Project's impacts in this regard are considered significant.

Findings

The City finds that the aforementioned impacts are potentially significant, and that there exist no feasible mitigation measures that would reduce these impacts to a level of insignificance. The City therefore finds that such impacts are significant and unavoidable. The City therefore finds that such impacts are significant and unavoidable. The City finds that it has adopted all feasible mitigation and, to this end, the City finds that Mitigation Measure UTIL-3, and the mitigation measures that must be implemented thereunder, including Mitigation Measures AQ-2a, AQ-2b, AQ-4, CUL-1, CUL-2, CUL-3, GEO-1, HYDRO-1a, HYDRO-1b, HYDRO-2a, HYDRO-2b, and HYDRO-2c, are feasible, are within the jurisdiction of the City to require, are hereby adopted, and would reduce potential impacts under Impact UTIL-3, but not to a level of insignificance. This impact is overridden by Project benefits as set forth in the Statement of Overriding Considerations

Facts in Support of Findings

The City finds that implementation of Mitigation Measure UTIL-3 would reduce the significant impacts described under Impact UTIL-3 to less-than-significant levels. This mitigation measure is set forth in the Draft EIR at page 4.15-67, as well as in the attached Mitigation and Monitoring Reporting Program, and requires the implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-4, CUL-1, CUL-2, CUL-3, GEO-1, HYDRO-1a, HYDRO-1b, HYDRO-2a, HYDRO-2b, and HYDRO-2c, which are identified in findings above and incorporated herein by this reference. In brief summary, these measures require adherence to applicable rules and regulations; avoidance and restoration of cultural resources; consultation with most likely descendants of any discovered human remains; and adherence to approved grading plans, construction general permit requirements, Stormwater Pollution Prevention Plans, drainage plans, and water quality protection measures. While the implementation of these measures would reduce construction-related impacts to the extent feasible, it is not certain that these impacts can be reduced to a level of insignificance. Therefore, Impact UTIL-3 remains significant and unavoidable. Nevertheless, this impact is overridden by the Project benefits as set forth in the Statement of Overriding Considerations (attached Exhibit C).

EXHIBIT B

FINDINGS RELATED TO ALTERNATIVES

The State CEQA Guidelines Section 15126.6 mandates that every EIR evaluate a no-project alternative, plus a feasible and reasonable range of alternatives to the Project or its location. The Alternatives were formulated considering the Project Objectives outlined on pages 3-10 through 3-12 of Draft EIR. Alternatives provide a basis of comparison to the project in terms of beneficial, significant, and unavoidable impacts. This comparative analysis is used to consider reasonable feasible options for minimizing environmental consequences of a project.

Typically, where a project causes significant impacts and an EIR is prepared, the findings must discuss not only how mitigation can address the potentially significant impacts, but whether project alternatives can address potentially significant impacts. But where all significant impacts can be substantially lessened (e.g., to a less-than-significant level) solely by adoption of mitigation measures, the lead agency, in drafting its findings, has no obligation to consider the feasibility of project alternatives that might reduce an impact, even if the alternative would mitigate the impact to a greater degree than the proposed project, as mitigated (Pub. Res. Code § 21002; *Laurel Hills Homeowners Association v. City Council* (1978) 83 Cal.App.3d 515, 521; *Kings County Farm Bureau v. City of Hanford* (1990) 221 Cal.App.3d 730-733; *Laurel Heights Improvement Association v. Regents of the University of California (*1988) 47 Cal.3d 376, 400-403).

Because not all significant effects can be substantially reduced to a less-than-significant level either by adoption of mitigation measures or by standard conditions of approval, the following section considers the feasibility of the Project alternatives as compared to the proposed Project. (14 Cal. Code. Regs. § 15091(a)(3).)

As a threshold matter, the City finds that the range of alternatives studied in the EIR reflects a reasonable attempt to identify and evaluate various types of alternatives that would potentially be capable of reducing the environmental effects of the Project, while accomplishing most of the Project objectives. The City finds that the alternatives analysis is sufficient to inform the City, agencies, organizations, and the public regarding the trade-offs between the degree to which alternatives to the Project could reduce environmental impacts and the corresponding degree to which the alternatives would hinder the achievement of the Project objectives and economic, environmental, social, technological, legal, and other considerations.

The City finds that the proposed Project would achieve the Project objectives, and is more desirable than the alternatives considered in the EIR. As set forth in Exhibit A, which is hereby incorporated by reference, the City has adopted mitigation measures that avoid or substantially reduce, to the extent feasible, the significant environmental effects of the Project. As is also explained in Exhibit A, while these mitigation measures would not mitigate all Project impacts to a less-than-significant level, they would mitigate those impacts to a level that the City finds acceptable. The City finds the remaining alternatives infeasible. Accordingly, the City has determined to approve the proposed Project instead of approving one of the remaining alternatives.

In making this determination, the City finds that, when compared to the alternatives described and evaluated in the EIR, the proposed Project, as mitigated, provides a reasonable balance between satisfying the Project objectives and reducing potential environmental impacts to an acceptable

level. The City further finds and determines that the proposed Project should be approved, rather than one of the alternatives, for the reasons set forth below in this Exhibit B and the administrative record, including, without limitation, Chapter 5 of the Draft EIR and the Final EIR Responses to Comments and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR).

Finally, in making these findings, the City certifies that it has independently reviewed and considered the information on alternatives provides in the EIR, including the information provided in comments on the Draft EIR, Final EIR Responses to Comments, and errata to the Draft EIR (e.g., Chapter 3 of the Final EIR), and all other information in the administrative record. These analyses are not repeated in total in these findings, but the discussion and analysis of the alternatives in these documents are incorporated into these findings by reference to supplement the analysis here.

Summary of Alternatives

This exhibit contains findings related to the alternatives evaluated in the Final EIR. The Final EIR describes and evaluates four alternatives to the proposed Project. While three out of four of the alternatives have the ability to reduce environmental impacts, none of the alternatives can completely reduce all of the environmental impacts to a less-than-significant level. The Final EIR analyzed the following four alternatives to the Cordes Ranch Specific Plan project:

- No Project Alternative
- Reduced Intensity Alternative
- Mixed Use Alternative
- Reconfigured Specific Plan Boundary

Summary of Project Objectives

The following Project Objectives were identified for the Project :

- Implement the City of Tracy General Plan land use vision for the Specific Plan Area (designated as Urban Reserve 6 by the General Plan).
- Facilitate the implementation of the City's various infrastructure, utility, public services, and public safety master plans.
- Facilitate the City's goal to master plan large parcels, in order to provide land use flexibility and encourage the efficient provision of utilities and associated infrastructure.
- Accommodate a variety of land uses including highway and retail commercial; office and business industrial (including office/warehouse; light industrial; warehouse and distribution facilities) to foster the growth of research and development and manufacturing uses.
- To create a state-of-the art commerce and business park within an economically viable and flexible planning context, which will accommodate a wide range of land uses including general commercial, general office, and business park industrial uses.
- Capitalize on the existing transportation corridors of Interstate 580 and Interstate 205 and increased demand for manufacturing and distribution space from the Bay Area, and attract a wide range of high-quality businesses, including emerging growth industries.

- To contribute to an economically vibrant employment sector by generating a significant number of temporary and permanent employment opportunities for Tracy residents (both "head-of-household" and entry level positions), and improving the City's jobs/housing balance.
- Create a thematic gateway to the City of Tracy, introducing the City's character with enhanced landscape treatments and sculptural monument signage along the Interstate 205 freeway edge.
- Provide a range of sustainability measures aimed at conserving resources, decreasing energy and water consumption, and reducing air and water pollutants.
- Allow property owners within the Specific Plan Area to realize a reasonable return on their investments to provide incentives for private development.
- Encourage and secure private participation in the provision and funding of community benefits.
- To foster economic vitality for the City of Tracy by generating substantial amounts of revenue in the form of taxes and fees, which will help fund vital improvements to City infrastructure, services, and amenities and provide improved infrastructure systems for the benefit of the broader community.
- To create a development that has an identity of its own with a commitment to sustainability, flexible planning, high-quality architecture and site design, and the provision of attractive on-site amenities, including open space, public spaces, recreational facilities, trail network, and enhanced landscaping design.
- To preserve and enhance the City's unique character by developing business and commerce park uses within a context of passive and active park and recreational facilities, including significant open space components and an extensive trail network, which will benefit Project users and the broader community.
- To build a comprehensive and integrated trail network, which will create substantial pedestrian and bicycle amenities, enhance connectivity within the Specific Plan Area, and provide alternatives to automobile use.
- To incorporate a range of sustainability measures into the Project's design, which will help to conserve resources by reducing energy and potable water consumption, decrease contributions to greenhouse gas emissions by promoting high levels of connectivity and reliance on multimodal transportation modes, reduce air and water pollutants, and enhance on-site biological resources.

A. No Project Alternative

Under the No Project Alternative, the Specific Plan Area would remain in the jurisdiction of San Joaquin County and retain the existing County zoning. No new development would occur in the proposed Specific Plan Area, and no action would be taken to annex the Specific Plan Area to the City or otherwise change its land use designation.

Findings

The City hereby rejects the No Project Alternative, finding it is not feasible, separately and independently, because (1) it would fail to achieve any of the Project Objectives and (2) specific economic, legal and other considerations each make the No Project Alternative, identified in the Final EIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

The No Project Alternative would avoid most of the potential impacts of the proposed Project since no physical or operational changes to the Specific Plan Area and its surroundings would occur beyond existing conditions, as discussed on pages 5-8 to 5-15, incorporated herein by reference. However, the No Project Alternative is impractical or undesirable, and thus infeasible, for the following separate and independent reasons

1. One of the City's long-term goals is to increase its land supply for industrial, office, and employment-generated uses in targeted areas, providing a balance of non-residential uses along with the City's housing supply. Under the No Project Alternative, no development would occur in the Specific Plan Area and therefore the approximately 36,708 jobs associated with the proposed Project would not be created. Nor would any of the substantial construction jobs associated with the Project be created. By leaving the Specific Plan Area undeveloped, this alternative would strain the City's ability to reverse commute patterns. Moreover, it is crucial that the City follow a policy that maximizes job creation after the unprecedented economic downturn the City and region has experienced, which has resulted in unemployment levels near 10 percent. (*See* Comprehensive Annual Financial Report For The Fiscal Year Ended June 30, 2012 ["Fiscal Report"].)

2. This alternative would not effectively implement the General Plan because it would not capitalize on the two major transportation corridors (Interstate 205 and Interstate 580) near the Specific Plan Area.

3. Under the No Project Alternative, the Project would not be implemented, and therefore this alternative does not meet any of the Project objectives.

4. Leaving the Specific Plan Area in its existing state under this alternative would remove the economic viability of the proposed Project and the ability of the Project to provide a reasonable rate of return to the developers.

5. The Project's substantial commercial, office, and business industrial uses, enhancing and stabilizing the City's tax base. Such uses are expected to generate significant property tax and sales tax revenues. Currently, the Specific Plan Area is used mainly for agricultural purposes, which generates comparatively insignificant property tax revenues. It is crucial that the City implement a policy that maximizes tax revenues after the unprecedented economic downturn the City and region has experienced, so that the City can provide its citizens with the necessary services. Property tax revenues have been in a steady decline for multiple years and, while sales tax has increased modestly, a substantial portion of the increase can be attributed to the increased cost of petroleum, and thus the City's sales tax revenues are not currently based on a diverse portfolio of commercial activity. (*See* Fiscal Report.) In addition, Fiscal Year 2011-2012 was the fifth year the City had to dip into reserve funds to meet its obligations. (*See* Fiscal Report.)

6. Providing the maximum possible recreational facilities is an important City policy that is reflected in the incorporated General Plan. (*See, e.g.,* General Plan, p. 1-1; 3-17 [Objective CC-2.1 et seq]; p. 5-32 et seq; p. 6-20 et seq.) The proposed Project, which consists entirely of nonresidential development, would include almost 90 acres of parks and recreational facilities, including the Central Green, the Eastside Park, the Westside Open Space, a riparian corridor, and the WSID linear park/open space corridor. In addition, the Project proposes to construct a comprehensive trail network to enhance connectivity throughout the Project and to these various recreational facilities and open space features. Under the No Project Alternative, none of these amenities would be provided, frustrating City policy to provide its citizenry with more recreational facilities.

B. Reduced Intensity Alternative

The Reduced Intensity Alternative would reduce the level of development that would be permitted in the Specific Plan Area to reduce the intensity and resultant environmental effects of the proposed Project. The boundaries of the Specific Plan Area would remain the same. This alternative would reduce the level of development allowed in the Specific Plan Area by roughly half, resulting in 295,990 square feet of commercial, 1,232,966 square feet of office, and 13,894,551 square feet of business park industrial uses. This reduction would be due to a reduction in the allowable floor area ratios (FARs) for the respective uses, although the general location of uses would remain the same as proposed under the Project. In addition, the almost 90 acres of park and recreational uses and open space provided under this alternative would be the same as that under the proposed Project.

Findings

The City hereby rejects the No Project Alternative, finding it is not feasible, separately and independently, because (1) it would fail to meet fundamental Project Objectives and (2) specific economic, legal and other considerations each make the Reduced Density Alternative, identified in the Final EIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

The Reduced Intensity Alternative would result in less severe air quality, greenhouse gas, public service, transportation, traffic, and utilities impacts than the proposed Project, as discussed in Chapter 5 of the Draft EIR, including, without limitation, Table 5-1 and pages 5-15 to 5-24, incorporated herein by reference. It would not reduce, however, any significant and unavoidable impacts associated with the proposed Project to a level of insignificance. The City Council hereby rejects the Reduced Intensity Alternative, finding that it is impracticable or less desirable than the proposed Project, and thus infeasible, for the following reasons:

1. One of the City's long-term goals is to increase its land supply for industrial, office, and employment-generated uses in targeted areas, providing a balance of non-residential uses along with the City's housing supply. The Reduced Density Alternative would not maximize such uses, which would frustrate not only the City's long-term goals, but also the Project Objective to create a state-of-the art commerce and business park within an economically viable and flexible planning context, which will accommodate a wide range of land uses.

2. The Reduced Intensity Alterative would result in a reduced employee population of approximately 18,185 employees, compared to approximately 36,708 employees under the proposed Project, and result in the creation of substantially less construction jobs associated with full buildout of the proposed Project. By developing the Specific Plan Area at a lower density, this alternative would reduce the City's ability to reverse commute patterns. Moreover, it is crucial that the City follow a policy that maximizes job creation after the unprecedented economic downturn the City and region has experienced, which has resulted in high unemployment levels. (*See* Fiscal Report.)

3. This alternative would not effectively implement the General Plan because it would not as effectively capitalize on the two major transportation corridors (Interstate 205 and Interstate 580) near the Specific Plan Area. Note this policy is reflected, separately and independently, in the Project Objective that seeks to capitalize on the existing transportation corridors of Interstate 580 and Interstate 205 and increased demand for manufacturing and distribution space from the Bay Area

4. The Reduced Intensity Alterative would constrain the City's ability to efficiently deliver services, resources, and infrastructure to the Specific Plan Area and to users and employment-generating activities given the reduced amount of sales tax revenue that this alternative would generate. A less intense development would not as effectively make use of scarce land resources, which would not as effectively meet the City's goal to conserve environmental resources. For instance, reducing intensity likely would have the effect of displacing uses, ultimately resulting in greater environmental impacts as additional land is acquired and developed to accommodate such uses.

5. Reducing the Project's uses by 50 percent under this alternative would pose an issue in terms of economic viability and the ability of the Project to provide a reasonable rate of return to the developers. Note this consideration also is reflected, separately and independently, in the Project Objectives.

6. Under this alternative, the lands not developed with employment-generating land uses within the Specific Plan Area would likely instead be developed as parking, thereby intensifying the local heat island effect. This consideration also is reflected in Project Objectives that emphasize a commitment to sustainability.

7. The reduced intensity of development would impose a development pattern that hinders the creation of a concentrated employment-generating business park, and would thereby reduce pedestrian and bicycle connectivity, given the spacing of the buildings on site. This consideration also is reflected, separately and independently, in Project Objectives that emphasize a commitment to sustainability and green development, and thus this alternative would frustrate implementation of Project Objectives.

8. The Project's substantial commercial, office, and business park industrial uses, enhancing and stabilizing the City's tax base. Such uses are expected to generate significant property tax and sales tax revenues. The Reduced Density Alternative, while generating tax revenues, would result in only about half as much development as the proposed Project, and thus generate proportionately less tax revenue. It is crucial that the City implement a policy that maximizes tax revenues after the unprecedented economic downturn the City and region has experienced, so that the

City can provide its citizens with the necessary services. Property tax revenues have been in a steady decline for multiple years and, while sales tax has increased modestly, a substantial portion of the increase can be attributed to the increased cost of petroleum, and thus the City's sales tax revenues are not currently based on a diverse portfolio of commercial activity. (*See* Fiscal Report.) In addition, Fiscal Year 2011-2012 was the fifth year the City had to dip into reserve funds to meet its obligations. (*See* Fiscal Report.) Note, the consideration of tax revenues also is reflected, separately and independently, in the Project Objectives, and thus this alternative would frustrate their implementation.

9. This alternative would likely increase the cost per acre to extend infrastructure to the Project, inhibiting the City's implementation of its master planned infrastructure and thereby hampering the participating property owners from realizing a reasonable rate of return to the developers.

C. Mixed Use Alternative

The Mixed Use Alternative would replace approximately 150 acres of Business Park Industrial uses along the eastern boundary of the Specific Plan Area with housing. Assuming a residential density of 25 units per acre, this alternative would include approximately 3,838 residential units. Like the proposed Project, this alternative would include approximately 591,980 square feet of General Commercial and 2,465,932 square feet of General Office space. In addition, this alternative would include approximately 24,445,872 square feet of business park industrial uses. The boundaries of the Specific Plan Area would remain the same. In addition, the almost 90 acres of park and recreational uses and open space provided under this alternative would be the same as that under the proposed Project.

Findings

The City Council hereby rejects the Mixed Use Alternative, finding it is not feasible, separately and independently, because (1) it would fail to meet fundamental Project Objectives and (2) specific economic, legal and other considerations each make the Mixed Use Alternative, identified in the Final EIR and described above, an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

The Mixed Use Alternative would result in less significant greenhouse gas, land use, transportation, and traffic impacts than the proposed Project, as discussed in Chapter 5 of the Draft EIR, including without limitation Table 5-1 and pages 5-24 to 5-36, incorporated herein by reference. However, this alternative would result in more significant impacts regarding agricultural resources, hazards and hazardous materials, noise, population and employment, public services, and utilities than the proposed Project. The City Council rejects the Mixed Use Alternative, finding that it is less desirable than the proposed Project and is infeasible for the following reasons:

1. One of the City's long-term goals is to increase its land supply for industrial, office, and employment-generated uses in targeted areas, providing a balance of non-residential uses along with the City's housing supply. The Mixed Use Alternative would not maximize such uses, which would frustrate not only the City's long-term goals, but also the Project Objective to create a state-of-the art commerce and

business park within an economically viable and flexible planning context, which will accommodate a wide range of land uses.

2. The Mixed Use Alternative would result in a reduced employee population of approximately 33,028 employees, compared to approximately 36,708 employees under the proposed Project, and would include 3,838 housing units, which would result in a population of approximately 12,318 persons. Residential development in the Specific Plan Area would be inconsistent with the planning vision of Urban Reserve 6 as well as the parameters for residential development established in the General Plan, which directs growth away from this portion of the City's Sphere of Influence generally. Moreover, it is crucial that the City implement a policy that maximizes job creation after the unprecedented economic downturn the City and region has experienced, which has resulted in high unemployment levels. (*See* Fiscal Report.)

3. The General Plan calls for industrial and residential uses to be separated to the extent feasible. This alternative would introduce significant numbers of new sensitive receptors into immediate proximity of industrial uses and elevated emissions. Further, the existing environment in the Specific Plan Area vicinity includes a great amount of truck traffic from the Patterson Pass Business Park, which would raise a potential land use compatibility issue.

4. The residential strategy established in the General Plan is to further enhance neighborhood connectivity, with new housing being developed near existing schools, resident-serving services, community amenities, and existing residential neighborhoods. Under this alternative, access to services would be constrained. This alternative would create a new residential neighborhood more than a mile away from existing neighborhoods, thus isolating this area. Housing in the Specific Plan Area would be substantially surrounded by business park uses, as opposed to more complementary consumer services, other residential uses, and school infrastructure. Children in these households would be separated from other community amenities in the City.

5. Walkability would be constrained under this alternative, because the neighborhood street pattern would not readily connect to other resident-serving uses and amenities. This consideration also is reflected, separately and independently, in Project Objectives that emphasize a commitment to sustainability and green development, and thus this alternative would frustrate implementation of these Project Objectives.

6. The Mixed Use Alternative would result in more significant impacts regarding agricultural resource, hazards and hazardous materials, noise, population and employment, public services, and utilities than the proposed Project. On balance, the modest environmental benefits that might be achieved with the Mixed Use Alternative (e.g., a 7-percent reduction in trip generation) are outweighed by its ineffectiveness in reducing significant and unavoidable impacts associated with the proposed Project (e.g., impacts regarding aesthetics, air quality, and biological resources), as well as its exacerbation of other significant impacts (e.g., impacts related to agricultural resources, noise, population, public services, and utilities).

D. Reconfigured Specific Plan Boundary Alternative

Under the Reconfigured Specific Plan Boundary Alternative, the boundary of the proposed Specific Plan Area would be modified to exclude the area south of New Schulte Road and west of the Westside Open Space. North of New Schulte Road and east of the Westside Open Space, the land use map would be the same as under the proposed Project. Like the proposed Project, this alternative would include approximately 591,980 square feet of General Commercial and 2,465,932 square feet of General Office space. This alternative would include 9,641,570 square feet of Business Park Industrial uses, compared to the 27,789,102 square feet of Business Park Industrial uses under the proposed Project.

Findings

The City hereby rejects the Reconfigured Specific Plan Boundary Alternative, finding it is not feasible, separately and independently, because (1) it would fail to meet fundamental Project Objectives and (2) specific economic, legal and other considerations each make the Reduced Density Alternative, identified in the EIR and described above, an i nfeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

The Reconfigured Specific Plan Boundary Alternative would result in less significant impacts regarding agricultural resources, air quality, biological resources, greenhouse gas emissions, hydrology and water quality, and public services than the proposed Project, as discussed in Chapter 5 of the Draft EIR, including, without limitation, Table 5-1 and pages 5-36 to 5-47, incorporated herein by reference. However, the City Council hereby rejects the Reconfigured Specific Plan Boundary Alternative, finding that it is less desirable than the proposed Project and is infeasible for the following reasons:

1. One of the City's long-term goals is to increase its land supply for industrial, office, and employment-generated using in targeted areas, providing a balance of non-residential uses along with the City's housing supply. The Reconfigured Specific Plan Boundary Alternative would not maximize such uses, which would frustrate not only the City's long-term goals, but also the Project Objective to create a state-of-the art commerce and bus iness park within an economically viable and flexible planning context, which will accommodate a wide range of land uses.

2. The Reconfigured Specific Plan Boundary Alternative would result in a r educed employee population of approximately 18,223 employees, compared to approximately 36,708 employees under the proposed Project, and result in the creation of substantially less construction jobs associated with full buildout of the proposed Project. By developing only a portion of the Specific Plan Area, this alternative would strain the City's ability to reverse commute patterns. Moreover, it is crucial that the City follow a policy that maximizes job creation after the unprecedented economic downturn the City and r egion has experienced, which has resulted in high unemployment levels. (*See* Fiscal Report.)

3. This alternative would not effectively implement the General Plan because it would not as effectively capitalize on the two major transportation corridors (Interstate 205 and Interstate 580) near the Specific Plan Area. Note this policy is reflected, separately and independently, in the Project Objective that seeks to capitalize on the

existing transportation corridors of Interstate 580 and Interstate 205 and increased demand for manufacturing and distribution space from the Bay Area.

4. The Reconfigured Specific Plan Boundary Alterative would constrain the City's ability to efficiently deliver services, resources, and infrastructure to the Specific Plan Area and to users and employment-generating activities given its reduction in intensity in land uses and thus the lower generation of sales tax and other revenues.

5. This alternative would increase the cost per acre to extend infrastructure to the Project, inhibiting the City's implementation of its master planned infrastructure and thereby hampering the participating property owners from realizing a reasonable rate of return to the developers. Note this latter consideration also is reflected, separately and independently, in the Project Objectives.

6. The reduced density of development would impose a development pattern that hinders the creation of a concentrated office district and would thereby reduce the ability to implement pedestrian and bicycle connectivity given the spacing of the buildings on site. This consideration also is reflected, separately and independently, in Project Objectives that emphasize a commitment to sustainability and green development, and thus this alternative would frustrate implementation of these Project Objectives.

7. The Reconfigured Specific Plan Boundary Alterative would create an island of undeveloped property that would be substantially surrounded by other industrial areas, and would not facilitate the extension of transportation corridors to connect the business park to City infrastructure. This results in a potential land use impact.

10. The Project substantial commercial, office, and business industrial uses, enhancing and stabilizing the City's tax base. Such uses are expected to generate significant property tax and sales tax revenues. The Reconfigured Specific Plan Boundary Alterative, while generating tax revenues, would result in significantly less industrial development as the proposed Project, and thus generate proportionately less tax revenue. It is crucial that the City implement a policy that maximizes tax revenues after the unprecedented economic downturn the City and region has experienced, so that the City can provide its citizens with the necessary services. Property tax revenues have been in a steady decline for multiple years and, while sales tax has increased modestly, a substantial portion of the increase can be attributed to the increased cost of petroleum, and thus the City's sales tax revenues are not currently based on a diverse portfolio of commercial activity. (*See* Fiscal Report.) In addition, Fiscal Year 2011-2012 was the fifth year the City had to dip into reserve funds to meet its obligations. (*See* Fiscal Report.) Note, the consideration of tax revenues also is reflected, separately and independently, in the Project Objectives, and thus this alternative would frustrate their implementation.

E. Alternatives Considered but Rejected from Further Consideration

The City considered another alternative to the proposed Project that would have involved an alternative location for the proposed Project but for the following reasons, rejected this alternative from further consideration.

Findings

The City hereby rejects the alternative location because specific economic, legal and other considerations each make the an alternative location an infeasible alternative for the Project Applicant and the City of Tracy.

Facts in Support of Finding

As discussed on pages 5-3 and 5-6 of the Draft EIR, which are incorporated herein by this reference, the City rejected this alternative from further consideration for several separate and independent reasons. First, the General Plan vision for the Specific Plan Area calls for the area to be developed with a mix of commercial, office, and industrial uses consistent with those included in the proposed Project. Second, the large parcel sizes in the Specific Plan Area, in comparison to the parcel sizes in other areas of the City and Sphere of Influence (SOI), lend themselves to the scale and form of development proposed by the Project, consistent with the planning vision in the General Plan. Third, the Specific Plan Area is located away from most residential uses in the City, reducing potential conflicts with existing neighborhoods. Fourth, no infill areas exist in the City that could accommodate the campus-style development called for in the proposed Project. Fifth, the other potential locations would require a significant aggregation of properties, none of which the participating property owners within the Specific Plan own or otherwise control.

The City considered alternative locations in the SOI that could potentially accommodate the proposed Project in terms of acreage, proximity to existing infrastructure, and distance from existing neighborhoods. Other areas identified by the City as potential locations for the Project are located along Lammers Road or east of the city, along Interstate 205 or east of Highway 99. However, these areas were recently considered for inclusion in the City's SOI and were rejected by the San Joaquin Local Agency Formation Commission (LAFCO). Therefore, the other areas that could be appropriate for the proposed Project would not be consistent with recent planning efforts and SOI adjustments.

EXHIBIT C

STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council hereby adopts and make this Statement of Overriding Considerations concerning the Project's unavoidable significant impacts to explain why the Project's benefits override and outweigh its unavoidable impacts.

The City of Tracy is the Lead Agency under CEQA responsible for the preparation, review, and certification of the Final EIR for the Cordes Ranch Specific Plan EIR. As the Lead Agency, the City is also responsible for determining the potential environmental impacts of the proposed action and which of those impacts are significant. CEQA also requires the Lead Agency to balance the benefits of a proposed action against its significant and unavoidable adverse environmental impacts in determining whether or not to approve the proposed Project.

In making this determination, the Lead Agency is guided by the CEQA Guidelines Section 15093 which provides as follows:

a) "CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered 'acceptable,'"

b) "When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The Statement of Overriding Considerations shall be supported by substantial evidence in the record."

c) "If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination …."

In addition, Public Resources Code Section 21081(b) requires that where a public agency finds that economic, legal, social, technical, or other reasons make infeasible the mitigation measures or alternatives identified in the EIR and thereby leave significant unavoidable adverse project effects, the public agency must also find that overriding economic, legal, social, technical or other benefits of the project outweigh the significant unavoidable adverse effects of the project.

The proposed Project represents the best possible balance between the City's goals, objectives, and policies related to the development of the Specific Plan Area, development of employment-generating land uses, and site-specific open space, recreation, and non-vehicular transportation enhancements. In accordance with CEQA Guidelines Section 15093 and other applicable law, the City has, in determining whether or not to approve the Project, balanced the economic, social, technological, and other Project benefits against its unavoidable environmental risks, and the City Council hereby finds that the Project's unavoidable significant impacts are acceptable in light of the Project's benefits. Each benefit set forth below constitutes an overriding consideration

warranting approval of the proposed Project, independent of the other benefits, despite each and every unavoidable impact. This statement of overriding considerations is based on the City's review of the EIR and other information in the administrative record. This Exhibit C also incorporates the findings contained in Exhibit B (related to Project alternatives), and the substantial evidence upon which they are based. The benefits of the Project are as follows:

1. The proposed Project increases the City's ability to plan for a key area for economic development, namely Urban Reserve 6 (the Specific Plan Area). The large parcel sizes in the Specific Plan Area, in comparison to the parcel sizes in other areas of the City and Sphere of Influence, and the large size of the Specific Plan Area when considered as a whole, presents a unique opportunity for the City to create a major employment center. The proposed Project will facilitate the City's goal to master plan large parcels.

2. With the creation of an estimated 36,708 jobs at full buildout (including a significant number of "head of household" positions), development under the proposed Specific Plan would foster economic vitality for the City of Tracy, as well as significant construction jobs during buildout. It is crucial that the City implement a policy that maximizes job creation after the unprecedented economic downturn the City and region has experienced, and are expected to experience in the future, which has resulted in high unemployment levels. (*See* Comprehensive Annual Financial Report For The Fiscal Year Ended June 30, 2012 ["Fiscal Report"].) Thus the creation of jobs is determined to be an extremely valuable benefit.

3. As a master planned office and employment district, the Specific Plan Area will be developed under a flexible planning framework. In addition, the proposed Project would create a state-of-the-art commerce and business center. Such innovative, modern facilities will attract new businesses to the city that would not otherwise locate to the City of Tracy, and the proposed Project represents a resource otherwise unavailable in the City.

4. The proposed Project would implement the City of Tracy General Plan land use vision for the Specific Plan Area.

5. The proposed Specific Plan provides policy guidance to enhance the character of future development in the Specific Plan Area. Without a Specific Plan, piecemeal development of the Specific Plan Area would not be subject to the same coherent set of design guidelines and policies. The proposed Project provides policy guidance to protect the visual quality of the Specific Plan Area as new development occurs.

6. The proposed Project, which consists entirely of nonresidential development, would include almost 90 acres of parks, open space, and recreational facilities for use by future employees and visitors of the Specific Plan Area, including the Central Green, the Eastside Park, the Westside Open Space, a riparian corridor, and the WSID linear park/open space corridor. In addition, the Project proposes to construct a comprehensive trail network to enhance connectivity throughout the Project and to these various recreational facilities and open space features. These master-planned amenities, developed in the context of nonresidential development, constitute a significant benefit to the City and, without a Specific Plan, piecemeal development of the Specific Plan Area would not create a cohesive, well-connected open space and trails network.

7. The proposed Project will capitalize on existing transportation corridors (Interstate 580 and Interstate 205).

8. Located at the western edge of the City, the proposed Project would create a thematic gateway to Tracy along Interstate 205. The Specific Plan provides special consideration of the lands along Interstate 205.
9. The proposed Project implements the City's Sustainability Action Plan. The Specific Plan provides many opportunities for future development to increase sustainability and minimize greenhouse gas emissions, reduce water and energy consumption, and decrease the impacts of construction activities and waste generation.
10. The Project includes a nu mber of resource conservation measures. The Project therefore ensures that new growth in the City would follow sophisticated design blueprints that are cognizant of the relationship between construction practices and climate change/air pollution, and would serve as a model for future growth in the City. It is highly desirable that the City follow land use planning policies that implement sustainable and green practices, to the extent feasible. Thus the inclusion in the Project of numerous green elements is determined to be an extremely valuable benefit.
11. The Project includes substantial commercial, office, and business industrial uses, enhancing and stabilizing the City's tax base. Such uses are expected to generate significant property tax and sales tax revenues. It is crucial that the City implement a policy that maximizes tax revenues after the unprecedented economic downturn the City and region has experienced, so that the City can provide its citizens with the necessary services. Property tax revenues have been in a steady decline for multiple years and, while sales tax has increased modestly, a substantial portion of the increase can be attributed to the increased cost of petroleum, and thus the City's sales tax revenues are not currently based on a diverse portfolio of commercial activity. (*See* Fiscal Report.) In addition, Fiscal Year 2011-2012 was the fifth year the City had to dip into reserve funds to meet its obligations. (*See* Fiscal Report.)

The City Council, acting as the Lead Agency and having reviewed the EIR and public records, hereby adopts this Statement of Overriding Considerations (SOC), which has balanced the benefits of the Project against its significant unavoidable adverse impacts in reaching a decision to approve the Project.

SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
AES-4: To decrease light spillage and glare to the maximum extent practicable, all individual developments under the Specific Plan shall be required to: ♦ Prior to final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light on to public rights-of-way or adjacent residential property, consistent with City standards.	Developers	Prior to final inspection or certificate of occupancy	Development & Engineering Services	Site inspection	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
AG-1: As part of the development process for each individual site-specific development project under the Specific Plan, the applicable agricultural mitigation fee for each acre of farmland to be developed shall be paid, in compliance with Chapter 13.28, Agricultural Mitigation Fee, of the Tracy Municipal Code. The fees shall be collected by the City at the time that building permits are issued for such site-specific development project, or as otherwise required by City.	Developers	Prior to issuance of building permits	Development & Engineering Services	Obtain proof of fee payment and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
AG-2: As construction occurs along the eastern Specific Plan Area boundary, buffers such as roadways, building setbacks, and parking areas, shall be required prior to occupancy of those structures, in compliance with General Plan Policy (OSC-2.2 P1).	Construction Contractors	Prior to approval of Subdivision Map	Development & Engineering Services	Require as condition of approval of Subdivision Map	Once per subdivision	Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
						Initials: Date:
AQ-2a: Each applicant for individual, site-specific developments under the Specific Plan shall comply with the San Joaquin Valley Air Pollution Control District (SJVAPCD) rules and regulations, including, without limitation, Indirect Source Rule 9510. The applicant shall document, to the City's reasonable satisfaction, its compliance with this mitigation measure.	Construction Contractors	During construction	Development & Engineering Services	Review construction specifications materials and retain for administrative record/ Conduct site inspections	During regularly scheduled inspections	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
AQ-2b: Prior to issuance of a grading permit by the City of Tracy, the applicant for an individual, site-specific development under the Specific Plan shall be required to develop and obtain approval of a fugitive dust and emissions control plan to mitigate, as feasible, the identified impacts, which satisfies the requirements set forth under then-applicable SJVAPCD Rules and Regulations, including, without limitation, Regulation VIII. Depending on the size, location and nature of the individual development at issue, the fugitive dust and emissions control plan shall consider the following mitigation measures, for example: ♦ All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover;	Construction Contractors	During construction	Development & Engineering Services	Review construction specifications materials and retain for administrative record/ Conduct site inspections	During regularly scheduled inspections	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
♦ All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant;						
♦ All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking;						
♦ When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inched of freeboard space from the top of the container shall be maintained;						
♦ All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.);						
♦ Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant;						
♦ Within urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday; and						
♦ Any site with 150 or more vehicle trips per day shall prevent carryout and trackout;						
♦ Limit traffic speeds on unpaved roads to 15 mph;						

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
♦ Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. ♦ Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the Specific Plan Area; ♦ Adhere to Regulation VIII's 20 percent opacity limitation, as applicable; ♦ Use of construction equipment rated by the United States Environmental Protection Agency (US EPA) as having Tier 3 or higher exhaust emission limits for equipment over 50 horsepower that are on-site for more than 5 days, if available and feasible. Tier 3 engines between 50 and 750 horsepower are available for 2006 to 2008 model years. After January 1, 2015, encourage the use of equipment over 50 horsepower that are on-site for more than 5 days to meet the Tier 4 standards, if available and feasible. A list of construction equipment by type and model year shall be maintained by the construction contractor on-site, which shall be available for City review upon request. ♦ Use of alternative-fueled or catalyst-equipped diesel construction equipment, if available and feasible; and ♦ Clearly posted signs that require operators of trucks and construction equipment to minimize idling time (e.g. 5-minute maximum).						
AQ-5a: Applicants for industrial or warehousing land uses that: 1) are expected to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered transport refrigeration units (TRUs), and 2) are located within 1,000 feet of a sensitive receptor, as measured from the property line of the development at issue to the property line of the nearest	Construction Contractors	During construction	Development & Engineering Services	Review construction specifications materials and retain for administrative record/	During regularly scheduled inspections	Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
sensitive receptor, shall adhere to applicable Best Available Control Technologies for Toxics (T-BACT), as set forth in CARB or SJVAQPD guidance (as applicable), for the purpose of reducing potential cancer and non-cancer risks to below the applicable thresholds, as feasible (e.g., restricting idling onsite, electrifying warehouse docks, requiring use of newer equipment and/or vehicles, restricting off-site truck travel through the creation of truck routes). Provided, however, that an applicant may submit a health risk assessment (HRA) to the City of Tracy prepared in accordance with policies and procedures of the state Office of Environmental Health Hazard Assessment (OEHHA) and the San Joaquin Valley Air Pollution Control District (SJVAPCD); if this HRA demonstrates that the incremental cancer risk for the individual development at issue would not exceed ten in one million (10E-06) or the appropriate non-cancer hazard index would not exceed 1.0, then no further mitigation shall be required.				Conduct site inspections		Initials: Date: Initials: Date:
AQ-6: No day care center shall be located within 1,000 feet of a major source of TACs (e.g. warehouses, industrial, or roadways with traffic volumes over 10,000 vehicle per day), as measured from the property line of the development at issue to the property line of the source/edge of the nearest travel lane unless a health risk assessment (HRA) is submitted and approved by the City that demonstrates that the incremental cancer risk for the individual development at issue would not exceed ten in one million (10E-06) or the appropriate non-cancer hazard index would not exceed 1.0. Such HRA shall be prepared in accordance with policies and procedures of the state Office of Environmental Health Hazard Assessment (OEHHA) and the San Joaquin Valley Air Pollution Control District (SJVAPCD), including the latest OEHHA guidelines that address age sensitivity factors, breathing rates, and body weights appropriate for	Developers	Prior to site plan approval	Development & Engineering Services	Site inspection	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
children age 0 to 6 years.						
BIO-1: To mitigate the potential adverse impacts on special-status species, and provide for the incidental take of State and/or federally listed species, the applicant shall either: 1) participate in the SJMSCP and comply with all required Incidental Take Minimization Measures or 2) secure incidental take authorizations for State and/or federally-listed species directly from the CDFW and USFWS, respectively. Participation in the SJMSCP shall include compliance with all relevant Incidental Take Minimization Measures pertinent to the Specific Plan Area, including pre-construction surveys for covered species to confirm presence or absence and provide for their relocation, if necessary. Issuance of grading and construction permits shall be contingent on providing evidence of either 1) compliance with the SJMSCP or 2) a 2081 Permit from the CDFW and Biological Opinion from the USFWS to the City of Tracy Development Services Director to ensure compliance with applicable regulations and ensure adequate compensatory mitigation has been provided.	Developers	Prior to issuance of grading and construction permits	Development & Engineering Services	Review evidence of either 1) compliance with SJMSCP or 2) a 2081 Permit from the CDFW and Biological Opinion from the USFWS	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
BIO-2: To avoid the potential for disturbance of nesting birds on or near the Specific Plan Area, schedule the initiation of any vegetation removal and grading for the period of September 1 through February 15. If construction work cannot be scheduled during this period, a qualified biologist shall conduct pre-construction surveys for nesting birds according to the following guidelines: ♦ The preconstruction surveys shall be conducted by the qualified biologist no later than 14 days prior to the start of vegetation removal or initiating project grading. ♦ If birds protected under the Migratory Bird Treaty	Construction Contractor	Prior to issuance of grading and construction permits	Development & Engineering Services	As recommended in monitoring report	As recommended in monitoring report	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
Act are found nesting, then appropriate construction buffers shall be established to avoid disturbance of the nests until such time that the young have fledged. The size of the nest buffer shall be determined by the biologist in consultation with CDFW, and shall be based on the nesting species, its sensitivity to disturbance, and expected types of disturbance. Typically, these buffers range from 75 to 250 feet from the nest location. ♦ Nesting activities shall be monitored periodically by a qualified biologist to determine when construction activities in the buffer area can resume. ♦ Once the qualified biologist has determined that young birds have successfully fledged, a monitoring report shall be prepared and submitted to the City of Tracy Development Services for review and approval prior to initiating construction activities within the buffer area. The monitoring report shall summarize the results of the nest monitoring, describe construction restrictions currently in place, and confirm that construction activities can proceed within the buffer area without jeopardizing the survival of the young birds. Construction within the designated buffer area shall not proceed until the written authorization is received by the applicant from the Development Services Director. The above provisions are in addition to the preconstruction surveys to confirm presence or absence of nesting Swainson's hawk, burrowing owl, and other special-status species as required under the Incidental Take Minimization Measures of the SJMSCP.						
BIO-3: To mitigate potential impacts on jurisdictional wetlands and other waters, the following measures shall be implemented.	Construction Contractors	Prior to issuance of grading and construction permits	Development & Engineering Services	As recommended in mitigation plan/ Review	As recommended in mitigation plan	Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
♦ An applicant proposing to construct improvements that may affect potential wetlands or other jurisdictional features, as discussed in the EIR, shall cause a formal wetlands delineation to be prepared by a qualified wetland consultant and submitted to the Corps for verification to confirm the extent of jurisdictional wetlands and other waters on the specific site at issue (if any).				authorizations and retain for administrative record		Initials: Date: Initials: Date: Initials: Date:
♦ Where verified waters of the US are present and cannot be avoided, authorization for modifications to these features shall be obtained from the Corps through the Section 404 permitting process. Similarly, a Section 401 Certification shall be obtained from the RWQCB where waters of the US are directly affected by the Project. All conditions required as part of the authorizations by the Corps and RWQCB shall be implemented as part of the Project.						
♦ A CDFW Streambed Alteration Agreement shall also be obtained where necessary under applicable laws and regulations, for any proposed Project activities that would affect the bed or banks of the central drainage and other features regulated by the CDFW in the Specific Plan Area. The applicant who is proposing to construct these improvements as part of an individual site-specific development proposal shall submit a notification form to the CDFW, shall obtain all legally-required agreements, and implement any conditions contained within that agreement.						
♦ The acreage of waters of the US and any riparian scrub habitat along the central drainage that would be removed by the Project shall be replaced or restored/enhanced on a "no-net loss basis" in accordance with Corps, RWQCB, and CDFW regulations, to the extent required by applicable laws						

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
and regulations.						
♦ A detailed mitigation plan shall be prepared by a qualified wetland consultant for any jurisdictional wetlands or waters of the US affected by proposed development, with replacement provided at a minimum 1:1 ratio or as required by the regulatory agencies. The plan shall clearly identify the total wetlands and other jurisdictional areas affected by proposed improvements, as well as wetlands to be created, restored, or enhanced as part of the wetland mitigation. This shall preferably be accomplished on-site through adjustments to the proposed limits of grading, with any replacement wetlands consolidated to the degree possible to improve existing habitat values. The plan shall specify performance criteria, maintenance and long-term management responsibilities, monitoring requirements, and contingency measures, and shall adhere to all applicable requirements and conditions imposed by the regulatory agencies.						
♦ Consultation or incidental take permitting may be required under the California and federal Endangered Species Acts (as discussed above under Mitigation Measures BIO-1). To the extent required under applicable laws and regulations, an applicant for an individual site-specific development shall obtain all legally required permits or other authorizations from the USFWS and CDFW for the potential "take" of protected species under the Endangered Species Acts, either though participation in the SJMSCP or through separate incidental take authorizations.						
♦ Temporary orange construction fencing shall be installed around the boundary of all delineated jurisdictional waters to the extent they are being preserved so that they are not disturbed during						

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
construction. The fencing shall be placed a minimum of 25 feet out from the boundary of the wetland but may need to be adjusted if construction and/or restoration activities are to be conducted within this area. Grading, trail construction and restoration work within the wetland buffer zones shall be conducted in a way that avoids or minimizes disturbance of existing wetlands to be preserved in accordance with any mitigation measures imposed by the regulatory agencies. ♦ Written evidence shall be provided to the City of Tracy Development Services that the applicant has secured all authorizations required by the Corps, RWQCB, and CDFW in connection with the individual, site-specific development proposal prior to issuance of a grading permit for that individual development at issue to ensure compliance with applicable regulations.						
CUL-1: If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing activities, all work within 50 feet of the resources shall be halted and a qualified archaeologist shall be consulted to assess the significance of the find according to CEQA Guidelines Section 15064.5. If any find is determined to be significant, representatives from the City and the archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation. All significant cultural materials recovered shall be, as necessary and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards. In considering any suggested mitigation proposed by the consulting archaeologist to mitigate impacts to historical resources or unique archaeological resources, the City shall	Construction Contractors	During construction	Development & Engineering Services	As determined in consultation with qualified archaeologist	As recommended by qualified archaeologist	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g. data recovery) shall be instituted. Work may proceed on other parts of the Specific Plan Area while mitigation for historical resources or unique archaeological resources is being carried out.						
CUL-2: In the event that fossils or fossil-bearing deposits are discovered during construction, excavations within 50 feet of the find shall be temporarily halted or diverted. The contractor shall notify a qualified paleontologist to examine the discovery. The paleontologist shall document the discovery as needed in accordance with Society of Vertebrate Paleontology standards, evaluate the potential resource, and assess the significance of the find under the criteria set forth in CEQA Guidelines Section 15064.5. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If in consultation with the paleontologist, the Project proponent determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the Project on the qualities that make the resource important. The plan shall be submitted to the City for review and approval and the Project proponent shall implement the approval plan.	Construction Contractors	During construction	Development & Engineering Services	As determined in consultation with qualified paleontologist	As recommended by qualified paleontologist	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
CUL-3: If human skeletal remains are uncovered during construction, the contractor (depending on the Project component) shall immediately halt work within 50 feet of the find, contact the San Joaquin County coroner to evaluate the remains, and follow the procedures and protocols set forth in Section 15064.5(e)(1) of the CEQA Guidelines. If the county coroner determines that the	Construction Contractors	During construction	Development & Engineering Services	As determined in consultation with County Coroner	As recommended by descendants	Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
remains are Native American, the Project proponent shall contact the NAHC, in accordance with Health and Safety Code Section 7050.5, subdivision (c), and Public Resources Code 5097.98 (as amended by AB 2641). Per Public Resources Code 5097.98, the contractor shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards or practices, where the human remains are located, is not damaged or disturbed by further development activity until the contractor has discussed and conferred, as prescribed in this section (California Public Resources Code Section 5097.98), with the most likely descendants regarding their recommendations, if applicable, taking into account the possibility of multiple human remains.						Initials: Date: Initials: Date:
GHG-1a: Applicants for individual, site-specific developments shall conform to the then-applicable requirements of the California Building Code, including the Green Code's provisions relating to "solar readiness." Applicants will be encouraged to utilize or otherwise facilitate the use of alternative energy generation technologies, as feasible, to offset their energy consumption, by, for example, ensuring that roof structures are built such that they can accommodate the weight of solar panels in accordance with the California Building and Energy Standards; providing for energy storage within their buildings; and installing electrical switch gears to facilitate solar usage.	Construction Contractors	Prior to issuance of building permits	Development & Engineering Services	Review building plans	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
GHG-1b: Prior to issuance of a building permit for an individual, site-specific development that requires or is intended to accommodate refrigerated vehicles, the construction documents shall demonstrate an adequate number of electrical service connections at loading docks for plug-in of the anticipated number of refrigerated trailers to reduce idling time and emissions.	Construction Contractors	Prior to issuance of building permits	Development & Engineering Services	Review construction documents and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
						Initials: Date:
GHG-1c: Applicants for individual, site-specific developments with truck delivery and loading areas, and truck parking spaces, shall include signage as a reminder to limit idling of vehicles while parked for loading/unloading in accordance with California Air Resources Board Rule 2845 (13 CCR Chapter 10 §2485).	Developers	Prior to issuance of occupancy permits	Development & Engineering Services	Site inspection	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
GHG-1d: Applicants for individual, site-specific developments shall identify in the grading plans that non-essential idling of construction equipment and vehicles shall be restricted to no more than 5 minutes in accordance with California Air Resources Board Rule 2485 (13 CCR Chapter 10 §2485).	Developers	Prior to issuance of grading permit	Development & Engineering Services	Review grading plans and retain for administrative record	Review plans once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
HAZ-1: The project applicant shall fully implement the provisions of the San Joaquin County Hazardous Material Area Plan and the Tracy General Plan, including but not limited to:						Initials: Date: Initials:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
♦ Ensuring that any business locating in the Specific Plan Area which stores particular quantities of hazardous materials (e.g. larger than 55 gallons of liquid, 500 pounds of solid or 200 cubic feet of some compressed gases) as stipulated under Chapter 6.95 of the California Health and Safety Code annually files a hazardous materials business plan establishing incident prevention measures, hazardous material protocols, and emergency response and evacuation procedures; ♦ Providing adequate separation between areas where hazardous materials are present and sensitive uses; and ♦ Submitting an emergency response plan for any large generators of hazardous waste located or proposed to be located in the Specific Plan Area.						Date: Initials: Date: Initials: Date:
HAZ-2a: A Soil Management Plan and companion Sampling and Analysis Plan, as well as a Health and Safety Plan (HASP), shall be prepared and implemented during and following any soil excavation and compaction associated with implementation of the Project where such activities may encounter residual soil, soil vapor, or groundwater contamination that exceeds risk-based levels established by the RWQCB or Cal-EPA. As part of the Soil Management Plan, the applicant shall retain an experienced, independent environmental monitor to observe all significant earth-moving activities. The monitor shall observe the operations, remaining watchful for stained or discolored soil that could represent residual contamination. The monitor shall also be empowered to alert the City and regulatory agencies, when appropriate, and provide direction to the grading contractor. The monitor shall confirm the location of the one plugged and abandoned well in consultation with the Division of	Construction Contractors	Prior to construction	Development & Engineering Services	Review Soil Management Plan and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
Gas, Oil, and Geothermal Resources, and shall comply with any remedial measures that may be required in connection therewith under applicable law and regulations. In addition, in the event that a previously unknown abandoned well is discovered, construction activities that are proximate to said abandoned well shall stop and the Division of Gas, Oil, and Geothermal Resources shall be contacted. No structures shall be built on a discovered abandoned well until it is deemed safe by the State Oil and Gas Supervisor in accordance with applicable laws and regulations.						
HAZ-2b: A plan shall be developed for installation a vapor barrier and venting system beneath buildings to be constructed at the site in those areas where residual petroleum hydrocarbons in soil vapor exceed risk-based levels established by the RWQCB or Cal-EPA, where exposure pathways are considered potentially complete. The system shall be designed to eliminate potentially significant indoor air quality health risks associated with subsurface contaminant vapor intrusion. The Plan shall be prepared by a California professional engineer experienced in vapor intrusion mitigation and who shall certify the installation.	Construction Contractors	Prior to construction	Development & Engineering Services	Review plan and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
HAZ-2c: Soil sampling shall occur within the portions of the Specific Plan Area that have historically been utilized for mixing or storing pesticides and that may contain pesticide residues in the soil, prior to issuance of grading permits in such areas. The sampling will be performed in accordance with a Sampling and Analysis Plan and Soil Management Plan prepared by a qualified Environmental Professional and/or California professional engineer	Qualified Environmental Professional and/or Engineer	Prior to issuance of grading permits	Development & Engineering Services	Verify sampling results	Once per individual development project	Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
experienced in Phase II site characterization. The sampling shall be conducted in accordance with applicable guidance from DTSC and San Joaquin County Environmental Health Department, and shall determine if pesticide concentrations exceed established regulatory thresholds. Should pesticide contaminated soil be identified as a result of the evaluation, further site characterization and remedial activities, if necessary, will be implemented in accordance with the Soil Management Plan.						Initials: Date:
HAZ-2d: Existing structures shall be evaluated for the presence of ACBM and lead-based paints prior to their renovation or demolition. The evaluation shall be conducted by a Cal-OSHA certified ACBM and lead-based paint contractor. Any ACBM or lead identified as a result of the evaluation shall be removed by a Cal-OSHA certified ACBM and lead-based paint contractor and be transported and disposed off-site in accordance with regulatory requirements.	Cal-OSHA Certified Contractor	Prior to construction	Development & Engineering Services	Verify evaluation results	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
HYDRO-1a: Grading and ground disturbance on the Specific Plan Area shall be implemented in accordance with each individual development's approved grading plans and related grading permit. For the required treatment of urban pollutants and application of pesticides in the Specific Plan Area, each Project developer shall comply with the approved grading plan and related permit and conditions of approval.	Construction Contractors	During construction	Development & Engineering Services	Site inspection	During regularly scheduled site inspections	Initials: Date: Initials: Date: Initials: Date: Initials:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
						Date:
HYDRO-1b: In accordance with the then-applicable regulations, as part of the application process for each individual development under the Specific Plan, each applicant shall file a Notice of Intent with the SWRCB to obtain coverage under the construction general permit (CGP) and shall comply with all of the requirements associated with the CGP, as necessary to mitigate those impacts that would result from the specific development proposed by that applicant. In addition, as part of the application process for each individual development under the Specific Plan, each applicant shall prepare and obtain City approval of a SWPPP which shall adequately address stormwater management during each construction phase of the Project. The SWPPP shall be consistent with the then-applicable RWQCB standards and NPDES permit requirements, and shall be designed to protect water quality during the course of construction. Said BMPs may include, without limitation, the following: ♦ Schedule earthwork to occur primarily during the dry season to prevent most runoff erosion. ♦ Protect drainages and storm drain inlets from sedimentation with berms or filtration barriers, such as filter fabric fences, hay bales, or straw wattles. ♦ Divert runoff from exposed slopes to on-site sediment basins before the runoff is released off-site. ♦ Install gravel construction entrances to reduce tracking of sediment onto adjoining streets. ♦ Sweep on-site paved surfaces and surrounding streets daily to collect sediment before it is washed into the storm drains or the Old River.	Developers	Prior to construction	Development & Engineering Services	Verify Notice of Intent and approve SWPPP/ retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
♦ After construction is completed, clean all drainage culverts of accumulated sediment and debris. ♦ Stabilize stockpiles of topsoil and fill material by watering daily, or by the use of chemical agents. ♦ Store all construction equipment and material in designated areas away from waterways and storm drain inlets. Surround construction staging areas with earthen berms. ♦ Wash and maintain equipment and vehicles in a separate bermed area, with runoff directed to a lined retention basin. ♦ Collect construction waste daily and deposit in covered dumpsters.						
HYDRO-2a: As part of the application process for each individual development under the Specific Plan, each applicant shall prepare and obtain approval of a grading plan and related permit in accordance with Mitigation Measure HYDRO-1(a).	Developers	Prior to issuance of grading permit	Development & Engineering Services	Review grading plan and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
HYDRO-2b: As part of the application process for each individual development project under the Specific Plan, each applicant shall submit and obtain City approval of a drainage plan to the City of Tracy for on-site measures consistent with the Cordes Ranch Conceptual Drainage Plan, the Cordes Ranch Specific Plan, the Citywide Stormwater Master Plan, and other applicable stormwater	Developers City of Tracy	Prior to issuance of building permit	City of Tracy Development & Engineering Services	Review drainage plan and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
standards and requirements that shall be designed to control and treat stormwater for the storm events in compliance with the then-applicable City's Manual of Stormwater Quality Control Standards for New Development and Redevelopment, including those dealing with capacity design of the facilities and contour grading. All such measures shall be implemented as part of the development and operation of the individual development at issue. Each developer shall construct drainage improvements and other required stormwater retention/detention facilities as necessary to serve the specific development proposed by that applicant in conformance with the approved drainage plan, the Specific Plan and the then-applicable City standards including those set forth in the City's Storm Drainage Master Plan. These drainage facilities shall accommodate events up to and including a 100-year 24-hour storm. Any impacts on the operations of Mountain House CSD facilities, including the alteration of cleaning velocities, will require coordination and agreement between Mountain House CSD and the City of Tracy prior to issuance of building permit for any development west of Mountain House Parkway. The proposed mitigation measures will reduce impacts related to storm water runoff to less-than-significant levels.						Date: Initials: Date:
HYDRO-2c: As part of the development of each individual project under the Specific Plan, each developer shall implement the following measures: ♦ Shall not utilize chemical pesticides in the maintenance of common landscaped areas, open space areas, or parks. Fertilizers shall be applied sparingly, and shall be derived from natural sources, such as fish	Developers	Prior to construction	Development & Engineering Services	Review landscaping, construction, and drainage plans and retain for administrative	Once per individual development project	Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
emulsion or manure. ♦ Shall cooperate with the City to create a public education program for future business owners to increase their understanding of water quality protection, which should include but not be limited to: • Hazardous material use controls; • Hazardous materials exposure controls; • Hazardous material disposal and recycling. ♦ Encourage the use of alternative methods to avoid hazardous materials to the extent feasible, and prohibit the dumping of hazardous materials in open space areas or the storm drain system. ♦ To the extent feasible, direct stormwater runoff to percolation swale and basin areas rather than directing stormwater to storm drain pipes. ♦ Use biotreatment (natural pollutant filtering) where stormwater runs off paved surfaces onto pervious surfaces. ♦ Utilize sediment traps, evaporation basins, flow dissipaters, and other methods to reduce the volume and speed of stormwater runoff and reduce pollutant loads.				record		Initials: Date: Initials: Date:
HYDRO-2d: The City shall impose, as a condition of approval of development beyond the first 85 net (developable) acres in the Mountain House Watershed Area located in the western portion of the Specific Plan Area as defined in the City's Storm Drain Master Plan (which acreage comprises approximately one-half (1/2) of the full net (developable) acreage of the Mountain House Watershed Area within the Specific Plan Area), as depicted in Figure 4.9-1a of the Final EIR errata, that the applicant: (1) Facilitate the preparation of an agreement between	City of Tracy	Entitlement approval	Development & Engineering Services	Establish fair share fee between the City of Tracy and MHCSD; Establish fair share fee between the City of Tracy an Project Proponents; Project	Once per reporting action	Initials: Date: Initials: Date: Initials: Date: Initials:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
the City and the MHCSD establishing a fair share fee, in accordance with applicable laws, to fund future improvements to downstream storm drain facilities which may be constructed by MHCSD in the future to accommodate flows from the Patterson Run (located in the water shed south of the Specific Plan Area) and flows from the Mountain Watershed Area within the Specific Plan Area by funding the City's and MHCSD's costs to prepare such agreement, and to provide for reimbursements to contributing property owners in appropriate circumstances; (2) Enter into an agreement with the City to pay its proportionate fair share of the proposed fee after it has been adopted; and (3) Deposit with the City appropriate security, as determined by the City, to ensure the payment of such fees. Until such time as this fee has been established, the City will not permit any downstream increases to volume or peak storm water flows from any development in the Mountain House Watershed Area located within the western portion of the Specific Plan Area, in the area depicted in Figure 4.9-1a of the Final EIR errata,. No development will be permitted in the Mountain House Watershed Area of the Specific Plan Area beyond the first 85 net acres described above until the foregoing conditions have been satisfied.				Proponents to deposit appropriate security		Date:
HYDRO-2e: Until such time as adequate downstream drainage facilities have been constructed by the MHCSD, all new development in the Mountain House Watershed Area of the Specific Plan Area will be required to provide adequate on-site detention of storm water flows, as determined by the City. This amounts to 0.4 square miles of the 8.53 square mile watershed.	Developers	Issuance of grading permit	Development & Engineering Services	Review landscaping, construction, and drainage plans and retain for administrative	Once per individual development project	Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
				record		Initials: Date: Initials: Date:
NOISE-1: As part of the development process for each individual, site-specific project under the Specific Plan, the development at issue shall adhere to all applicable Building Code and Municipal Code provisions and standards and other requirements, as noted in the above Regulatory Framework discussion. Regarding mitigation of impacts relating to mobile sources for an individual, site-specific project, the City will consider, as appropriate and feasible, a variety of techniques to reduce noise, which may include, for example, building setbacks, berms, walls, fences of various materials, and rubberized asphalt, taking into account relevant General Plan policies (as they relate to sound walls) and the nature and location of sensitive receptors at issue.	Developers and Construction Contractors	Prior to construction and site plan approval	Development & Engineering Services	Consider measures to include in construction and site plans	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
NOISE-2a: The following measures, in addition to the best practices for construction activities (as specified in Mitigation Measure NOISE-4), are recommended to reduce groundborne noise and vibration from construction activities: 1. Avoid impact pile driving process, when feasible. The use of a pre-drilling pile installation process shall be utilized when feasible, where geological conditions permit their use, so as to reduce vibration levels at adjacent receptors. 2. Avoid using vibratory rollers and vibratory tampers near vibration-sensitive uses.	Construction Contractors	Prior to construction	Development & Engineering Services	Review construction plans and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
NOISE-2b: Before any individual, site-specific development conducts any high vibration-generating	Construction Contractors	Prior to construction	Development & Engineering	Review vibration	Review plans once per	Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
activities (such as pile driving or vibratory compacting) within one hundred (100) feet of existing structures, the following mitigation measures shall apply: 1. Develop a vibration monitoring and construction contingency plan to identify structures where monitoring would be conducted, set up a vibration monitoring schedule, define structure-specific vibration limits, and address the need to conduct photo, elevation, and crack surveys to document before- and after-construction conditions. Construction contingencies would be identified for when vibration levels approached the limits. Vibration limits shall be applied to all vibration-sensitive structures located within 100 feet of each individual, site-specific development that is subject to this mitigation measure. Limits shall be based on Table 4.11-5 to preclude architectural damage and on Table 4.11-4 to preclude vibration annoyance. For the Specific Plan Area proposed development types (i.e. "institutional land uses with primarily daytime use"), the Table 4.11-4 Category 3 land uses would indicate a threshold of 83 VdB. For future developments that have special, vibration-sensitive operations or equipment, the criteria in the FTA Guideline Manual, Table 8-3 should be implemented. The monitoring and construction contingency plan shall include the following contents described in Numbers 2 through 4 below. 2. At a minimum, monitor vibration during initial demolition activities and during pile driving activities. Monitoring results may indicate the need for more or less intensive measurements. 3. When vibration levels approach the above limits, construction should be suspended and contingencies should be implemented to either lower vibration levels or to secure the affected structures.			Services	monitoring and construction contingency plan and retain for administrative record/ Site inspection/ Surveys	individual development project/ Conduct site inspection at least once at beginning of demolition activities and during pile driving/ Conduct post-surveys once after high levels are reported or complaints are made	Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
4. Conduct post-survey on structures where either monitoring has indicated high levels or complaints of damage have been made. Make appropriate repairs or compensation where damage has occurred as a result of construction activities.						
NOISE-4: The following measures, when applicable and feasible, shall be required to reduce noise from construction activities: 1. Ensure that all internal combustion engine-driven equipment is equipped with mufflers that are in good operating condition and appropriate for the equipment. 2. Utilize "quiet" models of air compressors and other stationary noise sources where such technology exists. 3. Locate stationary noise-generating equipment as far as reasonable from sensitive receptors when sensitive receptors adjoin or are near a construction Project area. 4. Prohibit unnecessary idling of internal combustion engines (i.e. in excess of five minutes). 5. Pre-drill foundation pile holes to minimize the number of impacts required to seat the pile. 6. Erect temporary noise control blanket barriers and/or temporary solid plywood fences around construction sites adjacent to operational businesses or noise-sensitive land uses. This mitigation would only be necessary if (a) potential conflicts could not be resolved by proper scheduling and (b) the temporary barrier could demonstrate a benefit at the façade of the receptor building of at least 10 dB. 7. Route construction-related traffic along major roadways and as far as feasible from sensitive receptors. 8. Notify businesses and noise-sensitive land uses adjacent to construction sites of the construction	Construction Contractors	Prior to construction	Development & Engineering Services	Review construction plans and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
schedule in writing. Designate a "Construction Liaison" that would be responsible for responding to any local complaints about construction noise. The liaison would determine the cause of the noise complaints (e.g. starting too early, bad muffler, etc.) and institute reasonable measures to correct the problem. A telephone number for the Liaison should be conspicuously posted at the construction site.						
PS-1: As part of the application process for each individual development under the Specific Plan, the Project applicant shall be required to pay the applicable development impact fee as set forth in an adopted Cordes Ranch FIP.	Project Proponents	Prior to construction	Development & Engineering Services	Review construction plans and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
Improvement Measure PS-1: As part of the Development Review process for each individual development under the Specific Plan, each Project applicant shall adhere to all conditions of approval that are related to fire protection and emergency response services, such as those relating to fire flows, hydrants and other design and safety features (including any necessary and specialized fire protection equipment to service to individual uses proposed).	Project Proponents	Prior to construction	Development & Engineering Services	Review construction plans and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
PS-2: As part of the application process for each individual development under the Specific Plan, the Project applicant shall be required to pay the applicable development impact fee as set forth in an adopted Cordes Ranch FIP.	Project Proponents	Prior to construction	Development & Engineering Services	Review construction plans and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
Improvement Measure PS-2: As part of the Development Review process for each individual development under the Specific Plan, each Project applicant shall adhere to all conditions of approval that are related to police protection services, such as safety features, emergency access, and physical improvements to the proposed site plan and/or to police facilities and equipment to ensure adequate service is maintained.	Project Proponents	Prior to construction	Development & Engineering Services	Review construction plans and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
TRANS-1: The Project will construct the following improvements, in accordance with then-applicable engineering standards and requirements, and as determined by the City Engineer: ♦ *Intersection #1 (Mountain House Parkway/I-205 Westbound Ramps):* o Restripe westbound off-ramp to provide two left-turn lanes and one shared through/right lane, and	Project Proponents	As stipulated in "trigger" analysis (see Table 4.14-13 in Section F.1.a.i of the Cordes Ranch EIR)	Development & Engineering Services	Plan review/ Site inspection	Twice per improvement	Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
optimize signal timings. o Lengthen the northbound Mountain House Parkway right-turn lane to provide additional storage capacity and access to the eastbound I-205 on-ramp. o Ramp metering, with two mixed flow and 1 HOV bypass lane for the eastbound I-205 diagonal on-ramp. ♦ *Intersection #2 (Mountain House Parkway/I-205 Eastbound Ramps):* Convert the northbound right-turn lane to a free right with an acceptance lane on the eastbound on-ramp, and optimize signal timings. ♦ *Intersection #6 (Mountain House Parkway/I-580 Westbound Ramps):* Signalize the intersection with eastbound/ westbound split phasing, or install a roundabout. ♦ *Intersection #7 (Mountain House Parkway/I-580 Eastbound Ramps):* Signalize the intersection with eastbound/westbound split phasing, or install a roundabout. ♦ *Intersection #10 (Old Schulte Road/Hansen Road):* Signalize the intersection, and construct an additional westbound left turn lane, eastbound left-turn and right-turn lanes, and a southbound left-turn lane. ♦ *New Schulte Road:* Construct New Schulte Road from the eastern terminus of the Project Phase 1 network (east of Hansen Road) east to Lammers Road, as a two-lane road. At Intersection #18, New Schulte Road/Lammers Road, signalize the intersection and construct a left-turn lane on the eastbound approach, and right-turn lanes on the northbound and southbound approaches.						Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
♦ *New Schulte Road:* Construct New Schulte Road between Hansen Road (the end of the Phase 1 proposed network) and Lammers Road as a two-lane road. ♦ *Intersection #18 (New Schulte Road/Lammers Road):* Install a signal and construct a left-turn lane on the eastbound approach, and right-turn lanes on the northbound and southbound approaches. ♦ *Intersection #19 (Old Schulte Road/Lammers Road):* Install a signal and construct a left-turn lane on the eastbound approach, and right-turn lanes on the northbound and eastbound approaches. ♦ *Intersection #20 (Valpico Road/Lammers Road):* Signalize the intersection and construct a left-turn lane on the southbound approach. ♦ A "trigger" analysis, provided in Table 4.14-12 in Section E.1.a.i, provides the estimated timing for provision of each of the above mitigations, based on Project AM and PM peak hour trip generation. In terms of when the above improvements would need to be constructed, as part of the application process for each individual, site-specific development under the Specific Plan, the applicant will submit a trip generation study for the development at issue or will fund the preparation of this study by the City's consultants. This information will be utilized by the City to determine whether the relevant trip generation thresholds are met, taking into account past Project trip generation studies and the running cumulative total. The City may also take actual traffic counts and operations at the mitigation locations into account (funded by the applicant), in determining when specific improvements need to be constructed. With construction of the required improvements at	City of Tracy	Receipt of Development Application within Specific Plan Area north of New Schulte Road	Development & Engineering Services	Verify that program is in place	Yearly	Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
intersections 10, 18, 19, and 20, impacts to these identified intersections would be less than significant. ♦ Mountain House Parkway/I-205 Bridge Maintenance: At the time a development application is submitted to the City within the area north of new Schulte Road, the city will implement a monitoring program, with yearly traffic counts to compare the increase in traffic volumes from the pre-existing base line condition that uses I-205/Mountain House interchange. The difference or increase in the traffic volume will be used to determine City's fair share maintenance cost for on-going bridge maintenance activities. Once 300 acres of the Specific Plan area has developed, the City of Tracy will either enter into a tri party agreement between Caltrans, MHCSD and the City to pay its fair share maintenance cost or enter in to a separate agreement with MHCSD to pay its fair share maintenance cost thereafter. ♦ The City may also take actual traffic counts and operations at the mitigation locations into account (funded by the applicant), in determining when specific improvements need to be constructed. With construction of the required improvements at intersections 10, 18, 19 and 20, impacts to these identified intersections would be less than significant. Because the improvements to the freeway interchange intersections require the approval of Caltrans, the impacts at intersections 1, 2, 6 and 7 remain significant and unavoidable.						Initials: Date:
TRANS-2/9: The Project will contribute to capacity improvements in San Joaquin County through payment of the RTIF in accordance with applicable laws and regulations. However, because neither full funding for the	Developers	Prior to issuance of building permits	Development & Engineering Services	Obtain proof of payment and retain for administrative record	Once per individual development project	Initials: Date: Initials:

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Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
necessary improvements, which would involve the widening of Interstate 205, nor prioritization of such improvements above others in the RTIF can be assured, the payment of regional traffic fees does not guarantee to fully mitigate this impact.						Date: Initials: Date: Initials: Date:
TRANS-7: Each Project applicant will pay the applicable TMP Program Fee, the RTIF, and any other applicable transportation fees that may be in place when individual projects are processed under the Specific Plan in accordance with applicable laws and regulations.	Developers	Prior to issuance of building permits	Development & Engineering Services	Obtain proof of payment and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
TRANS-8: The Project will construct the following improvements, in accordance with then-applicable engineering standards and requirements and as determined by the City Engineer: ♦ *Intersection #1 (Mountain House Parkway/I-205 Westbound Ramps):* • 2035 Plus Phase 1 mitigation: Change the striping from two left turns and one through-right (which is recommended in Mitigation Measure TRANS-1 to mitigate the Existing Plus Phase 1 impact) to one through-left and two right-turn lanes, and change the signal phasing to allow westbound	Project Proponents	Prior to issuance of building permits	Development & Engineering Services	Plan review/ Site inspection	Twice per improvement	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
right turns and southbound throughs to run concurrently on the same phase. Shall implement this mitigation measure in coordination with Caltrans, when appropriate, based on periodic traffic volume monitoring by the City. It is expected to be needed when both the southbound through and westbound left-turn volumes grow substantially (in either peak hour), relative to the current volumes. ♦ *Intersection #4 (New Schulte Road/Mountain House Parkway):* Signalize the intersection. ♦ *Intersection #18 (New Schulte Road/Lammers Road):* Add a right-turn lane to the eastbound approach, for a mitigated configuration of one left turn lane, two through lanes, and one right-turn lane. ♦ *Intersection #20 (Valpico Road/Lammers Road):* Add a second southbound left-turn lane, for a mitigated configuration of two left-turn lanes, three through lanes, and one right-turn lane. ♦ Ramp metering, with two mixed-flow lanes and 1 HOV bypass lane for the eastbound I-205 loop on-ramp.						
TRANS-10: Each Project applicant will pay the applicable TMP Program Fee, the RTIF, and any other applicable transportation fees that may be in place when individual projects are processed under the Specific Plan in accordance with applicable laws and regulations. In addition to the above mitigation, the following interchange improvements have been identified based on 2035 Plus Build-Out traffic turn movement projections derived from the roadway segment projections in the DEIR. These mitigations will be provided through a combination of the City Transportation Master Plan fee,	Developers	Prior to issuance of building permits	Development & Engineering Services	Obtain proof of payment and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
state and federal funding sources. Planning, design and construction of these improvements will require coordination between the City, Caltrans, Mountain House Community Facilities District, and the San Joaquin County Council of Governments. Since the traffic projections for the 2035 Plus Build-Out case, that form the basis for these improvement designs, are speculative due to uncertainty regarding how long it will take for the Project to build out and regarding changes in regional land use and demographic changes over that period, the City will require that a re-assessment of traffic forecasts and projected operating conditions at these two interchanges be performed upon completion of Phase 1 of the Project. The re-assessment will include forecasts of traffic through Project Build-Out, to the appropriate horizon year at the time the re-assessment occurs, and the forecasts will include all other planned/projected land use growth and planned/funded infrastructure projects in Tracy and the region, through the horizon year. Based on the re-assessment, the design and timing of the two interchange improvements will be adjusted if appropriate, and the City will continue to work with the above agencies to plan, design and construct the improvements based on the updated design and schedule. This process will include all necessary steps to comply with the requirements of CEQA. At the I-205/Mountain House Parkway Interchange, the City of Tracy will prepare a Project Study Report - Project Development Support (PSR-PDS) document to study long-term improvements at the interchange, using the appropriate cumulative conditions forecasts available at the time of PSR-PDS preparation, which may be those in the FEIR, the volumes developed in the re-assessment described above, or another set of updated forecasts that include build-out of Cordes Ranch Specific Plan and the	City of Tracy	Completion of construction of Phase I	Development & Engineering Services	Prepare Project Study Report - Project Development Support (PSR-PDS) document	Once, following completion of construction of Phase I	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
Mountain House community; the City will coordinate with Caltrans, San Joaquin County, Mountain House Community Services District, and San Joaquin Council of Governments (SJCOG) in the preparation of the document. ♦ The PSR-PDS will identify the interchange design for Cumulative Conditions based on one of the following improvement options. The PSR-PDS will also identify the ultimate footprint of the interchange in order to preserve the required right-of-way before development occurs in the vicinity of the I-205/Mountain House Parkway Interchange. It is noted that Caltrans has indicated a preference for Option 3 because Caltrans believes Option 3 would provide the best traffic operation. ♦ Option #1 -- Signal Controlled Ramps with Existing Bridge: Construct a northbound-to-westbound loop on-ramp, including relocation and potential widening of the westbound off-ramp, and reconstructing the southbound to eastbound loop on-ramp to eliminate the free movement. ♦ Option #2: Signal Controlled Ramps with Widened Bridge: Construct a northbound-to-westbound loop on-ramp, including relocation and potential widening of the westbound off-ramp, and reconstruct the southbound to eastbound loop on-ramp to eliminate the free movement. In addition to the ramp improvements, the existing bridge would be widened by one lane to accommodate the additional width necessary to achieve improved LOS. The widening would occur within Caltrans						

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
existing right-of-way. ♦ Option #3: Free Flow Ramps with Existing Bridge: Construct of a northbound-to-westbound loop ramp, including relocation and potential widening of the westbound off-ramp to provide a second left turn lane (for a total of one left-turn lane, one through-left, and two right-turn lanes) that operates in the same phase as the southbound through movement.. Based on analysis of 2035 Plus Project Buildout Conditions, option #3, with a partial cloverleaf on both the north and south sides of I-205 would provide acceptable LOS D conditions during both AM and PM Peak Hour Conditions. Therefore, the PSR-PDS will identify the ultimate footprint of the interchange in order to preserve the required right-of-way before development occurs in the vicinity of the I-205.Mountain House Parkway Interchange. At the I-580/Patterson Pass Interchange the City of Tracy will prepare a Project Study Report – Project Development Support (PSR-PDS) document to study long-term improvement options at the interchange, using the appropriate cumulative conditions forecasts available at the time of PSR-PDS preparation, which may be those in the FEIR, the volumes developed in the re-assessment described above, or another set of updated forecasts that include build-out of the Cordes Ranch Specific Plan and the Mountain House community. The document will study the following interchange improvements. The City will coordinate with Caltrans, San Joaquin County, and San Joaquin Council of Governments (SJCOG) in the preparation of the document:						

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
➢ Construction of a partial cloverleaf (par-clo) interchange on the south side of I-580, and a spread diamond configuration on the north side of I-580. This will provide the required right-of-way for a northbound Patterson Pass to westbound I-580 loop on-ramp; ➢ Add a two-lane southbound Patterson Pass to eastbound I-580 loop on-ramp with ramp metering; ➢ Provide ramp metering on the northbound to eastbound ramp and the southbound to westbound ramp; ➢ Widen the bridge to four lanes; ➢ At the Patterson Pass/I-580 Eastbound Ramps intersection, on the northbound approach, provide on through lane and one right-turn lane; southbound, one through lane and two right-turn lanes feeding the loop on-ramp; and eastbound (I-580 off-ramp), one left-turn lane, one through-left, and one right-turn lane; and ➢ At the Patterson Pass/I-580 Westbound Ramps intersection: on the northbound approach, one left-turn lane and two through lanes; southbound, two through lanes and one right-turn lane; and westbound (I-580 off-ramp), one through-left lane and two right-turn lanes. These improvements will provide LOS C or better operation at the ramp terminal intersections, based on 2035 Plus Project Build-Out volumes estimated from the roadway segment volumes presented in the DEIR.						
TRANS-14: Implement Mitigation Measures TRANS-7 and TRANS-10.	Developers/City of Tracy	Prior to issuance of building permits/	Development & Engineering Services	Obtain proof of payment and retain for	Once per individual development	Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
		Completion of construction of Phase I		administrative record/ Prepare Project Study Report - Project Development Support (PSR-PDS) document	project/ Once, following completion of construction of Phase I	
UTIL-1: To ensure the construction of the necessary WSMP facilities, the Project shall be required to pay appropriate development impact fees as contemplated by WSMP.	Developers	Prior to issuance of building permits	Development & Engineering Services	Obtain proof of payment and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
UTIL-2a: At no cost to the City, flow monitoring equipment shall be installed in the Hansen Sewer Line, as approved by the City, prior to the issuance of the certificate of occupancy for the first (1st) building constructed as part of the Project. Flow monitoring shall be used to determine available capacities to serve site-specific developments proposals under the Specific Plan. In monitoring flows for purposes of determining available capacity, the initial 0.145 shall be attributable to those lands within the Specific Plan identified in the proposed development agreement.	Project Proponents	Prior to issuance of first occupancy permit	Development & Engineering Services	Plan review/ Site inspection	Twice	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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SUMMARY OF MITIGATION MEASURES AND MONITORING PROGRAM FOR THE CORDES RANCH SPECIFIC PLAN (CONTINUED)

Mitigation Measures	Party Responsible for Implementation	Implementation Trigger/Timing	Agency Responsible for Monitoring	Monitoring/ Reporting Action	Monitoring Frequency	Monitoring Compliance Record (Name/Date)
UTIL-2b: As part of the development process for each individual site-specific development under the Specific Plan, the applicant shall pay its applicable development impact fees for wastewater facilities prior to issuance of building permits.	Developers	Prior to issuance of building permits	Development & Engineering Services	Obtain proof of payment and retain for administrative record	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:
UTIL-2c: As part of the development process for each individual site-specific development under the Specific Plan, the City shall review flow monitoring, at the applicant's cost, to determine available capacity. If the City determines, based on technical and legal constraints and other relevant data, that existing capacity is available to serve the development at issue, then no further mitigation is required. However, if the City determines, based on technical and legal constraints and other relevant data, that existing capacity is not available to serve the development at issue, then the improvements as identified in the Master Plan must be constructed that are necessary to create the additional capacity required, subject to any applicable credit and/or reimbursement provisions, as determined by the City.	Public Works Department	Following occupancy	Development & Engineering Services	Review monitoring results	Once per individual development project	Initials: Date: Initials: Date: Initials: Date: Initials: Date:

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RESOLUTION 2013- _____

CITY COUNCIL APPROVAL OF A GENERAL PLAN AMENDMENT, THE CORDES RANCH SPECIFIC PLAN, AND PETITION FOR ANNEXATION OF THE CORDES RANCH SITE INTO THE CITY OF TRACY, APPLICATION NUMBERS GPA13-0002 AND A/P13-0001

WHEREAS, On February 1, 2011, the City of Tracy adopted a General Plan ("General Plan"), which guides the growth of the City of Tracy (Resolution 2011-029); and

WHEREAS, A Final Environmental Impact Report ("FEIR") for the General Plan (SCH# 2008092006) was certified in 2011, which considered the environmental consequences of the adoption of the General Plan and included the adoption of a series of self-mitigating goals, policies, actions, and mitigation measures; and

WHEREAS, With certification of the FEIR in 2011, the City Council of the City of Tracy adopted a Statement of Overriding Considerations (Resolution No. 2011-028) for a number of unavoidable significant impacts identified within the General Plan FEIR, which is incorporated herein by reference; and

WHEREAS, The General Plan establishes areas for future growth, and identifies one of those areas as Urban Reserve 6, otherwise known as the Cordes Ranch site; and

WHEREAS, Applications were submitted to the City of Tracy for the Cordes Ranch Specific Plan, a General Plan Amendment, and Prezoning/Annexation (Application Numbers GPA13-0002 and A/P13-0001); and

WHEREAS, A Final Environmental Impact Report ("FEIR") for the Cordes Ranch Specific Plan (and related applications) (SCH No. 2011122015) was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and recommended for City Council approval by Planning Commission Resolution No.2013-0014; and

WHEREAS, The Cordes Ranch Specific Plan constitutes a comprehensive, long-range planning document consistent with the General Plan and capable of guiding development within the planning area, and meets all requirements of the California Planning and Zoning Law and all other applicable codes; and

WHEREAS, Pursuant to Tracy Municipal Code section 10.20.060(b), the Cordes Ranch Specific Plan is consistent with the City's General Plan, adequately describes all the infrastructure needed to support the land uses described in the Specific Plan, including detailed plans and technical studies that show how infrastructure will be funded and implemented, and otherwise meets all requirements of the California Planning and Zoning Law and all other applicable codes; and

WHEREAS, The adoption of the Cordes Ranch Specific Plan is in the public interest, in general, and specifically in the interests of the City and residents within the Tracy Planning Area; and

WHEREAS, The Cordes Ranch Specific Plan is consistent with the goals and policies of the General Plan and with the purposes, standards and land use guidelines therein; and

WHEREAS, The Cordes Ranch Specific Plan creates a major employment area within the Tracy Planning Area, increasing the local employment opportunities for City residents; and

WHEREAS, On July 30, 2013, the Planning Commission, following a duly noticed public hearing, in accordance with State law, considered and recommended to City Council approval of the Cordes Ranch Specific Plan, General Plan Amendment, and the Prezoning and Annexation of the Cordes Ranch Specific Plan site,

NOW, THEREFORE BE IT RESOLVED as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as findings.

2. Compliance with CEQA. The Final Environmental Impact Report ("FEIR") for the Cordes Ranch Specific Plan (SCH No. 2011122015, certified City Council by Resolution No. 2013-_____, and incorporated herein by this reference) was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA").

3. General Plan Amendment Approval. The City Council hereby approves a General Plan Amendment GPA13-0002, as attached to the September 3, 2013 Staff Report as Attachment "B".

4. Specific Plan Approval. The City Council hereby approves the Cordes Ranch Specific Plan, as attached to the September 3, 2013 City Council Staff Report as Attachment "A".

5. Petition for Annexation. The City Council hereby approves the preparation by City Staff and submission to the San Joaquin County Local Agency Formation Commission of a petition for annexation to the City of the Cordes Ranch Specific Plan area pursuant to the applicable requirements of the Cortese-Knox-Hertzberg Act and the California Government Code.

6. Effective Date. This resolution shall be effective immediately.

The foregoing Resolution 2013- was passed and adopted by the City Council of the City of Tracy on the 3rd day of September 2013, by the following vote:

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

_____
Mayor

ATTEST:

_____
City Clerk

ORDINANCE___

AN ORDINANCE OF THE CITY OF TRACY APPROVING A DEVELOPMENT AGREEMENT WITH PROLOGIS, LP

APPLICATION DA11-0001

WHEREAS, in June, 2013, Prologis, LP applied for a development agreement (Application No. DA11-0001) which would provide funding towards the creation of City amenities or for uses deemed appropriate by the City Council; and

WHEREAS, on June 4, 2013, the City Council, directed staff to enter into negotiations with Prologis, LP for a proposed development agreement; and

WHEREAS, pursuant to the California Environmental Quality Act and its implementing regulations (collectively, "CEQA"), the City caused the preparation of a Final Environmental Impact Report (SCH No. 2011122015 (the "FEIR") for the Cordes Ranch Specific Plan Project Applications, which applications include Prologis' application for the proposed development agreement as well as the proposed Cordes Ranch Specific Plan, General Plan amendment, prezoning, municipal code amendments, and annexation of the Cordes Ranch Specific Plan site, and

WHEREAS, pursuant to California Government Code Section 65867, the Planning Commission reviewed the proposed development agreement substantially in the form of Exhibit "1" hereto (the "Development Agreement"), in conjunction with other Cordes Ranch Project applications, and

WHEREAS, on July 30, 2013, the Planning Commission, following duly noticed and conducted public hearing, in accordance with state law, recommended approval of the proposed Development Agreement to the City Council; and

WHEREAS, the proposed Development Agreement is consistent with the General Plan, and the Cordes Ranch Specific Plan, for the reasons set forth in the staff report to City Council dated September 3, 2013.

The city council of the City of Tracy hereby does ordain as follows:

1. Recitals. The foregoing recitals are true and correct and are incorporated herein as findings.

2. Compliance with CEQA. The FEIR was prepared in compliance with the requirements of CEQA and was approved and certified by the City Council by Resolution No. ____, and incorporated herein by this reference.

3. Findings regarding Development Agreement. The City Council finds that the proposed Development Agreement:

a. is consistent with the objectives, policies, general land uses and programs specified in the City General Plan (attached hereto as Exhibit "2" Consistency findings between the General Plan and the Development Agreement) and the Cordes Ranch Specific Plan;

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

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

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

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

4. Development Agreement Approval. The City Council hereby approves the Development Agreement with Prologis, LP attached hereto as Exhibit "1".

5. Effective Date. This Ordinance takes effect 30 days after its final passage and adoption.

6. Publication. This Ordinance shall be published once in the San Joaquin Edition of the Tri-Valley Herald, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

This Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 3rd day of September, 2013, and finally adopted on the _____ day of _____, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

Exhibit 1

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
City of Tracy
Attn: Tracy City Clerk
333 Civic Center Plaza
Tracy, CA 95376

RECORDING FEE EXEMPT
PURSUANT TO GOVERNMENT CODE
SECTION 27383

DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF TRACY AND PROLOGIS, L.P.

DEVELOPMENT AGREEMENT BY AND BETWEEN
THE CITY OF TRACY AND PROLOGIS, L.P.,

This DEVELOPMENT AGREEMENT ("***Agreement***") is made by and between the City of Tracy ("***City***"), a municipal corporation, and Prologis, L.P., a Delaware limited partnership ("***Prologis***"). City and Prologis each may sometimes be referred to herein as a "***Party***" and collectively as the "***Parties***."

RECITALS

A. The Legislature enacted Government Code Section 65864 *et seq*. ("***Development Agreement Statute***") in response to the lack of certainty in the approval of development projects, which can result in a waste of resources, escalate the cost of housing, and discourage investment in and commitment to planning that would maximize the efficient utilization of resources. The Development Agreement Statute is designed to strengthen the public planning process, encourage private participation in comprehensive, long-range planning, and reduce the economic costs of development. It authorizes a city to enter into a binding agreement with any person having a legal or equitable interest in real property located in unincorporated territory within that city's sphere of influence regarding the development of that property.

B. Pursuant to the Development Agreement Statute, City has adopted procedures and requirements for the consideration of development agreements, which are set forth in Tracy City Council Resolution No. 2004-368 and Attachment A thereto ("***City Development Agreement Procedures***"). This Agreement has been prepared, processed, considered and adopted in accordance with such procedures.

C. On September 3, 2013, following review and recommendation by the City of Tracy Planning Commission and after a duly noticed public hearing, the City Council of City took the following actions (collectively, the "***Initial Approvals***"):

1. By Resolution No. 2013-____, amended the City of Tracy General Plan to make certain conforming amendments to ensure consistency between the City's General Plan and the Project, as defined below ("***General Plan Amendment***").

2. By Resolution No. 2013-____, adopted the Cordes Ranch Specific Plan ("***Specific Plan***"), which is intended to comprehensively plan for and implement development of approximately one thousand seven hundred and eighty (1,780) acres ("***Specific Plan Area***"), as further depicted more in attached Exhibit 1. The Specific Plan is intended to create a state-of-the-art commerce and business park by establishing land use, zoning and development standards and regulations to provide for the phased development of approximately thirty one (31) million square feet of general commercial, general office and business park industrial uses, related on- and off-site infrastructure, and passive and active use open space areas, trails, joint use park/detention facilities, and other related improvements, as described more fully therein ("***Project***"). Among other things, the Project is intended to provide sufficient flexibility to City and the property owners within the Specific Plan Area (including Prologis, among others) to attract a variety of employment-generating uses to the City, while ensuring that the City remains revenue-neutral with respect to the

development and operation of the Project, and ensuring that the Project does not adversely impact the City's budget or General Fund.

3. Conducted the first reading of Ordinance No. ____, an ordinance amending the text of the City's Zoning Code to reflect a new pre-zoning designation of "Cordes Ranch-Specific Plan (CR-SP)" for the Specific Plan Area, and amending the City's Zoning Map to show the Specific Plan Area as pre-zoned to "Cordes Ranch-Specific Plan (CR-SP)" (collectively, "***Zoning Amendments***").

4. Conducted the first reading of Ordinance No. ___, an ordinance approving this Agreement and directing this Agreement's execution by City ("***Approving Ordinance***").

5. By Resolution No. 2013-____, adopted a Resolution of Intention to Initiate Annexation Proceedings to initiate the process of annexing the Specific Plan Area to the City ("***Annexation Resolution***").

6. In support of the foregoing actions, by Resolution No. 2013-___, and pursuant to and in compliance with the applicable provisions of the California Environmental Quality Act ("***CEQA***") certified an Environmental Impact Report for the Project (State Clearinghouse No. 2011122015) ("***EIR***"), adopted written findings relating to significant environmental impacts, adopted a Statement of Overriding Considerations, and adopted a mitigation monitoring and reporting plan that incorporated all identified mitigation measures set forth in the Project EIR ("***MMRP***").

D. On _____, 2013 ("***Effective Date***"), the City Council conducted the second reading of and adopted the Zoning Amendments and the Approving Ordinance.

E. Prologis is the legal owner of approximately one thousand two hundred and thirty eight (1,238) acres within the Specific Plan Area ("***Property***"), as more particularly described and depicted on attached Exhibit 2.

AGREEMENT

Based on the foregoing recitals, the truth and accuracy of which are hereby acknowledged and incorporated into and made a part of this Agreement, and in consideration of the mutual covenants and promises contained herein and other consideration, the value and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

SECTION 1. DEFINITION OF TERMS.

This Agreement uses certain terms with initial capital letters that are defined in this Section 1 below or elsewhere in this Agreement. City and Prologis intend to refer to those definitions when the capitalized terms are used in this Agreement.

1.1 "**Actual Wastewater Generation Rate**" means the average dry weather flows (ADWF) that occur as a result of a particular use, through documentation from potable water meters (not including irrigation), which shall be used to verify the actual rate of wastewater generation for the particular use at issue. Such rate shall be the

average calculated rate using the actual water bills (not irrigation) for the preceding twelve (12) months.

1.2 "**Additional Wastewater Facilities Payment**" has the meaning set forth in Section 6.2(b).

1.3 "**Additional Wastewater Treatment Capacity Obligation**" has the meaning set forth in Section 3.3(c)(ii).

1.4 "**ADWF**" means the average dry weather flows as further described in the Tracy Wastewater Master Plan.

1.5 "**Adjusted Master Plan Fee Obligation**" has the meaning set forth in Section 6.3.

1.6 "**Agreement**" has the meaning set forth in the Preamble.

1.7 "**Annexation Resolution**" has the meaning set forth in Recital C(5).

1.8 "**Annexation Date**" means the date upon which the annexation of the Specific Plan Area to City is deemed complete under Government Code Section 57203.

1.9 "**Approving Ordinance**" has the meaning set forth in Recital C(4).

1.10 "**Assignee**" has the meaning set forth in Section 11.1.

1.11 "**Master Plan Fee Obligation**" has the meaning set forth in Section 6.3(b).

1.12 "**Building Permit**" means the document issued by City's Building Official authorizing the holder to construct a building or other structure, as provided for in the City of Tracy Municipal Code.

1.13 "**California Aqueduct Bridge Work**" means the bridge upgrades and/or replacement and bridge widening of that section of Mountain House Parkway that crosses the California Aqueduct between the I-580 Interchange and Old Schulte Road, as further described in the TMP.

1.14 "**CEQA**" has the meaning set forth in Recital C(6).

1.15 "**Certificate of Occupancy**" means a final certificate of occupancy issued by City's Building Official or, if City's Building Code does not provide for the issuance of a certificate of occupancy for a particular structure, the functional equivalent thereto, as provided for in the City of Tracy Municipal Code.

1.16 "**City**" has the meaning set forth in the Preamble.

1.17 "**City Council**" means the Tracy City Council.

1.18 "**City Development Agreement Procedures**" has the meaning set forth in Recital B.

1.19 "**Citywide Infrastructure Master Plans**" means, collectively, the following City of Tracy Citywide Master Plans: the Citywide Public Facilities Master Plan, the Citywide Public Safety Master Plan, the Tracy Wastewater Master Plan, the Citywide Water System Master Plan, the Citywide Transportation Master Plan, and the Citywide Stormwater Drainage Master Plan."

1.20 "**Citywide Public Facilities Master Plan**" means that certain Citywide Public Facilities Master Plan adopted by City, dated January 2013 and in effect on the Effect Date.

1.21 "**Citywide Public Safety Master Plan**" means that certain Citywide Public Safety Master Plan adopted by City, dated March 2013 and in effect on the Effective Date.

1.22 "**Citywide Transportation Master Plan**" or "**TMP**" means that certain Citywide Roadway & Transportation Master Plan adopted by City in November 2012 and in effect on the Effective Date.

1.23 "**Citywide Storm Drainage Master Plan**" means that certain Citywide Storm Drainage Master Plan adopted by City, dated November 2012 and in effect on the Effective Date.

1.24 "**Citywide Water System Master Plan**" means that certain Citywide Water System Master Plan adopted by City, dated December 2012 and in effect on the Effective Date.

1.25 **"Citywide Master Plan Fee Program"** has the meaning set forth in Section 6.3(a).

1.26 "**Claims**" has the meaning set forth in Section 11.14.

1.27 "**Community Facilities District**" or "**CFD**" means a financing district formed under the Mello-Roos Community Facilities Act of 1982, pursuant to Government Code Section 53311 *et seq*.

1.28 "**County Recorder**" means the San Joaquin County Recorder, which is responsible, in part, for recording legal documents that determine ownership of real property and other agreements related to real property.

1.29 "**County RTIF**" means the San Joaquin County Regional Transportation Impact Fee Program.

1.30 "**CUP**" means a conditional use permit approved by City pursuant to this Agreement and the Tracy Municipal Code.

1.31 "**Days**" means calendar days. If the last day to perform an act under this Agreement is a Saturday, Sunday or legal holiday in the State of California, said act may

be performed on the next succeeding calendar day that is not a Saturday, Sunday or legal holiday in the State of California and in which City offices are open to the public for business.

1.32 "**Deferred Fee Amount**" has the meaning set forth in Section 6.3(c).

1.33 "**Deferred Fee Program**" has the meaning set forth in Section 6.3(c).

1.34 "**Development Agreement Statute**" has the meaning set forth in Recital A.

1.35 "**Development Impact Fee**" means any requirement of City in connection with a Project Approval for the dedication or reservation of land, the construction of any Project Infrastructure or other public improvements, or the payment of fees which City imposes for the purpose of lessening, offsetting, mitigating or compensating for the impacts of Project development on the environment; facilities, services and infrastructure; and other public interests.

1.36 "**Development Services**" means the City's Development Services Department.

1.37 "**Development Services Director**" means the head of Tracy's Development Services Department and the Chief Planning Officer.

1.38 "**Dispute**" has the meaning set forth in Section 10.1.

1.39 "**Effective Date**" has the meaning set forth in Recital D.

1.40 "**EIR**" has the meaning set forth in Recital C(6).

1.41 "**Elected Fee Amount**" has the meaning set forth in Section 6.4(a).

1.42 "**Eminent Domain Costs**" means, collectively, the following in connection with the acquisition of identified Offsite Lands: the appraised fair market value of the Offsite Lands at issue; staff costs; filing fees, witness fees and court costs; any deposits necessary to obtain orders of prejudgment possession, satisfaction of judgments, severance damages, interest, loss of goodwill, relocation costs, pre-condemnation damages and defendants' attorneys fees; appraisal costs; and reasonable attorneys' fees for City 's eminent domain counsel (if any).

1.43 "**Eminent Domain Law**" has the meaning set forth in Section 3.8(b).

1.44 "**Enforced Delay**" has the meaning set forth in Section 8.4.

1.45 "**Enhanced Community Benefit Fee**" has the meaning set forth in Section 6.1.

1.46 "**ENR**" means the Engineering News Record ("***ENR***") Construction Cost Index (overall-California).

1.47 "**Estimated Wastewater Generation Rate**" means the average dry weather flows (ADWF) (which will be used for wastewater treatment capacity and the PWWF will be used for conveyance or pipe facilities), which occur as a result of a particular use, which is documented through appropriate means, including, without limitation, reliance on prior information and data from similar uses, documentation from potable water meters (not including irrigation), the number of proposed fixtures, or any other reasonable means of estimating the ADWF generation rate for the particular use at issue.

1.48 "**Existing Rules**" means the Rules, Regulations and Policies in effect on the Effective Date.

1.49 "**Finished Lot**" means a legally subdivided lot with utilities stubbed out to the property line of said Lot.

1.50 "**FIP**" means the Finance and Implementation Plan adopted by City for the Property as provided for and required by this Agreement and the Tracy Municipal Code Section 10.20.060(b)(3).

1.51 "**General Plan Amendment**" has the meaning set forth in Recital C(1).

1.52 "**Hansen Lift Station**" means that certain existing wastewater lift station located at the intersection of Corral Hollow Road and Clover Road.

1.53 "**Hansen Trunk Line**" means that certain existing twenty-one inch (21") wastewater conveyance line described and shown in the Capacity Analysis of the Hansen Sewer Collection System prepared by Ruark and Associated dated December 2006.

1.54 "**I-580 Interchange Work**" means, collectively, the I-580/Mountain House Parkway Interchange and the Canal Bridge crossing over the California Aqueduct, as further described in the TMP.

1.55 "**Initial Approvals**" has the meaning set forth in Recital C.

1.56 "**Initial Conveyance Amount**" has the meaning set forth in Section 3.3(d).

1.57 "**Initial Fees**" has the meaning set forth in Section 6.3(b).

1.58 "**Initial Potable Water Service Obligation**" has the meaning set forth in Section 3.3(a).

1.59 "**Initial Wastewater Facilities Payment**" has the meaning set forth in Section 6.2(a).

1.60 "**Initial Wastewater Treatment Capacity Obligation**" has the meaning set forth in Section 3.3(c)(i).

1.61 "**LAFCO**" has the meaning set forth in Section 3.7.

1.62 "**Master Plan Fee Obligation**" has the meaning set forth in Section 6.3(b).

1.63 "**Master Plan Infrastructure**" means, collectively, those on-site (i.e., within the Property) and off-site (i.e., not within the Property) improvements that are necessary or desirable to develop the Project, as described more fully in the Specific Plan and the Citywide Infrastructure Master Plans, and which are not considered Specific Plan Improvements for purposes of this Agreement.

1.64 "**Master Plan Roads**" means any Project roadways contemplated to be developed under the Specific Plan that are also considered Master Plan Infrastructure.

1.65 "**MGD**" means million gallons per day.

1.66 "**MMRP**" has the meaning set forth in Recital C(6).

1.67 "**Mortgage**" means any mortgage, deed of trust, security agreement, sale and leaseback arrangement, assignment or other security instrument encumbering all or any portion of the Property or Prologis' rights under this Agreement, where the Property or a portion thereof or an interest therein, is pledged as security, contracted in good faith and for fair value.

1.68 "**Mortgagee**" means the holder of the beneficial interest under any Mortgage encumbering all or any portion of the Property or Prologis' rights under this Agreement, and any successor, Assignee, or transferee of any such Mortgagee.

1.69 "**Net Acreage**" means the gross acreage of the Property, excluding any and all public rights-of-way, the natural storm drainage channel on the west half of the Property, permanent detention basins, any formally delineated wetlands, and any and all utility easements if not otherwise developed with structures or parking (i.e., a portion of the 150-foot wide PG&E electrical line easement and the 50-foot wide PG&E gas/oil pipeline easement), which acreage is estimated by the Parties to be approximately 1,042 acres.

1.70 "**Notice of Compliance**" has the meaning set forth in Section 8.2.

1.71 "**Notice of Intent to Terminate**" has the meaning set forth in Section 9.2.

1.72 "**Offsite Land**" means lands and/or interests therein other than the Property that are necessary for the construction of any Project Infrastructure, as is further detailed in Section 3.8(a).

1.73 "**Party**" or "**Parties**" has the meaning set forth in the Preamble.

1.74 "**Periodic Review**" has the meaning set forth in Section 8.1.

1.75 "**Permitted Assignees**" has the meaning set forth in Section 8.1.

1.76 "**Permitted Assignment**" has the meaning set forth in Section 11.1(a).

1.77 "**Permitted Interim Improvements**" has the meaning set forth in Section 4.3.

1.78 "**Planning Commission**" means the Tracy Planning Commission.

1.79 "**Program Soft Costs**" has the meaning set forth in Section 5.1(b).

1.80 "**Project**" has the meaning set forth in Recital C(2).

1.81 "**Project Approvals**" means, collectively, the Initial Approvals and Subsequent Approvals.

1.82 "**Project Infrastructure**" means, collectively, the Master Plan Infrastructure and Specific Plan Improvements.

1.83 "**Prologis**" has the meaning set forth in the Preamble.

1.84 "**Prologis Funded Phase**" has the meaning set forth in Section 3.3(c)(iii).

1.85 "**Property**" has the meaning set forth in Recital E.

1.86 **"PWWF**" means the Peak Wet Weather Flow as described in the Tracy Wastewater Master Plan.

1.87 "**Regulatory Processing Fees**" means any and all fees, costs and charges adopted or otherwise imposed by City for the purpose of defraying City's actual costs incurred or to be incurred in the processing and administration of any form of permit, approval, license, entitlement, or formation of a financing district or mechanism, or any and all costs adopted or otherwise imposed by City for the purpose of defraying City 's actual costs of periodically updating its plans, policies, and procedures, including, without limitation, the fees and charges referred to in Government Code Section 66014.

1.88 "**Remaining Elected Fee Amount**" has the meaning set forth in Section 6.4(c).

1.89 "**Rules, Regulations and Policies**" means any and all City laws, rules, regulations, policies and standards governing permitted uses of land; the density and intensity of uses; and the design, improvement, and construction standards and specifications, applicable to development of property, including, without limitation, rules, regulations and policies governing the maximum height and size of proposed buildings, provisions for the reservation or dedication of land for public purposes or payment of fees in lieu thereof, construction, installation and extension of public improvements, and any and all other laws, rules, regulations, policies and standards relating to development or use of real property and applicable to the Project on the Property. Furthermore, for purposes of this Agreement, said Rules, Regulations and Policies shall be those as set forth in Section 3.2(a).

1.90 "**Second Installment**" has the meaning set forth in Section 6.1.

1.91 "**Specific Plan**" has the meaning set forth in Recital C(2).

1.92 "**Specific Plan Area**" has the meaning set forth in Recital C(2).

1.93 "**Specific Plan Improvements**" means, collectively, those on-site (i.e., within the Property) and off-site (i.e., not within the Property) infrastructure and/or improvements that are necessary or desirable to develop the Project, as described more fully in the Specific Plan, and which are not considered Master Plan Infrastructure for purposes of this Agreement. A Specific Plan Improvement may be offered for dedication to City, or, in the alternative, may remain in private ownership, as set forth more fully herein.

1.94 "**Specific Plan Private Improvements**" has the meaning set forth in Section 5.2(a).

1.95 "**Specific Plan Public Improvements**" has the meaning set forth in Section 5.5(b).

1.96 "**Subsequent Approval**" means any and all land use, environmental, building and development approvals, entitlements and/or permits that are necessary or desirable to develop and operate the Project on the Property required subsequent to the Effective Date, including, without limitation, amendments or other modifications to any Initial Approvals; boundary changes; tentative and final subdivision maps, parcel maps and lot line adjustments; subdivision improvement agreements; development review; site plan review; conditional use permits; design review; Building Permits; grading permits; encroachment permits; Certificates of Occupancy; formation of financing districts or other financing mechanisms; and any amendments thereto (administrative or otherwise).

1.97 "**Subsequently Adopted Rules**" has the meaning set forth in Section 3.2(d).

1.98 "**Subsequent Expansions**" has the meaning set forth in Section 3.3(c)(iii).

1.99 "**Term**" has the meaning set forth in Section 2.1.

1.100 "**Tracy Wastewater Master Plan**" means that certain Citywide Wastewater Facilities Master Plan adopted by City, dated December 2012 and in effect on the Effective Date.

1.101 "**Wastewater Generation Accounting Report**" has the meaning set forth in Section 3.3(c)(i).

1.102 "**Wastewater Treatment Facilities Payments**" has the meaning set forth in Section 6.4(d).

1.103 **"Water Supply Agreement"** has the meaning set forth in Section 6.4(b).

1.104 "**Water Tank and Booster Station**" means the above-ground concrete potable water tank, related booster station, and required ancillary facilities, as described more fully in the Specific Plan and the Citywide Water System Master Plan.

1.105 "**WSA**" means the Cordes Ranch Water Supply Assessment, approved by City in January 2013, and included in the EIR.

1.106 "**Zoning Amendments**" has the meaning set forth in Recital (C)(3).

SECTION 2. TERM OF THIS AGREEMENT

2.1 Term of Agreement.

This Agreement shall commence on the Effective Date and shall continue for a period of twenty-five (25) years unless sooner terminated as provided herein ("***Term***"). The Term may be extended at any time before termination by the mutual agreement of the parties in writing and in accordance with City's Development Agreement Procedures.

2.2 Effect of Termination.

Following expiration of the Term (which shall include any mutually agreed upon extensions), this Agreement shall be deemed terminated and of no further force and effect except for any and all obligations expressly provided for herein that shall survive termination.

SECTION 3. CITY OBLIGATIONS REGARDING PROJECT DEVELOPMENT

3.1 Vested Right to Develop the Project.

As of the Effective Date, Prologis shall have the vested right to develop and operate all or any portion of the Property with the Project in accordance with the Specific Plan and this Agreement. The permitted uses of the Property; the density and intensity of such uses; the maximum height and size of proposed buildings; the provisions for the reservation or dedication of land for public purposes or payment of fees in lieu thereof; the construction, installation and extension of public improvements; and the development standards and design guidelines (including, without limitation, density, intensity, height, setbacks, floor area coverage, and building envelopes) shall be as set forth in the Specific Plan and the other Initial Approvals except in the event and to the extent Prologis agrees to any modifications thereto in connection with any Subsequent Approval. In the event of any inconsistency between this Agreement and any other Project Approval, the provisions of this Agreement shall control.

3.2 Rules, Regulations and Policies Governing Development and Operation of the Project.

(a) Applicable Rules, Regulations and Policies. The Rules, Regulations and Policies applicable to the development and operation of the Project on the Property shall be those set forth in: (a) this Agreement; (b) the City's General Plan as it existed on the Effective Date; (c) the City of Tracy Municipal Code as it existed on the Effective Date; (d) the Specific Plan; (e) the MMRP; (f) the Subsequent Approvals, as and when they are issued, approved, or adopted; (g) all other applicable Existing Rules; and (h) any and all applicable Subsequently Adopted Rules.

(b) Processing Subsequent Approvals Generally. The Parties acknowledge that in order to develop the Project on the Property, Prologis will need to

obtain City approval of various Subsequent Approvals that may include, without limitation, tentative and final subdivision maps, parcels maps, lot line adjustments, CUPs, development review, site plan review, Building Permits, grading permits, encroachment permits, and Certificates of Occupancy. For any Subsequent Approval proposed by Prologis, Prologis shall file an application with City for the Subsequent Approval at issue in accordance with the Existing Rules, and shall pay any applicable Regulatory Processing Fees in connection therewith. City shall diligently and expeditiously process each such application in accordance with the Existing Rules, and shall exercise any discretion City has in related thereto in accordance with the terms and conditions of this Agreement.

(c) Processing Lot Line Adjustments. Prologis shall have the right to file an application with City to reconfigure any parcel(s) comprising all or a portion of the Property as may be necessary or desirable, in Prologis' sole discretion, in order to develop, lease or finance all or a portion of the Property in connection with development of the Project, so long as such application is otherwise consistent with the Specific Plan and subject to consistency with the Subdivision Map Act and applicable Tracy Municipal Code requirements. Prologis shall initiate any such parcel reconfiguration through an application for a lot line adjustment in accordance with the Existing Rules, and shall pay any applicable Regulatory Processing Fees in connection therewith. City shall accept such application, provided it is accompanied by an appropriate statement in writing, signed by Prologis, that such re-parcelization is being undertaken pursuant to this Section 3.2(c), and City shall diligently and expeditiously process each such application in accordance with the Existing Rules and this Agreement.

(d) No Conflict with Vested Rights. Subject to Sections 3.2(a)-(c) above, City may adopt new or modified Rules, Regulations and Policies after the Effective Date ("***Subsequently Adopted Rules***"); provided, however, any such Subsequently Adopted Rules shall be applicable to the Project on the Property only to the extent that such Rules are generally applicable to other similar non-residential developments in the City of Tracy and that such application would not conflict with any of the vested rights granted to Prologis under this Agreement. For purposes of this Agreement, any Subsequently Adopted Rule shall be deemed to conflict with Prologis' vested rights hereunder if it:

(i) Seeks to limit or reduce the density or intensity of development of the Project or any part thereof, or otherwise require a reduction in: the total number of proposed buildings; the square footage, floor area ratio, number of floors or height of any proposed buildings; or improvements related thereto;

(ii) Change any land use designation or permitted or conditionally permitted use of the Property or require a change in the amount of any particular land use to be developed on the Property;

(iii) Limit or control the location of buildings, structures, grading, or other improvements of the Project, or limit the hours of operation or uses on the Property, in a manner that is inconsistent with the Initial Approvals;

(iv) Limit the timing or rate of the development of the Project (including, without limitation, the timing of approval and issuance of any

Subsequent Approvals), either with specific reference to the Property or as part of a general enactment that applies to the Property.

(v) Result in Prologis having to substantially delay construction of the Project or require the issuance of additional permits, entitlements or approvals by City not described or contemplated by this Agreement;

(e) Applicable Subsequently Adopted Rules. Notwithstanding the foregoing, City shall not be precluded from applying any Subsequently Adopted Rules to development of the Project on the Property under the following limited circumstances, where the Subsequently Adopted Rules are:

(i) Specifically mandated by changes in state or federal laws or regulations adopted after the Effective Date as provided in Government Code Section 65869.5;

(ii) Specifically mandated by a court of competent jurisdiction;

(iii) Changes to the Uniform Building Code or similar uniform construction codes, or to City's local construction standards for public improvements so long as such code or standard has been adopted by City and is in effect on a Citywide basis; or

(iv) Required as a result of facts, events or circumstances presently unknown or unforeseeable that would otherwise have an immediate and substantially adverse risk on the health or safety of the surrounding community as reasonably determined by City.

In the event that City imposes a Subsequently Adopted Rule on the Project as a result of the occurrence of one of the circumstances set forth in subsection (e)(i)-(iv) above, then the Parties shall work diligently and in good faith to amend this Agreement in a manner to reflect the required Subsequently Adopted Rule while still achieving the underlying purposes of this Agreement.

3.3 Potable Water and Wastewater Service.

(a) Potable Water Supplies. City shall use best efforts to secure additional potable water supplies for the Project to further bolster City's future water portfolio, in accordance with the EIR, including, without limitation, the WSA.

(b) Wastewater Service to the Property. Upon annexation of the Specific Plan Area, City shall serve the Project on the Property with wastewater treatment and conveyance consistent with the EIR, Specific Plan and Tracy Wastewater Master Plan and in accordance with this Section 3.3, subject to such wastewater infrastructure being in place that is required to provide such service as each development occurs on the Property, and provided that Prologis is otherwise in compliance with the terms and conditions of this Agreement.

(c) Wastewater Treatment Plant Capacity.

(i) Upon annexation of the Specific Plan Area, City shall provide wastewater treatment service to the Property, up to 0.145 MGD of wastewater based on ADWFs ("***Initial Wastewater Treatment Capacity Obligation***"). Prologis shall be permitted to develop that amount of acreage within the Property with uses that could be served by this Initial Wastewater Treatment Capacity Obligation, based on the Estimated Wastewater Generation Rates of the proposed uses and Actual Wastewater Generation Rates of the then-existing uses on the Property. Upon annexation, after receipt of a development proposal for all or a portion of the Property, City shall, in consultation with Prologis and at Prologis' sole cost and expense, determine (a) the Estimated Wastewater Generation Rate for such proposal, and (b) the Actual Wastewater Generation Rate for each then-existing use on the Property, which Rates shall be used to determine whether such proposal is covered by the Initial Wastewater Treatment Capacity Obligation. City shall, at Prologis' sole cost and expense, reasonably maintain and update, as appropriate, records of all Estimated Wastewater Generation Rates and Actual Wastewater Generation Rates, which records shall be referred to herein as the Project's "***Wastewater Generation Accounting Report***."

(ii) Upon completion of the next phase of the planned expansion of City's wastewater treatment plant (which is currently estimated to increase its treatment capacity to approximately twelve and one-half (12.5) MGD) as further described in the Tracy Wastewater Master Plan, and provided that Prologis is in compliance with all of its obligations under this Agreement including, without limitation, Prologis' payment obligations set forth in Section 6.2 below, then City shall increase its wastewater treatment service to the Property by an additional 0.255 MGD based on ADWFs (the "***Additional Wastewater Treatment Capacity Obligation***"), for a total of 0.4 MGD of wastewater treatment service to the Property based on ADWF.

(iii) Prologis and City hereby acknowledge and agree that, beyond the Additional Wastewater Treatment Capacity Obligation described in Section 3.3(c)(ii) above, further wastewater treatment service to the Property depends upon subsequent expansions of treatment capacity of the wastewater treatment plant beyond 12.5 MGD ("***Subsequent Expansions***"), as described in the Tracy Wastewater Master Plan. The Subsequent Expansions may be done in incremental phases. City shall take such measures as needed to ensure that all public and private development projects proposing to utilize the Subsequent Expansions, including, without limitation, Prologis, pay their fair shares of the funding needed to construct, maintain and operate the Subsequent Expansions. If sufficient funding from all anticipated users of the Subsequent Expansions is not available to provide further wastewater treatment service to the Property in excess of the Additional Wastewater Treatment Capacity Obligation when Prologis seeks such further wastewater treatment service, then Prologis may, in Prologis' sole and exclusive discretion, fund the balance of the cost of the Subsequent Expansions (including any phase of the Subsequent Expansions) needed to provide such further wastewater treatment service to the Property ("***Prologis' Funded Phase***"). In such a case, Prologis shall be reimbursed for that portion of the Prologis Funded Phase that exceeds Prologis' fair share of such funding. Except as provided in the City's Capital Improvement Plans and applicable FIPs, City shall not be obligated to advance funds for any Subsequent Expansions.

(d) <u>Wastewater Conveyance Capacity</u>.

(i) Prologis shall be permitted to use the Hansen Trunk Line and the Hansen Lift Station to accommodate up to 0.145 MGD (based on Estimated Wastewater Generation Rates and Actual Wastewater Generation Rates) ("***Initial Conveyance Amount***") based on ADWF, to serve development of the Project on the Property on a temporary basis, until such time as the ultimate improvements required to serve the Property, as identified in the Tracy Wastewater Master Plan, are completed. City agrees that no development proposal shall be required, as a condition of approval, either to (i) construct, or (ii) wait for the completion of the construction of, additional wastewater conveyance facilities to serve proposed uses that are covered by this Initial Conveyance Amount.

(ii) Once the Initial Conveyance Amount is utilized by the Project, then Prologis shall be permitted to continue to use the Hansen Trunk Line and the Hansen Lift Station, so long as sufficient capacity is available (based on Estimated and Actual Wastewater Generation Rates as determined by City), until such time as the ultimate improvements required to serve the Property, as identified in the Tracy Wastewater Master Plan, are triggered, as determined by City.

(iii) Prologis shall pay a sewer connection fee to City in accordance with, and in an amount sufficient to satisfy Prologis' proportionate fair share of the reimbursement requirements set forth in, Section 4(e) of the Water Supply and Sewage Services Agreement between King & Lyons, Safeway, Inc., and the City dated September 19, 1991, as determined by City.

(e) Potable Water Conveyance Capacity. In accordance with Section 4.2 below, construction of all potable water system infrastructure necessary to serve the Project shall be completed in accordance with the Specific Plan and the Citywide Water System Master Plan.

3.4 Prologis' Application for Non-City Permits and Approvals.

City shall cooperatively and diligently work with Prologis in its efforts to obtain any and all such non-City permits, entitlements, approvals or services as are necessary to develop and operate the Project in order to assure the timely availability of such permits, entitlements, approvals and services, at each stage of Project development.

3.5 Processing of Applications for Subsequent Approvals.

The Parties acknowledge and agree that the Specific Plan's implementation process for the Project has been designed in a manner to facilitate the expeditious and efficient processing of Subsequent Approvals, and that the Parties intend to work cooperatively, diligently and in good faith to accomplish these objectives. Accordingly, City shall cooperate and diligently work with Prologis to promptly process and consider all applications for Subsequent Approvals in a timely manner (provided such application(s) are in a proper form and include all required information and payment of any applicable Regulatory Processing Fees), in accordance with Prologis' vested rights granted hereunder, and taking into consideration such factors, among others, as cost efficiencies, economies of scale, and best engineering practices. In the event that City and Prologis mutually determine that it would be necessary to retain additional personnel or outside consultants to assist City to expeditiously process any Subsequent Approval, City may retain such additional personnel or consultants, and shall direct any such

additional personnel or consultants to work cooperatively and in a cost-efficient and timely manner with Prologis to accomplish the objectives under this Section 3.5; provided, however, that Prologis shall pay all costs associated therewith, although said personnel or consultants shall be under City's direction. City shall retain the full range of its discretion in its consideration of any and all Subsequent Approvals as provided for under applicable law.

3.6 Preparation of Cordes Ranch FIP; Prioritization of Interchange Improvements; Obligation to Seek Inclusion of Road Improvements in County RTIF.

(a) Finance and Implementation Plan. Within ninety (90) days of the Effective Date, it is anticipated that City will prepare a FIP for the Project at Prologis' sole cost and expense, which will be designed to assist City and Prologis to implement the various infrastructure obligations related to the Project on the Property and as required hereunder. City agrees: (i) the FIP shall be consistent with this Agreement and be designed to facilitate its purposes, and (ii) in the case of any conflict between the FIP and this Agreement, this Agreement shall prevail.

(b) Prioritization of Improvements in County RTIF Program. City agrees to work diligently and in good faith with San Joaquin County and Prologis to modify the County RTIF to include, as promptly as feasible, the I-580 Interchange Work and the I-205/Mountain House Interchange and to list said improvements as priority projects.

(c) Prioritization of Improvements. The Parties acknowledge and agree that the I-580 Interchange Work is particularly important to have in place for the Project, and therefore the Parties agree to take the following steps to facilitate construction of said improvements, as well as improvements at the I-205/Mountain House Parkway Interchange:

(i) City shall use diligent and good faith efforts to facilitate construction of the I-580 Interchange Work and treat this as a priority improvement project, and in cooperation with Prologis, to identify and secure adequate funding, and expeditiously process the necessary approvals as set forth in subsection (ii) below.

(ii) Subject to the availability of adequate funding, City shall use diligent and good faith efforts to obtain approval of all required permits and entitlements necessary to construct the I-580 Interchange Work and I-205/Mountain House Parkway interchange improvements, including, without limitation, completion of the Project Study Report (or equivalent process) and final design so that these improvement projects are "shovel-ready" within four (4) years of the Effective Date, for purposes of the I-580 Interchange Work, and in the time frames identified in the EIR (Mitigation Measure TRANS-10) for purposes of I-205/Mountain House Parkway interchange improvements. The FIP shall list construction of the I-580 Interchange Work and I-205/Mountain House Parkway interchange improvements as priority improvement projects consistent with this subsection (c)(ii) and shall specify reasonable milestones (both short-term and long-term) to achieve these goals. The Parties agree that if City is not able or willing to meet said milestones, then Prologis shall have the right, but not the obligation, to complete the approval process, subject to applicable laws. In connection therewith, Prologis and City shall work diligently and cooperatively to facilitate said

approval process, as well as its construction, including, without limitation, identifying and securing adequate funding to complete the I-580 Interchange Work and I-205/Mountain House Parkway interchange improvements. Prologis may, but shall not be obligated to, provide all or a portion of the funding necessary to complete the approval process, subject to fee reconciliation pursuant to Section 6.4 below.

(d) Prioritization of Specified Fees. In the event and to the extent City receives a portion of the County RTIF paid in connection with the Project, City agrees to prioritize the use of such fees for the construction of the I-580 Interchange Work and the I-205/Mountain House Parkway Interchange in the FIP. Promptly upon Prologis' request, City shall make available to Prologis sufficient information and other technical materials as may be necessary to confirm compliance with this Section 3.6(d). In addition, the Parties agree that City shall diligently and in good faith prepare and bring to City Council for its consideration a proposed update to its Citywide Storm Drainage Master Plan to remove the OFF2 drainage area that is southwest of I-580.

3.7 Annexation of Property to City.

City acknowledges and agrees that City is processing the Initial Approvals in connection with the Property and the remaining portions of the Specific Plan Area in anticipation of these lands being expeditiously annexed to City. Within thirty (30) days of City's approval of the Initial Approvals, City shall submit an application to the San Joaquin Local Agency Formation Commission ("***LAFCO***") in accordance with the applicable requirements under state law and LAFCO's local procedures, requesting annexation of the Property (and any other related boundary changes, if necessary) and the remaining portions of the Specific Plan Area into City. Thereafter, City shall diligently and in good faith pursue annexation, consistent with its Annexation Resolution, including, without limitation, preparing and submitting all materials and other information necessary to obtain an application completeness determination from LAFCO; and working with LAFCO staff to expeditiously schedule any required public hearing(s) on the annexation matter. Prologis shall work cooperatively with City to process said annexation application, and shall pay all City costs related to the preparation, submittal and processing of said annexation application, subject to potential reimbursement from other benefitting property owners within the Specific Plan Area. The Parties agree that said annexation application shall not request the inclusion of any other lands beyond the Specific Plan Area.

3.8 Eminent Domain.

(a) Potential Need for Offsite Land. The Parties acknowledge and agree that development of the Project Infrastructure is a critical component of the Project and also may result in key benefits to the community generally. The Parties further acknowledge that fulfilling said obligations may require acquisition of additional lands or interests therein outside the Property. If such acquisition is necessary to develop any aspect of the Project Infrastructure, Prologis shall use commercially reasonable efforts to acquire any and all such land or interest therein ("***Offsite Land***") that are determined to be required to serve the identified uses and structures shown on an application for a proposal for a Subsequent Approval submitted by Prologis. For purposes of this Section 3.8(a), "***commercially reasonable efforts***" shall be defined as: a) paying for an appraisal prepared by a qualified Member of the Appraisal Institute (MAI) retained by

City, in connection with the acquisition of the Offsite Land; and b) offering to acquire the Offsite Land based on such appraisal.

(b) Eminent Domain Proceedings. In the event Prologis fails to reach a satisfactory agreement with the owner of any Offsite Land within a reasonable period of time despite Prologis' commercially reasonable efforts to do so, upon Prologis' request, City shall promptly initiate and diligently pursue and complete eminent domain proceedings under the applicable law to acquire the Offsite Land (Cal. Code of Civ. Proc. Part 3, tit. 7, §§ 1230.010-1273.050, as amended from time to time) ("***Eminent Domain Law***"). Upon acquisition of the Offsite Land, City shall convey such Offsite Land to Prologis to the extent such conveyance is necessary to achieve the public purposes for which said eminent domain proceeding was undertaken, provided Prologis has paid City all of its Eminent Domain Costs and in accordance with the applicable provisions of the Eminent Domain Law. Notwithstanding the foregoing, nothing in this Section 3.8(b) is intended to abrogate City's responsibilities, in the exercise of eminent domain, to satisfy the substantive and procedural requirements of the Eminent Domain Law.

(c) Payment of Eminent Domain Costs. Prologis acknowledges and agrees that if it requests City to initiate and complete eminent domain proceedings as provided for in Section 3.8(b) above, then Prologis shall be obligated to pay any and all Eminent Domain Costs related thereto.

3.9 Life of Project Approvals.

The life of all Initial Approvals and any and all Subsequent Approvals for the Property, including, without limitation, tentative subdivision maps or parcel maps, shall be equal to the Term of this Agreement in accordance with applicable laws, unless this Agreement is earlier terminated pursuant to the provisions hereof, in which event the life of said approvals shall be governed by the applicable provisions of this Agreement with respect to entitlements after termination.

3.10 Timing of Development.

Prologis shall have the right to develop the Project on the Property (or any portion thereof) in such order, at such rate, and at such times as Prologis deems appropriate within its exercise of subjective business judgment. In accordance with Section 4.1 below, the Parties acknowledge and agree that this Agreement contains no requirement that Prologis commence or complete development of the Project or any portion thereof within any specific period of time, and that City shall not impose any such timing requirement on any Subsequent Approval.

SECTION 4. PROLOGIS' OBLIGATIONS RELATING TO PROJECT DEVELOPMENT GENERALLY

4.1 Phasing of Project Development.

Development of the Project is intended to be phased, as generally described and depicted in the Specific Plan, although the Parties agree that Prologis shall have the right to develop the Project in such order, at such rate, and at such times as Prologis

deems appropriate within its exercise of subjective business judgment, in accordance with Section 3.10 above.

4.2 Required Project Infrastructure Generally.

(a) Construction of Necessary Project Infrastructure for Each Development Application. Development shown on each application for a tentative subdivision map, parcel map, development review or other Subsequent Approval submitted by Prologis for the Property shall provide for the construction of any Master Plan Infrastructure and/or Specific Plan Improvement(s) (both public and private) that is determined by City, in its reasonable discretion, necessary to serve the identified uses and structures shown on each said application. Notwithstanding any other provision of this Agreement, all Project infrastructure constructed on the Property shall be in accordance with the applicable Citywide Infrastructure Master Plans, as determined by the City. Subject to the terms and conditions of this Section 4.2, Prologis shall be responsible for either funding or constructing the identified improvements in accordance with the Specific Plan, the Citywide Infrastructure Master Plans and this Agreement. Notwithstanding the foregoing, the Parties agree that Prologis' payment of the applicable Development Impact Fees for recycled water facilities shall be sufficient for purposes of satisfying its fair share obligation, and that Prologis shall not be required to construct any recycled water facilities (except for the inclusion of purple pipe facilities within the Property, as streets are constructed, to facilitate future use of recycled water) as a condition of approval of any development application for the Property.

(b) Determination of Scope of Necessary Infrastructure. City's determination regarding which improvements are necessary for Prologis to develop a proposal as set forth in Section 4.2(a) above shall be consistent with Prologis' vested rights hereunder, and shall be governed by the Existing Rules. The Parties further agree that no additional requirements on Prologis with respect to the Project Infrastructure may be imposed on a development application for the Property beyond those necessary to serve the proposed uses shown on each said application and to provide for the intended function of the improvements and as permitted under this Section 4.2, and beyond those required by Sections 5.2(a) and (b), without Prologis' prior written consent.

4.3 General Construction and Security Obligations. In constructing any Project Infrastructure, Prologis shall (a) provide adequate security in accordance with the requirements of the Subdivision Map Act and City's Subdivision Ordinance; and (b) promptly and diligently oversee and coordinate the construction of said infrastructure in a good and workmanlike manner and free from all defects, and in accordance with the applicable Citywide Infrastructure Master Plans, the Project Approvals, and any other applicable City standards. Any Subdivision Improvement Agreements (or similar improvement agreements) required hereunder shall be in substantially the same form as is typically used by City in accordance with the Subdivision Map Act and City's Subdivision Ordinance and shall be consistent with this Agreement.

4.4 Inspection and Acceptance of Improvements. Any Project Infrastructure constructed by Prologis pursuant to this Agreement shall be subject to all required inspections, including the final inspection, and approval by the City Engineer in accordance with City's Subdivision Ordinance and the Subdivision Map Act. Upon inspection:

(a) Meet and Confer Process. If the City Engineer determines, consistent with Prologis' vested rights hereunder, that the improvement at issue does not meet the applicable requirements and standards, City shall reasonably document this determination and promptly provide this information to Prologis. Prologis and City then shall, within seven (7) Days of the City Engineer's determination or at such other mutually acceptable time, meet and confer regarding any modifications to said improvement necessary to achieve conformity with the applicable requirements and standards.

(b) Remedy of Any Improvement Deficiencies. Following any meet and conferral process pursuant to Section 4.4(a) above, if the Parties have not reached a mutually acceptable approach to addressing any necessary modifications identified by City, and/or Prologis has not corrected, or agreed to correct by a date certain reasonably acceptable to City, the identified deficiencies in the improvement at issue, then City shall have the right, at Prologis' sole cost and expense, to remedy such deficiencies and complete the construction of said improvement in accordance with the applicable requirements and standards, and Prologis shall have no right to receive a credit or to otherwise be reimbursed for the costs of City to complete said construction. These remedies are in addition to any other remedies that may be available in a Subdivision Improvement Agreement or other similar improvement agreement pertaining to the Property as a result of any Subsequent Approval.

(c) Roadway Construction. For all roadways constructed by Prologis (both Master Plan Infrastructure and Specific Plan Improvements), Prologis shall install all required service facilities (i.e., potable water, wastewater, underground storm lines, recycled water), lighting, and storm drainage facilities concurrently with the installation of said roadways, subject to any mutually agreed-upon interim improvements in accordance with Sections 4.5 and 4.6 below. Prologis shall be permitted to complete any widening or improvements within any existing City roadways or rights-of-way if Prologis elects to perform this work in accordance with applicable laws. Provided, however, no roadway frontage improvements in back of curb shall be required to be constructed until such time as the lot fronting such street is developed. For construction of curb-to-curb Master Plan Roads, the scope of work shall include street pavement, traffic signals, curb, gutter, sidewalk, street lights, median, and median landscaping, storm drainage facilities, wastewater lines, storm drainage lines, potable and recycled water lines and appurtenances (including the fire hydrants, valves, and associated facilities and service lines), in accordance with the Citywide Infrastructure Master Plans. City may require temporary asphalt sidewalks behind the street curb for pedestrian use as part of the development process. The installation of utilities shall include, without limitation, electric utilities, including the cost of all electric lines for Master Plan Road lights, outside the curb-to-curb width and within the street right-of-way in a dedicated public utilities area, if such improvements are necessary for construction of the Master Plan Road at issue and adjacent development as set forth in the Transportation Master Plan, and the cost of design and construction of such utilities shall be borne solely and exclusively by Prologis so long as those roads are located within the Specific Plan Area. Subject to Section 3.8 above, Prologis shall acquire the necessary rights of way beyond the street curb to accommodate street signs, fire hydrants and sidewalks. Since joint trench improvements are not considered Master Plan Infrastructure, then if: (i) City constructs certain Master Plan Roads that are necessary to serve the Property, and (ii) those Master Plan Roads require said joint trenches, then (iii) Prologis shall be responsible for the cost to construct the joint trench at issue subject to any third party

reimbursement, including, without limitation, the cost to obtain any necessary rights-of-way or easement(s) within and outside the curb-to-curb area. This payment obligation shall be calculated based on the hard costs to construct the joint trench at issue as well as an additional forty percent (40%) in soft costs for purposes of providing for City's design, construction and program management costs and for construction contingencies. City shall use diligent and good faith efforts to notify Prologis at least eighteen (18) months prior to City's construction of any Master Plan Road that would trigger Prologis' obligation to pay for any joint trench improvements related thereto as specified in this Section 4.4(c), at which time Prologis may elect to either pay said obligation or construct the joint trench improvements at issue. Prologis shall satisfy this obligation (either through payment of costs or construction pursuant to Section 5 below, at Prologis' election) upon issuance of the next Building Permit for a structure on the Property that occurs after this obligation is triggered, and shall be permitted to satisfy this payment obligation through a CFD or other appropriate mechanism (i.e., fee reconciliation, if available) at the time of obtaining a Building Permit.

4.5 Permitted Interim Improvements. The Parties acknowledge and agree that construction of certain interim improvements (including Master Plan Infrastructure and Specific Plan Improvements) may be appropriate given the phased nature of the Project and the Parties' mutual desire to maximize the use of existing infrastructure, take advantage of economies of scale, catalyze development of the Project, and implement best engineering practices. Subject to the City's approval, which shall not be unreasonably withheld or delayed, Prologis may be permitted to construct the following interim improvements (collectively, "***Permitted Interim Improvements***"): (a) traffic signal and ramp improvements associated with I-580/Mountain House Parkway Interchange and I-205/Mountain House Parkway; (b) temporary pressure-reducing valves for expediting construction of potable water system; (c) future road transitions to accommodate phasing of road construction; (d) potable water, wastewater, recycled water and storm drainage lines and other facilities necessary to accommodate phasing of the Project; and (e) stormwater connection to Westside irrigation district channel. Provided, however, that Prologis assumes the obligation to construct the full, ultimate improvement (as set forth in the relevant Master Plan and/or Specific Plan, as applicable), and otherwise adheres to its improvement obligations set forth in this Agreement. Any Interim Improvement Agreement (as described more fully in Section 4.6 below) executed in connection with any Permitted Interim Improvements may also provide, where appropriate, for credits against Prologis' fee obligations, in City's reasonable discretion and consistent with the terms and conditions of this Agreement.

4.6 Additional Interim Improvements. In addition to the Permitted Interim Improvements, the Parties acknowledge and agree that other interim improvements may be appropriate. Accordingly, as part of the application process for a development, Prologis may request that it be permitted to construct other interim improvements, and City shall expeditiously review and consider said request(s). If City grants said request(s), then Prologis shall execute one (1) or more Interim Improvement Agreement(s), which shall, among other things: (a) describe, at a level of detail reasonably acceptable to City, the nature and scope of the interim improvement; (b) provide that Prologis shall be responsible for any unforeseen additional costs to build the full, ultimate Master Plan Infrastructure or Specific Plan Improvement at issue that result from construction of the interim improvement; and (c) provide that Prologis shall pay all costs incurred by City, including costs of City staff and consultant time, to implement Prologis' election to construct the interim improvement. Such Interim

Improvement Agreement may also address other and further requirements as reasonably required by City and shall be consistent with the terms and conditions of this Agreement.

4.7 No Obligations For Off-Site Detention Basins. The Parties acknowledge and agree that the Project has been designed, and will be required to be constructed, with on-site storm drainage facilities that adequately address the Project's storm drainage impacts, as described more fully in the EIR and in accordance with the MMRP, and that the City's determination of required storm drainage facilities made in connection with each Subsequent Approval shall be made in accordance with Section 4.2 above. Following the conclusion of the Citywide Storm Drainage Infrastructure Master Plan update process described in Section 3.6(d) above, City shall not impose, as a condition of approval, a requirement to construct or fund the construction of any improvements related to offsite storm water flows from the area southwest of I-580 within the OFF2 drainage area as described in the Citywide Storm Drainage Master Plan; provided, however, that the timing of the update process described in Section 3.6(d) above shall not affect Prologis' obligations for storm drainage facilities as set forth herein.

SECTION 5. CONSTRUCTION OF PROJECT INFRASTRUCTURE

5.1 Construction of Master Plan Infrastructure.

(a) Ability to Elect to Construct Master Plan Infrastructure.

(i) Prologis may elect, in its sole discretion, to construct any Master Plan Infrastructure identified in attached Exhibit 3, in which case such construction shall be governed by this Section 5, the Specific Plan, the relevant Citywide Infrastructure Master Plan, and any applicable Subdivision Improvement Agreement or similar improvement agreement. If Prologis so elects, then Prologis shall be responsible for funding the construction of said improvement, subject to fee reconciliation in accordance with Section 6.4 below. The Parties acknowledge and agree that if Prologis assigns its rights and obligations under this Agreement for all or a portion of the Property, pursuant to Section 10 below, then the Assignee shall have the same election rights as Prologis hereunder. The Parties further acknowledge and agree that if said Assignee exercises the election rights, then it shall be permitted to assign the right to construct the Master Plan Infrastructure at issue to Prologis (or related entity) without City consent; provided, however, that if said Assignee seeks to assign this right to a non-Prologis entity, then it shall obtain prior approval from City, which shall not be unreasonably withheld, denied or delayed.

(ii) The Parties acknowledge and agree that Prologis' decision to elect to construct any Master Plan Infrastructure identified in attached Exhibit 3 is within its sole discretion. Notwithstanding the foregoing, if Prologis elects to construct any identified Master Plan Infrastructure and City does not agree that the construction of the improvement at issue is necessary at that time, then this shall not affect Prologis' fee reconciliation rights under Section 6.4 below; provided, however, the Parties agree that City retains the right to not accept said improvement until City confirms that any costs or work related to any additional maintenance of said improvement (applying typical City maintenance standards) will be adequately funded or otherwise provided for by Prologis.

(b) Payment of Program Soft Costs. If Prologis elects to construct any Master Plan Infrastructure as provided for in this Section 5.1, then rather than paying the normal Regulatory Processing Fees that Prologis would otherwise pay in connection with constructing the improvement at issue, Prologis shall pay the following costs to City in connection therewith (collectively, "***Program Soft Costs***"), which shall be calculated based on the estimated hard construction costs to construct the improvement at issue as set forth in the then-applicable Citywide Infrastructure Master Plan:

(i) A program management cost of five percent (5%), except that such program management cost shall be four percent (4%) for such Master Plan Infrastructure that Prologis elects to construct in connection with development of its first (1 st) six hundred (600) Net Acres within the Property.

(ii) A contingency deposit of five percent (5%), which may be in the form of a financial guarantee, such as a letter of credit in a form reasonably acceptable to City, or a deposit of cash funds into an escrow account. Prologis may elect which form of guarantee to use, in its discretion, so long as it elects one of the two foregoing options. Prologis shall be entitled to a prompt release of any unused Contingency Deposit following completion and City's inspection and acceptance of the Master Plan Infrastructure at issue.

(iii) A construction management and inspection cost in the amount of City's actual costs related thereto, with a three percent (3%) advance deposit. Any unused portion of such advance deposit shall be promptly returned to Prologis upon City's inspection and acceptance of the Master Plan Infrastructure at issue.

(iv) A plan check cost of five percent (5%), subject to any reductions in said costs that may occur as a result of City's adoption of a reduced plan check fee schedule that applies on a Citywide basis.

Program Soft Costs due under this Section 5.1(b) shall be paid by Prologis at the time of issuance of a Building Permit for the Master Plan Infrastructure at issue, unless City determines there are insufficient Program Soft Cost funds available to City at the time Prologis elects to construct the Master Plan Infrastructure at issue for City to perform its responsibilities under this subsection (b), in which case Prologis shall be required to promptly pay upon election such portion of its Program Soft Cost obligation that is reasonably determined by City to be necessary to fund said Program Soft Cost responsibilities that may arise, and the balance of Prologis' Program Soft Cost obligation shall be due and payable upon issuance of the Building Permit for the Master Plan Infrastructure at issue. If Prologis elects to construct any Master Plan Infrastructure, Prologis and City shall enter into an improvement agreement which provides for, among other things, a schedule for the construction of the subject Master Plan Infrastructure(s) and adequate security to be provided by Prologis, in a form reasonably acceptable to City, to ensure the timely construction of said improvement.

(c) No Election to Construct Master Plan Infrastructure. If Prologis elects not to construct any Master Plan Infrastructure identified in attached Exhibit 3, and such infrastructure is determined necessary in connection with an application submitted by Prologis pursuant to Section 4.2 above, then Prologis shall be required to pay the applicable Development Impact Fees in accordance with Section 6.3 below.

(d) Process to Submit Improvements Plans Relating to Master Plan Infrastructure. Upon election to construct any identified Master Plan Infrastructure, Prologis shall retain a licensed, qualified engineering firm or other qualified professional firm specializing in the relevant field to complete said improvement plans and specifications under supervision of a licensed engineer or other appropriate licensed design professional. In addition, upon such election, Prologis shall have the right to submit an application for improvement plans at any time for the construction of the improvement at issue, and City shall expeditiously process said application pursuant to Section 3.5 above. Provided, however, that the Parties agree that City shall only formally approve said improvement plans concurrently with an application for development of the Property (e.g., parcel map, lot line adjustment, development review).

(e) City acknowledges and agrees that certain aspects of the Master Plan Infrastructure will benefit other properties outside of the Property. In the event and to the extent other property owners outside of the Property (either within or outside the Specific Plan Area) benefit from Prologis' construction or funding of any Master Plan Infrastructure, Prologis shall be eligible for reimbursement from such other benefitted property owner(s) according to City's applicable rules, regulations, procedures and requirements for similar reimbursements.

5.2 Construction of Specific Plan Improvements.

(a) Specific Plan Private Improvements. The Parties acknowledge and agree that the Specific Plan identifies certain Specific Plan Improvements (located within and outside of the Property) that benefit not only Prologis but also other property owners within the Specific Plan Area, which are anticipated to remain private (i.e., not be offered for dedication to City). Said improvements (collectively, "***Specific Plan Private Improvements***") are identified in the attached Exhibit 5. Prologis shall construct each Specific Plan Private Improvement in accordance with the timing requirements set forth in the Specific Plan unless City and Prologis mutually agree upon modified timing requirements. Notwithstanding any other provision of this Agreement, Prologis shall not seek or be entitled to any reimbursement from City for any costs associated with its design and construction of such Specific Plan Private Improvements. Notwithstanding the foregoing, City acknowledges that Prologis intends to enter into a private, third-party agreement with the other major benefitting property owners within the Specific Plan Area, to share costs associated with the construction of the Specific Plan Private Improvements.

(b) Specific Plan Public Improvements. The Parties acknowledge and agree that the Specific Plan identifies certain Specific Plan Improvements (located within and outside of the Property) that benefit not only Prologis but also other property owners within the Specific Plan Area, which will be offered for dedication to City as identified on attached Exhibit 5 (collectively "***Specific Plan Public Improvements***").

(i) Subject to Section 4.2 above, Prologis shall build all of the Specific Plan Public Improvements required to serve the Property, as identified on attached Exhibit 5, and Prologis shall not seek or be entitled to any reimbursement from City for any costs associated with its design and construction of such Specific Plan Public Improvements. Notwithstanding the foregoing, City acknowledges that Prologis intends to enter into a private, third-party agreement with the other major benefitting

property owners within the Specific Plan Area, to share costs associated with the construction of the Specific Plan Public Improvements.

(ii) The Parties hereby agree that the timing for construction of the Specific Plan Public Improvements within the Property shall be determined by City in connection with each specific development proposal, subject to the limitations set forth in Section 4.2 of this Agreement. Prologis hereby acknowledges and agrees that such determinations by City may result in an unequal distribution of Specific Plan Public Improvement construction obligations amongst the various parcels within the Property. Prologis hereby acknowledges and agrees, for itself and its successors, that notwithstanding any other provision of this Agreement, Prologis shall not be entitled to any reimbursement for costs incurred in construction of such Specific Plan Public Improvements. Notwithstanding the foregoing, City acknowledges that Prologis has entered or may enter into private, third-party agreement(s) with other owners within the Property, to share costs associated with the construction of the Specific Plan Public Improvements.

SECTION 6. FEES AND OTHER PAYMENT OBLIGATIONS.

6.1 Community Benefit Fee.

Subject to LAFCO approval of annexation of the Specific Plan Area to City, Prologis shall pay to City the amount of Five Million Dollars ($5 million) to assist City in achieving other community-wide goals ("***Enhanced Community Benefit Fee***"). Prologis shall pay the Community Benefit Fee in four (4) equal payments of One Million Two Hundred Fifty Thousand Dollars ($1,250,000) each, to be paid annually on each anniversary of the Effective Date, provided that the first payment shall be due two (2) years from the Effective Date unless, on such date, there is pending in the Superior Court of San Joaquin County a legal action brought by a third party challenging any of the Initial Approvals, in which case the first (1st) payment shall be due not later than seventy-five (75) days from the first (1st) date that no third party legal action or appeal thereof remains pending in the San Joaquin County Superior Court or any competent court of appeal.

6.2 Wastewater Treatment Plant Expansion Contributions.

(a) Initial Wastewater Facilities Payment. In exchange for, among other things, City's provision of the Initial Wastewater Treatment Capacity Obligation, subject to annexation of the Specific Plan Area to City, Prologis shall pay to City the amount of Three Million One Hundred Fifty Hundred Thousand Dollars ($3,150,000) ("***Initial Wastewater Facilities Payment***"), to be used by City, in its discretion, to support the planned expansion of City's wastewater treatment plant, as described more fully in the Tracy Wastewater Master Plan. Prologis shall be permitted to make such payment through formation of a CFD or payment in a lump sum. The Initial Wastewater Facilities Payment shall be made not later than sixty (60) days from the Annexation Date, and shall be subject to fee reconciliation in accordance with Section 6.4 below.

(b) Additional Wastewater Facilities Payment. In exchange for, among other things, City's provision of the Additional Wastewater Treatment Capacity Obligation, subject to annexation of the Specific Plan Area to City, Prologis shall pay to City the amount of Five Million Five Hundred Forty Thousand Dollars ($5,540,000)

("***Additional Wastewater Facilities Payment***"), to be used by City to expand the treatment capacity of the wastewater treatment plant to approximately twelve and one half (12.5) MGD, as described more fully in the Tracy Wastewater Master Plan. Prologis shall make the Additional Wastewater Facilities Payment not later than thirty (30) days from Prologis' receipt of written notice from City that City has secured sufficient additional funds from other sources which, when combined with Prologis' Additional Wastewater Facilities Payment, will enable City to complete the contemplated expansion. Upon receipt of said funding, City agrees to expeditiously proceed with construction of said expansion, subject to obtaining all necessary approvals and permits. Notwithstanding the foregoing, (i) the Additional Wastewater Facilities Payment shall be subject to fee reconciliation in accordance with Section 6.4 below, and (ii) if Prologis has previously paid all or a portion of said amount ($5,540,000) in Development Impact Fees for wastewater pursuant to Section 6.3 below, then such payment shall constitute compliance with its obligations under this subsection (b) to the extent of the amount paid.

(c) Subsequent Wastewater Treatment Plant Expansions. Prologis' payments of the Initial Wastewater Facilities Payment and the Additional Wastewater Facilities Payment do not relieve Prologis of the obligation to participate in funding expansions of the treatment capacity of the wastewater treatment plant beyond 12.5 MGD.

6.3 Development Impact Fee Generally.

(a) Adoption of Citywide Master Plan Fee Program. The Parties acknowledge and agree that City intends to adopt a Citywide Master Plan Fee Program to implement the Citywide Infrastructure Master Plans, in substantially the same form as attached Exhibit 4, and City shall use its best efforts to bring forward for City Council consideration and action said Master Plan Fee Program no later than September 17, 2013; provided, however, that if City has not adopted said Master Plan Fee Program by October 17, 2013, then Prologis shall have the right, in its sole discretion, to terminate this Agreement upon ten (10) days' notice to City. The Parties further acknowledge and agree that Prologis shall vest into said Master Plan Fee Program upon its adoption ("***Citywide Master Plan Fee Program***") for purposes of its obligations relating to Development Impact Fees, subject to the terms and provisions of this Section 6.3 and Section 6.4 below. It is anticipated that industrial fees will not exceed One Hundred Seventy Eight Thousand Dollars ($178,000) per Net Acre; provided, however, if City adopts the Citywide Master Plan Fee Program with industrial fees that exceed this amount, then Prologis shall have the right, in its sole discretion, to terminate this Agreement upon ten (10) days' notice to City.

(b) Overall Development Impact Fee Obligation. Said Master Plan Fee Program shall be used to determine Prologis' Development Impact Fee obligations for the Project ("***Master Plan Fee Obligation***"), subject to any applicable credits or reimbursements as set forth herein. Furthermore, the Parties hereby agree that Prologis' Master Plan Fee Obligation shall be reduced by Twenty Eight Thousand Five Hundred Ninety Five Dollars ($28,595) per Net Acre, which amount represents Prologis' estimate of the total value of all land dedications in fee to be provided by Prologis pursuant to this Agreement divided by the total number of acres of land dedications that Prologis is anticipated to provide in fee pursuant to this Agreement, based on a currently-estimated value of One Hundred Fifty Thousand Dollars ($150,000) per acre.

For purposes of example only, if City adopts a Citywide Master Plan Fee Program that imposes industrial fees in the amount of $178,000 per Net Acre, then for purposes of determining the Master Plan Fee Obligation, said amount would be reduced to $149,405 per Net Acre to reflect the estimated value of said land dedications. Notwithstanding the foregoing, following approval of development of the first six hundred (600) Net Acres, the Parties shall confirm the actual, remaining amount of acreage required to be dedicated in connection with the Project on the Property and shall, if necessary, adjust the amount of the reduction in Prologis' Master Plan Fee Obligation above (i.e., $28,595) for the remaining acreage on the Property, to ensure that all land dedications provided by Prologis for the entire Property (including the first 600 Net Acres and all the remaining acreage on the Property) are properly credited for $150,000 per Net Acre.

(c) Prologis' Master Plan Fee Obligation; Deferred Fee Program. Prologis shall pay its Master Plan Fee Obligation for the Project (calculated in accordance with subsection (b) above) on a per-Net-Acre basis, subject to such applicable modifications as are set forth herein; provided, however, that for any application that proposes to develop land within the first (1st) six hundred (600) Net Acres of the Property, Prologis may elect to defer payment of a portion of its fee obligation ("***Deferred Fee Program***") and pay only One Hundred Fifteen Thousand Dollars ($115,000) per Net Acre ("***Deferred Fee Amount***"). The Deferred Fee Amount shall be composed of the same type of Master Plan Fees as comprise the adopted Citywide Master Plan Fee Program, and shall be in the same percentages of the Deferred Fee Amount as are in the adopted Master Plan Fee Program. The Parties acknowledge and agree that the Deferred Fee Program is provided for in this Agreement in order to serve as a catalyst for development on the Property, which will, in turn, result in the accelerated payment of Development Impact Fees generally. The Deferred Fee Amount ($115,000 per Net Acre) shall not be increased under any circumstances; provided, however, that any fees that are deferred under the Deferred Fee Program shall be paid by Prologis in connection with its development of the remaining approximately four hundred forty two (442) Net Acres of the Property (i.e., resulting in an obligation to pay the difference between the Citywide Master Plan Fees otherwise due (subject to any applicable credits set forth in this Agreement) and the Deferred Fee Amounts paid).

(d) Modifications to Development Impact Fees. The Parties agree that Prologis shall vest into the type and amount of Development Impact Fees as set forth in this Section 6.3. Prologis shall not be required to pay any newly established Development Impact Fees (beyond those identified in attached Exhibit 4) on Prologis' development of the Property that City adopts after it adopts the Citywide Master Plan Fee Program, and shall not be required to pay an increase in any applicable Development Impact Fees except under any of the following limited circumstances:

(i) After the third (3rd) anniversary of the Effective Date, City may increase any Development Impact Fee based on the change in the ENR.

(ii) City may modify any Development Impact Fee as a result of City adopting an update to the relevant Citywide Infrastructure Master Plan so long as said update is intended to change the estimated construction cost of a specific previously identified improvement to reflect actual construction costs based on three (3) recent similar improvement projects constructed in the City of Tracy.

(iii) City may modify any Development Impact Fee as a result of City adopting an update to the relevant Citywide Infrastructure Master Plan that reflects a change in the scope of a specific previously identified improvement so long as said change in scope is made for the purpose of:

(a) complying with a specific mandate under federal or state law; or

(b) refining the design of the improvement at issue such as is reasonably necessary to build the underlying improvement, as reasonably determined and documented by City (e.g., design change to avoid unanticipated pipeline as opposed to the addition of new lane).

(iv) City may modify the Traffic Impact Fee as a result of City adopting an update to the TMP to reflect additional costs necessary to implement any improvements determined to be necessary to mitigate the Project's anticipated traffic impacts based on the re-assessment of traffic forecasts and projected operating conditions to be performed upon completion of Phase I of the Project pursuant to Mitigation Measure TRANS-10 of the EIR.

(v) To the extent City modifies the TMP, it shall use its best efforts to ensure that at least twenty percent (20%) of the total roadway infrastructure work referenced therein will be funded by federal sources and County RTIF monies.

In accordance with the provisions of this Section 6.3(d), City acknowledges that the Project's pro rata fair share of the westside recycled water infrastructure, as more fully described in the Citywide Water System Master Plan, is included in the Project's fee structure (as set forth in attached Exhibit 4). City further acknowledges that development of a power plant to be located in adjacent Alameda County, to the west of the I-580/Mountain House Parkway interchange, has been proposed, and that if approved, said power plant would require a significant expansion of City's planned recycled water infrastructure, which is not currently contemplated in the Citywide Water System Master Plan. In the event and to the extent City ultimately decides to expand its system to accommodate said power plant, City agrees not to seek to impose any additional costs of doing so on Prologis, if doing so would be contrary to Prologis' vested rights as set forth herein. City further agrees that except for the limited circumstances set forth in this Section 6.3(d), City may not increase any Development Impact Fees as a result of including a new infrastructure project in a Citywide Infrastructure Master Plan or substantially modifying the scope of any existing infrastructure project in a Citywide Infrastructure Master Plan beyond the design refinements contemplated in this Section 6.3(d); and in no event, shall Prologis be required to pay more than the Deferred Fee Amount of $115,000 per Net Acre for the first (1st) six hundred (600) Net Acres.

6.4 Development Impact Fee Determination and Reconciliation. City shall take the following steps to determine the amount of Development Impact Fees that Prologis shall pay in connection with each Subsequent Approval:

(a) Election of Deferred Fee Program. In connection with each Subsequent Approval, Prologis shall elect to either: (1) pay the adopted Master Plan Fees, or (2) pay the Deferred Fee Amount under the Deferred Fee Program. This election shall be referred to as the "***Elected Fee Amount***."

(b) Payment of Off-Site Fee Amounts. Nothing in this Agreement shall preclude City from collecting that portion of Prologis' Development Impact Fees that is required to fund off-site improvements, as established in the Citywide Infrastructure Master Plans, regardless of whether Prologis elects to pay the adopted Master Plan Fees or pay the Deferred Fee Amount. To implement City's collection of such portion of Prologis' Development Impact Fees, then before any credits are applied to the Elected Fee Amount under Section 6.4(c), City shall deduct from the full Elected Fee Amount an amount equal to the total of the following percentages of the Elected Fee Amount:

(i)	Traffic Fee	12.38%
(ii)	Potable Water Distribution Fee	7.88%
(iii)	Storm Drainage Fee	5.38%
(iv)	Recycled Water Fee	9.19%
(v)	Wastewater Conveyance	100% (subject to Sec. 3.3(d))
(vi)	Public Facilities	100%
(vii)	Public Safety	100%

Provided that Prologis has complied with the terms of that certain Agreement Between the City of Tracy and Prologis, L.P., Regarding Reimbursement for Acquisition of Water Supply and Conveyance Capacity approved by the City of Tracy City Council on or about August 6, 2013 (the "Water Supply Agreement"), and provided that delivery to City of the water supplies contemplated in the Water Supply Agreement is not prevented, as a result of government action or litigation, and through no fault of the City, then Prologis: (i) shall not be required to pay any Off-Site Fee Amount for Potable Water Supply and Treatment costs if City secures anticipated water supplies, funded by Prologis, as contemplated in Section 6.2(c)(ii)(b) below; and (ii) shall not be required to pay any Off-Site Fee Amount for Wastewater Treatment fees until such time as Prologis' payments of the Initial Wastewater Facilities Payment and the Additional Wastewater Facilities Payment are fully credited pursuant to Section 6.4(c)(ii)(a) below.

(c) Determine Applicable Credits. The balance of the Elected Fee Amount after the deduction of Off-Site Fee Amounts made pursuant to Section 6.4(b) above shall be referred to herein as the "***Remaining Elected Fee Amount***." Following the deduction of the Off-Site Fee Amounts made pursuant to Section 6.4(b) above, the Remaining Elected Fee Amount shall be subject to the following credits:

(i) Credits for Construction of Master Plan Infrastructure.

(a) If Prologis elects to construct any Master Plan Infrastructure (or any Permitted or agreed-upon interim improvements pursuant to Sections 4.5 and 4.6 above, which are determined to be appropriate for reconciliation), then the estimated cost listed in the then-applicable Citywide Infrastructure Master Plan for the improvement at issue (or any portion thereof) shall be deducted from the Remaining Elected Fee Amount. In the event that Prologis elects to construct less than

the full length of any Master Plan Infrastructure, the amount to be deducted from the Remaining Elected Fee Amount shall be that percentage of the cost listed in the then-applicable Citywide Infrastructure Master Plan for the improvement at issue that is equal to the percentage of the full Master Plan Infrastructure constructed by Prologis on a linear foot basis (or similarly appropriate quantity take offs). In the event and to the extent that Prologis assigns all or a portion of its rights and obligations hereunder to an Assignee pursuant to Section 10 below, said Assignee shall be entitled to the deductions referenced in this subsection (c) to the same extent of Prologis absent such assignment. This credit shall be determined in connection with each development application, as applicable; provided, however, that it may only be applied after City receives adequate security in the form of a letter of credit in the amount of the credit due (based on the estimated cost listed in the then-applicable Citywide Infrastructure Master Plan) or an improvement bond (with execution of a satisfactory improvement and security agreement), to ensure construction of such Master Plan Infrastructure. Prologis may elect, in its sole discretion, to provide either said letter of credit or improvement bond; provided, however, that any such letter of credit or improvement bond shall be in a form acceptable to the City.

(ii) Credits for Additional Land Dedication, Wastewater Facilities Payments, Water Treatment and Water Supply.

(a) Prologis shall offer for dedication all required lands in fee or easement(s) for any and all Project Infrastructure that is necessary, as determined by City, to serve the Property in accordance with the applicable requirements of the Subdivision Map Act, City's Subdivision Ordinance, and City's Infrastructure Master Plans. To the extent that such land dedication costs have not already been accounted for in determining the Master Plan Fee Obligation (pursuant to Section 6.3(b) above), in connection with each Subsequent Approval, if Prologis is required to offer to City additional land dedications in fee, Prologis shall receive a credit in the amount of One Hundred Fifty Thousand Dollars ($150,000) per acre against the applicable fee portion of its Remaining Elected Fee Amount. Similarly, to the extent that such costs have not already been accounted for in determining the Master Plan Fee Obligation, in connection with each Subsequent Approval, if Prologis is required to offer to City any easements, Prologis shall receive a credit of Fifty Thousand Dollars ($50,000) per acre against the applicable fee portion of its Remaining Elected Fee Amount. These credits from the applicable Development Impact Fees shall not affect or reduce Prologis' obligation to pay the Off-Site Fee Amounts pursuant to Section 6.4(b) above. These credits shall be determined in connection with each development application, as applicable; provided, however, that they may only be applied after City approval of improvement plans for the improvements at issue and execution of an improvement and security agreement in a form acceptable to the City.

(b) Prologis is anticipated to contribute to the costs of acquiring a treated potable water supply for purposes of serving the Project. So long as Prologis provides this contribution substantially in conformance with the Water Supply Agreement described in Section 6.4(b) above, and provided that delivery to City of the water supplies contemplated in the Water Supply Agreement is not prevented, as a result of government action or litigation, and through no fault of the City, then in connection with each Subsequent Approval, Prologis shall not be required to pay any Potable Water Supply or Treatment Fees so long as the acquisition of the above-referenced supply sufficiently covers water service to the Property in accordance with

the EIR and the WSA. To the extent the above-referenced supply does not sufficiently cover water service to the Property in accordance with the EIR and the WSA, then Prologis shall be required to fund the cost of the acquisition of any such additional needed supplies, which may involve treatment, storage and delivery.

(c) Pursuant to Section 6.2 above, Prologis is required to pay the Initial Wastewater Facilities Payment, and may elect to pay the Additional Wastewater Facilities Payment (together, the "***Wastewater Treatment Facilities Payments***"). Subject to Section 6.4(b) above, in recognition of and to the extent that Prologis pays the Wastewater Facilities Payments, in connection with each Subsequent Approval, Prologis may deduct up to the full amount of the Wastewater Fee portion of the Remaining Elected Fee Amount from the total Remaining Elected Fee Amount, until the full amount of the Wastewater Facilities Payments actually paid by Prologis has been credited against the Wastewater Treatment portions, as applicable, of Development Impact Fees paid in connection with Subsequent Approvals.

(d) In the event and to the extent that Prologis assigns all or a portion of its rights and obligations hereunder to an Assignee pursuant to Section 10 below, said Assignee shall be entitled to the credits referenced in this Section 6.4(c) to the same extent of Prologis absent such assignment.

(d) Fee Reconciliation. Once the Off-Site Fee Amounts and the applicable credits have been determined pursuant to Sections 6.4(b) and (c) above, then the following shall occur:

(i) Payment of Off-Site Fee Amounts. Prologis shall pay to City the Off-Site Fee Amounts due on a per-Building Permit basis, at the time of issuance of each Building Permit for the individual development that is the subject of the Subsequent Approval.

(ii) Satisfaction of Remaining Elected Fee Amount.

(a) If the Remaining Elected Fee Amount is greater than the total of the applicable credits under Section 6.4(c) above, then Prologis shall pay the difference between the Remaining Elected Fee Amount and the applicable credits, with respect to each infrastructure fee type, on a per-Building Permit basis, at the time of issuance of each Building Permit for the proposal at issue.

(b) If the Remaining Elected Fee Amount is less than the total of the applicable credits under Section 6.4(c) above, then City shall reconcile the fee payment obligation, with respect to each infrastructure fee type, in connection with the next development submitted by Prologis and approved by City by deducting the difference between the Remaining Elected Fee Amount and the applicable credits from the Master Plan Fee Obligation otherwise due in connection with that subsequent proposal. Notwithstanding the foregoing, the Parties agree that in the event that Prologis pays more than the total amount of its Master Plan Fee Obligation due hereunder as a result of Prologis fronting specified costs and/or its provision of Master Plan Infrastructure, and no further deduction can occur under this subsection because Prologis has developed all of its lands within the Property, then Prologis shall be eligible for reimbursement

under the Citywide Master Plan Fee Program according to City's applicable rules, regulations, procedures and requirements for similar reimbursements.

6.5 Regulatory Processing Fees.

In addition to the applicable Development Impact Fees, Prologis shall pay the applicable Regulatory Processing Fees in connection with any and all Subsequent Approvals. Provided, however, that City may only impose increased Regulatory Processing Fees on development of the Project on the Property if said increased fees were formally adopted by City in accordance with applicable law, and would be applied generally throughout the City of Tracy on both residential and non-residential projects, and City shall not be permitted to impose any new Regulatory Processing Fees adopted by City after the Effective Date.

SECTION 7. PERIODIC COMPLIANCE REVIEW; DEFAULT.

7.1 Periodic Compliance Review.

On an annual basis and upon thirty (30) days' notice from City to Prologis, Prologis shall document its good faith compliance with the terms of this Agreement and submit this compliance report to City. This periodic compliance review shall be conducted in accordance with the Development Agreement Statute and City's Development Agreement Procedures ("***Periodic Review***"). In conducting this Periodic Review, City acknowledges and agrees that any finding of non-compliance on Prologis' part shall be limited in effect to Prologis' interest in the Property or the Project. Furthermore, the City acknowledges and agrees that in the event and to the extent Prologis has assigned its rights and obligations to other Assignee(s) pursuant to Section 10.1 below, then any such Assignee(s) shall be responsible for conducting the Periodic Review as it relates to their rights and obligations hereunder, although Prologis shall cooperate with respect to reasonable information requests from any Assignee(s) in order to facilitate the Periodic Review process. In the event City elects to terminate this Agreement pursuant to the provisions of Section 8 below, Prologis may challenge such termination by instituting legal proceedings in which the court shall exercise its review, based on substantial evidence, as to the existence of cause for termination.

7.2 Notice of Compliance.

Provided that City has determined, based Prologis is in compliance with all provisions of this Agreement based on the most recent Periodic Review, then within thirty (30) days following a written request from Prologis that may be made from time to time, City shall execute and deliver to Prologis (or to any party requested by Prologis) a written "***Notice of Compliance***" in recordable form, duly executed and acknowledged by City, that certifies:

(a) This Agreement is unmodified and in full force and effect, or if there have been modifications hereto, that this Agreement is in full force and effect as modified and stating the date and nature of such modifications;

(b) There are no current uncured defaults as to the requesting Prologis under this Agreement or specifying the dates and nature of any such default;

(c) Any other information reasonably requested by Prologis. Prologis shall have the right, at its sole discretion, to record the Notice of Compliance.

7.3 Default.

(a) Any failure by City or Prologis to perform any material term or condition of this Agreement, which failure continues uncured for a period of sixty (60) days following written notice of such failure from the other Party (unless such period is extended by written mutual consent), shall constitute a default under this Agreement. Any notice given pursuant to the preceding sentence shall specify the nature of the alleged failure and, where appropriate, the manner in which such alleged failure satisfactorily may be cured. If the nature of the alleged failure is such that it cannot reasonably be cured within such 60-day period, then the commencement of the cure within such time period, and the diligent prosecution to completion of the cure thereafter, shall be deemed to be a cure within such 60-day period.

(b) No failure or delay in giving notice of default shall constitute a waiver of default; provided, however, that the provision of notice and opportunity to cure shall nevertheless be a prerequisite to the enforcement or correction of any default.

(c) During any cure period specified under this Section and during any period prior to any delivery of notice of default, the Party charged shall not be considered in default for purposes of this Agreement. If there is a dispute regarding the existence of a default, the Parties shall otherwise continue to perform their obligations hereunder, to the maximum extent practicable in light of the disputed matter and pending its resolution or formal termination of the Agreement as provided herein.

(d) City will continue to process in good faith development applications relating to the Property during any cure period, but need not approve any such application if it relates to a proposal on the Property with respect to which there is an alleged default hereunder.

(e) In the event either Party is in default under the terms of this Agreement, the non-defaulting Party may elect, in its sole and absolute discretion, to pursue any of the following courses of action: (i) waive such default; (ii) pursue administrative remedies, and/or (iii) pursue judicial remedies.

(f) Except as otherwise specifically stated in this Agreement, either Party may, in addition to any other rights or remedies that it may have available in law or equity, institute legal action to cure, correct, or remedy any default by the other Party to this Agreement, to enforce any covenant or agreement herein, or to enjoin any threatened or attempted violation hereunder or to seek specific performance. For purposes of instituting a legal action under this Agreement, any City Council determination under this Agreement as it relates to an alleged default hereunder shall be deemed a final agency action.

(g) The Parties hereby acknowledge that the City would not have entered into this Agreement if doing so would subject it to the risk of incurring liability in money damages, either for breach of this Agreement, anticipatory breach, repudiation of the Agreement, or for any actions with respect to its negotiation, preparation, implementation or application. The Parties further acknowledge that money damages

and remedies at law generally are inadequate, and specific performance is the most appropriate remedy for the enforcement of this Agreement and should be available to all Parties for the following reasons:

(i) **MONEY DAMAGES ARE EXCLUDED**;

(ii) **DUE TO THE SIZE, NATURE, AND SCOPE OF THE PROJECT, IT MAY NOT BE PRACTICAL OR POSSIBLE TO RESTORE THE PROPERTY TO ITS ORIGINAL CONDITION ONCE IMPLEMENTATION OF THIS AGREEMENT HAS BEGUN. AFTER SUCH IMPLEMENTATION, PROLOGIS MAY BE FORECLOSED FROM OTHER CHOICES IT MAY HAVE HAD TO UTILIZE THE PROPERTY OR PORTIONS THEREOF. PROLOGIS HAS INVESTED SIGNIFICANT TIME AND RESOURCES AND PERFORMED EXTENSIVE PLANNING AND PROCESSING OF THE PROJECT IN AGREEING TO THE TERMS OF THIS AGREEMENT AND WILL BE INVESTING EVEN MORE SIGNIFICANT TIME AND RESOURCES IN IMPLEMENTING THE PROJECT IN RELIANCE UPON THE TERMS OF THIS AGREEMENT, AND IT IS NOT POSSIBLE TO DETERMINE THE SUM OF MONEY WHICH WOULD ADEQUATELY COMPENSATE PROLOGIS FOR SUCH EFFORTS**.

(h) Therefore, the Parties hereby acknowledge and agree that it is a material part of Prologis' consideration to City that City shall not be at any risk whatsoever to liability for money damages relating to or arising from this Agreement, and except for non-damages remedies, including the remedy of specific performance, Prologis, on the one hand, and the City, on the other hand, for themselves, their successors and assignees, hereby release one another's officers, trustees, directors, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, including, but not limited to, any claim or liability, based or asserted, pursuant to Article I, Section 19 of the California Constitution, the Fifth and Fourteenth Amendments of the United States Constitution, or any other law or ordinance which seeks to impose any money damages, whatsoever, upon the Parties because the Parties entered into this Agreement, because of the terms of this Agreement, or because of the manner of implementation or performance of this Agreement.

7.4 Enforced Delay; Extension of Time of Performance.

No party shall be deemed in default of its obligations under this Agreement where a delay or default is due to an act of God, natural disaster, accident, breakage or failure of equipment, enactment of conflicting federal or state laws or regulations, third-party litigation, strikes, lockouts or other labor disturbances or disputes of any character, interruption of services by suppliers thereof, unavailability of materials or labor, unforeseeable and severe economic conditions, rationing or restrictions on the use of utilities or public transportation whether due to energy shortages or other causes, war, civil disobedience, riot, or by any other severe and unforeseeable occurrence that is beyond the control of that party (collectively, "Enforced Delay"). Performance by a party of its obligations under this Section 8.4 shall be excused during, and extended for a period of time equal to, the period (on a day-for-day basis) for which the cause of such Enforced Delay is in effect.

7.5 Third Party Legal Actions.

(i) If there are any third party administrative, legal or equitable actions challenging any of the Project Approvals, including, without limitation, this Agreement and all CEQA processes and actions by City relating to the Project, Prologis shall defend and indemnify City against any and all fees and costs arising out of the defense of such actions, including the fees and costs of City's own in-house or special counsel retained to protect City's interests. Each Party is entitled to legal counsel of its choice, at Prologis' expense. The Parties and their respective counsel shall cooperate with each other in the defense of any such actions, including in any settlement negotiations. If a court in any such action awards any form of money damages to such third party, or any attorneys' fees and costs to such third party, Prologis shall bear full and complete responsibility to comply with the requirements of such award, and hereby agrees to timely pay all fees and costs on behalf of City.

(j) If any part of this Agreement, any Project Approval is held by a court of competent jurisdiction to be invalid, the Parties shall cooperate and use their best efforts, to the extent permitted by law, to cure any inadequacies or deficiencies identified by the court in a manner consistent with the purposes of this Agreement.

SECTION 8. TERMINATION.

8.1 Termination Upon Completion of Project or Expiration of Term.

This Agreement shall terminate upon the expiration of the Term or when the Project on the Property has been fully developed and Prologis' obligations in connection therewith and with this Agreement have been satisfied. Upon termination of this Agreement, either Party may cause a notice of such termination in a form satisfactory to the City Attorney to be duly recorded in the official records of San Joaquin County.

8.2 Termination Due to Default.

After notice and expiration of the thirty (30) day cure period as specified in Section 7.3 above, if the default has not been cured or it is not being diligently cured in the manner set forth above, the noticing party may, at its option, give notice of its intent to terminate this Agreement pursuant to the Development Agreement Statute and City's Development Agreement Procedures ("***Notice of Intent to Terminate***"). Within thirty (30) days of receipt of a Notice of Intent to Terminate, the matter shall be scheduled for consideration and review in the manner set forth in the Development Agreement Statute and City's Development Agreement Procedures. Following consideration of the evidence presented in said review, the party alleging the default may give written notice of termination of this Agreement. If a party elects to terminate as provided herein, upon sixty (60) days' written notice of termination, this Agreement shall be terminated as it relates to the defaulting party's rights and obligations hereunder. Notwithstanding the foregoing, a written notice of termination given under this Section 8.2 is effective to terminate the obligations of the noticing party only if a default has occurred and such default, as a matter of law, authorizes the noticing party to terminate its obligations under this Agreement. In the event the noticing party is not so authorized to terminate, the non-noticing party shall have all rights and remedies provided herein or under applicable law, including, without limitation, the right to specific performance of this Agreement. Once a party alleging default has given a written notice of termination, legal proceedings may be instituted to obtain a declaratory judgment determining the respective termination rights and obligations under this Agreement. Notwithstanding the foregoing,

any such default and related termination shall only extend to the defaulting party's rights and obligations hereunder and shall not affect the rights and obligations of any other Assignee who has acquired other portions of the Property in accordance with Section 10.1 below.

8.3 Termination by Mutual Consent.

This Agreement may be terminated by mutual consent of the parties in the manner provided in the Development Agreement Statute and in City's Development Agreement Procedures.

8.4 Termination Due to Fee Increase.

Prologis shall have the right, in its sole discretion, to terminate this Agreement if the industrial fees under the adopted Citywide Master Plan Fee Program exceed One Hundred Seventy Eight Thousand Dollars ($178,000), as set forth in Section 6.3(a) above.

SECTION 9. DISPUTE RESOLUTION.

9.1 Voluntary Mediation and Arbitration.

If a dispute arises related to the interpretation or enforcement of, or compliance with, the provisions of this Agreement ("***Dispute***"), City and Prologis may mutually consent to attempt to resolve the matter by mediation or arbitration; provided, however, that no such mediation or arbitration shall be required in order for a party to pursue litigation to resolve a Dispute.

9.2 Legal Proceedings.

Either party may, in addition to any other rights or remedies, institute legal action to resolve any Dispute or to otherwise cure, correct or remedy any default, enforce any covenant or agreement herein, enjoin any threatened or attempted violation thereof, enforce by specific performance the obligations and rights of the parties hereto, or to obtain any remedies consistent with the purpose of this Agreement.

9.3 Attorneys' Fees and Dispute Resolution Costs.

In any action or proceeding brought by any party to resolve a Dispute, the prevailing party is entitled to recover reasonable attorneys' fees and any other costs incurred in the action or proceeding in addition to any other relief to which it is entitled.

SECTION 10. ASSIGNMENT AND ASSUMPTION; RIGHTS AND DUTIES OF MORTGAGEES.

10.1 Assignment of Rights, Interests and Obligations.

Subject to compliance with this Section 10, any Owner may sell, assign or transfer its interest in the Property and related Project Approvals to any individual or entity ("***Assignee***") at any time during the Term of this Agreement.

(a) An Owner's assignment as provided for in this Section 10.1 may occur without obtaining City's consent ("***Permitted Assignment***") so long as (i) the proposed Assignee is an affiliate of an Owner, which shall include any entity that is directly or indirectly owned or controlled by an Owner such that it owns a substantial interest, but less than a majority of voting stock of the entity; or (ii) any subsequent Owner of a **Finished Lot** within the Project. Any Assignees satisfying either criteria set forth in this Section 10.1(a) shall be referred to herein as "***Permitted Assignees."*** The affected Owner(s) shall provide City with written notice of a Permitted Assignment within thirty (30) days following the effective date thereof.

(b) If the proposed Assignee does not qualify as a Permitted Assignee, then an Owner may assign its interest in the Property and related Project Approvals so long as said Owner receives the Planning Director's prior written consent, which shall not be unreasonably withheld, conditioned or delayed. It shall be deemed unreasonable to refuse consent for such assignment unless in light of the proposed Assignee's reputation and financial resources, such Assignee would not be able to perform the obligations proposed to be assumed by such Assignee. Any such determination shall be made in writing by the Development Services Director, supported by substantial evidence, and would be appealable by the affected Owner to the City Council. Failure by City to respond to any such assignment request within forty-five (45) days would be deemed to constitute consent. Further, no consent to assign shall be required under this Section 10.1(b) for land covered by a specific tentative map or parcel map so long as the affected Owner(s) has satisfied all of its obligations hereunder in connection with said tentative map or parcel map. Finally, the Parties agree that once the Project is fully built out, then no consent to assign shall be required.

10.2 Assumption of Rights, Interests and Obligations.

Subject to compliance with the preceding Section 10.1, express written assumption by an Assignee of the obligations and other terms and conditions of this Agreement with respect to the Property or such portion thereof sold, assigned or transferred, shall relieve Prologis of such obligations and other terms and conditions so expressly assumed. Any such assumption agreement shall be in substantially the same form as attached Exhibit 6. The County Recorder shall duly record any such assumption agreement in the official records of San Joaquin County within ten (10) days of receipt. Upon recordation of said assumption agreement, Prologis shall automatically be released from those obligations assumed by the Assignee.

10.3 Rights and Duties of Mortgagee in Possession of Property.

(a) This Agreement shall be superior and senior to all liens placed upon the Property or any portion thereof after the Effective Date, including, without limitation, the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair any Mortgage made in good faith and for value; provided, however, this Agreement shall be binding upon and effective against all persons and entities, including all Mortgagees who acquire title to the Property or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise, and including any subsequent transferee of the Property acquired by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise (in either case, a "Mortgagee Successor"), subject, however, to the terms of Section 10.3(b), below.

(b) The provisions of Section 10.3(a) above notwithstanding, no Mortgagee Successor shall have any obligation or duty under this Agreement to commence or complete the construction of any Project Infrastructure, or to guarantee such construction or completion or any liability for failure to do so; provided, however, that a Mortgagee Successor shall not be entitled to devote the Property to any uses or to construct any improvements thereon other than those uses or improvements permitted under the Project Approvals. In the event that any Mortgagee Successor shall acquire title to the Property or any portion thereof, the Mortgagee Successor further shall not be (i) liable for any breach or default under this Agreement on the part of any Prologis or its successor, or (ii) obligated to cure any breach or default under this Agreement on the part of any Prologis or its successor. In the event such Mortgagee Successor desires to succeed to Prologis' rights, benefits, and privileges under this Agreement, however, City may condition such succession upon the assumption of this Agreement by the Mortgagee Successor by written agreement reasonably acceptable to City and the Mortgagee Successor, including, without limitation, the obligation to cure any breach or default on Prologis' part that is curable by the payment of money or performance at commercially reasonable cost and within a commercially reasonable period of time after such assumption takes effect.

(c) If City receives notice from a Mortgagee requesting a copy of any Notice of Default regarding all or a portion of the Property, then City shall deliver said notice to such Mortgagee, concurrently with service thereof to Prologis, any notice given to Prologis with respect to any claim by City that Prologis has committed an Event of Default, and if City makes a determination of noncompliance under Section 8 above, City shall likewise serve notice of such noncompliance on such Mortgagee concurrently with service thereof on Prologis. Each Mortgagee shall have the right (but not the obligation) for a period of ninety (90) days after receipt of such notice to cure, or to commence to cure, the alleged default set forth in said notice in accordance with Section 8 above. If the Event of Default or such noncompliance is of a nature that can only be remedied or cured by such Mortgagee upon obtaining possession, such Mortgagee shall have the right (but not the obligation) to seek to obtain possession with diligence and continuity through a receiver or otherwise, and thereafter to remedy or cure the Event of Default or noncompliance within ninety (90) days after obtaining possession, except if any such Event of Default or noncompliance cannot, with diligence, be remedied or cured within such ninety (90) day period, then such Mortgagee shall have such additional time as may be reasonably necessary to remedy or cure such Event of Default or noncompliance if such Mortgagee commences cure during such ninety (90) day period, and thereafter diligently pursues completion of such cure to the extent possible. Notwithstanding the foregoing, nothing contained in this Agreement shall be deemed to permit or authorize any Mortgagee or Mortgagee Successor to undertake or continue construction or completion of any improvements comprising the Project (beyond the extent necessary to conserve or protect improvements or construction already made) without first having expressly assumed the defaulting Prologis' continuing obligations hereunder in the manner specified in Section 10.3(b), above.

SECTION 11. GENERAL PROVISIONS.

11.1 Independent Contractors.

Each party is an independent contractor and shall be solely responsible for the employment, acts, omissions, control and directing of its employees. All persons

employed or utilized by Prologis in connection with this Agreement and the Project shall not be considered employees of City in any respect. Except as expressly set forth herein, nothing contained in this Agreement shall authorize or empower any party to assume or create any obligation whatsoever, express or implied, on behalf of any other party or to bind any other party or to make any representation, warranty or commitment on behalf of any other party.

11.2 Invalidity of Agreement and Severability of Provisions.

If this Agreement in its entirety is determined by a court of competent jurisdiction to be invalid or unenforceable, this Agreement shall automatically terminate as of the date of final entry of judgment, including the entry of judgment in connection with any appeals. If any provision of this Agreement shall be determined by a court of competent jurisdiction to be invalid and unenforceable, the remaining provisions shall continue in full force and effect. Notwithstanding the foregoing, if any material provision of this Agreement, or the application of such provision to a particular situation, is held to be invalid, void or unenforceable, either City or Prologis may terminate this Agreement as to Prologis (in the case of Prologis taking such action, the termination shall relate only to Prologis' interest in the Property and the related Project Approvals) by providing written notice of such termination to the other parties.

11.3 Further Documents; Other Necessary Acts.

Each party shall execute and deliver to the other party all other instruments and documents as may be reasonably necessary to carry out the purpose of this Agreement and the Project Approvals and Subsequent Approvals, in order to provide or secure to the other party the full and complete enjoyment of the rights and privileges granted by this Agreement.

11.4 Time of Essence.

Time is of the essence in the performance of each and every covenant and obligation to be performed by the parties hereunder.

11.5 Amendment to this Agreement.

This Agreement may be modified from time to time by mutual consent of the parties, in accordance with the Development Agreement Statute, the City Development Agreement Procedures and this Section 11.5. In the event the parties modify this Agreement, City shall cause notice of such action to be duly recorded in the official records of San Joaquin County within ten (10) days of such action.

11.6 Project Is A Private Undertaking.

The parties agree that: (a) any development by Prologis of the Property shall be a private development; (b) City has no interest in or responsibilities for or duty to third parties concerning any improvements constructed in connection with the Property until such time that City accepts the same pursuant to the provisions of this Agreement and in connection with the various Project Approvals; (c) Prologis shall have full power over and exclusive control of the Project herein described to the extent of Prologis' interest therein, subject only to the limitations and obligations of Prologis under this Agreement,

its Project Approvals, and the other Existing Rules; (d) the contractual relationship between City and Prologis is such that Prologis is an independent contractor and not an agent of City; and (e) nothing in this Agreement is intended or shall be construed to create or reflect any form of partnership or joint venture between the parties.

This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. No other person shall have any right of action based upon any provision in this Agreement.

11.7 Covenants Running With The Land.

All of the provisions contained in this Agreement are binding upon and benefit the parties and their respective heirs, successors and assigns, representatives, lessees, and all other persons acquiring all or any portion of the Property, or any interest therein, whether by operation of law or in any manner whatsoever. All of the provisions of this Agreement shall be enforceable as equitable servitudes and shall constitute covenants running with the land pursuant to California law, including, without limitation, Civil Code section 1468. Each covenant herein to act or refrain from acting is for the benefit of or a burden upon the Project, as appropriate, runs with the Property and is binding upon each owner, including Prologis and all successive owners, of all or a portion of the Property during its ownership of such property.

11.8 Recordation Of Agreement.

Within ten (10) days of the Effective Date, Prologis shall cause this Agreement to be duly recorded in the official records of San Joaquin County.

11.9 Notices.

Any notice required under this Agreement shall be in writing and personally delivered, or sent by certified mail (return receipt requested and postage pre-paid), overnight delivery, or facsimile to the following:

City: City of Tracy
Attn: Development Services Director
333 Civic Center Plaza
Tracy, CA 95376

Copy to: City Attorney's Office
Attn: City Attorney
333 Civic Center Plaza
Tracy, CA 95376

Prologis: Prologis L.P.
Attn: Dan Letter
Pier 1, Bay 1
San Francisco, CA 94111
Tel: (415) 733-9973
Fax: (415) 733-2171

Copy to: Miller Starr Regalia
Attn: Nadia Costa
1331 North California Blvd., 5th Floor
Walnut Creek, CA 94596
Tel: 925.935.9400
Fax: 925.933.4126

Copy to: Prologis L.P.
Attn: General Counsel
4545 Airport Way
Denver, CO 80239
Tel: 303.567.5000
Fax: 303.567.5903

Notices to Mortgagees by City shall be given as provided above using the address provided by such Mortgagee(s). Notices to Assignees shall be given by City as required above only for those Assignees who have given City written notice of their addresses for the purpose of receiving such notices. Either party may change its mailing address/facsimile at any time by giving written notice of such change to the other party in the manner provided herein at least ten (10) days prior to the date such change is effected. All notices under this Agreement shall be deemed given, received, made or communicated on the earlier of the date personal delivery is effected or on the delivery date or attempted delivery date shown on the return receipt, air bill or facsimile.

11.10 Prevailing Wage.

In accordance with applicable laws and regulations, City or Prologis, as appropriate, shall be responsible for determining whether construction of any or all of the Project Infrastructure required in connection with development shown on a specific tentative map or final map or other Subsequent Approval application proposed by Prologis will trigger the obligation to pay prevailing wages under California or federal law. In the event and to the extent that payment of prevailing wages is required, City shall ensure compliance with those requirements, as appropriate and feasible.

11.11 Applicable Law.

This Agreement shall be construed and enforced in accordance with the laws of the State of California.

11.12 Venue.

Any action brought relating to this Agreement shall be held exclusively in a state court in the County of San Joaquin.

11.13 Indemnification.

Prologis shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents, and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) (collectively, "Claims") resulting from or arising out of the development contemplated by this Agreement, including, without limitation, Claims that may arise out of Section 3.3(d)(iii), other than a liability or claim based upon City's gross negligence or willful misconduct. The indemnity obligations of this Agreement shall not extend to Claims arising from activities associated with the maintenance or repair by the City or any other public agency of improvements that have been accepted for dedication by the City or such other public agency.

11.14 No Waiver.

No waiver by either party of any provision of this Agreement shall be considered a waiver of any other provision of any subsequent breach of the same or any other provisions, including the time for performance of any such provisions, and shall have no effect with respect to any other party's rights and obligations hereunder. The exercise by a party of any right or remedy as provided in this Agreement or provided by law shall not prevent the exercise by the party of any other remedy provided in this Agreement or under the law, and shall have no effect with respect to any other party's rights and remedies as provided herein.

11.15 Construction.

This Agreement has been reviewed and revised by legal counsel for both City and Prologis and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement. The provisions of this Agreement and the attached exhibits shall be construed as a whole according to their common meaning and not strictly for or against either party, and in a manner that shall achieve the purposes of this Agreement. Wherever required by the context, the masculine gender shall include the feminine or neuter genders, or vice versa.

11.16 Entire Agreement.

This Agreement and all exhibits constitute the entire agreement between the parties and supersede all prior discussions, negotiations, and agreements whether oral or written. Any oral representations or modifications concerning this instrument shall be of no force or effect unless contained in a subsequent written notification signed by both parties.

11.17 Estoppel Certificate.

Either party from time to time may deliver written notice to the other party requesting written confirmation that, to the knowledge of the certifying party: (a) this Agreement is in full force and effect and constitutes a binding obligation of the parties; (b) this Agreement has not been amended either orally or in writing, or if it has been amended, specifying the nature of the amendment(s); and (c) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, describing therein the nature of the default. A party receiving a request shall execute and return the

certificate within thirty (30) days after receipt thereof. The Planning Director shall have the right to execute any such certificate requested by Prologis. At Prologis' request, the certificate provided by City establishing the status of this Agreement with respect to any lot or parcel shall be in recordable form and Prologis shall have the right to record the certificate for the affected portion of the Property at its cost.

11.18 Counterparts.

This Agreement and any and all amendments thereto may be executed in counterparts, and all counterparts together shall be construed as one document.

11.19 Authority To Execute.

Each party hereto expressly warrants and represents that it has the authority to execute this Agreement on behalf of its entity and warrants and represents that it has the authority to bind its entity to the performance of its obligations hereunder.

11.20 Captions.

The caption headings provided herein are for convenience only and shall not affect the construction of this Agreement.

11.21 Compliance, Monitoring, and Management Duties; Default.

If Prologis fails to perform any of its duties related to compliance review processes, monitoring, or the management of any programs as required herein, City has the right, but not the obligation, to undertake such duties and perform them at said Prologis' expense.

11.22 Listing And Incorporation Of Exhibits.

The exhibits to this Agreement, each of which is hereby incorporated herein by reference, are as follows:

Exhibit 1: Map of Specific Plan Area

Exhibit 2: Map and Legal Description of Property

Exhibit 3: Master Plan Infrastructure Subject to Prologis' Election

Exhibit 4: Citywide Master Plan Fee Program

Exhibit 5: Specific Plan Private and Public Improvements

Exhibit 6: Form of Assumption Agreement

CITY OF TRACY, a municipal corporation

_____

Brent Ives

Mayor, City of Tracy
Date:

APPROVED AS TO FORM:
City of Tracy City Attorney's Office

_____
Dan Sodergren
City Attorney
Date:

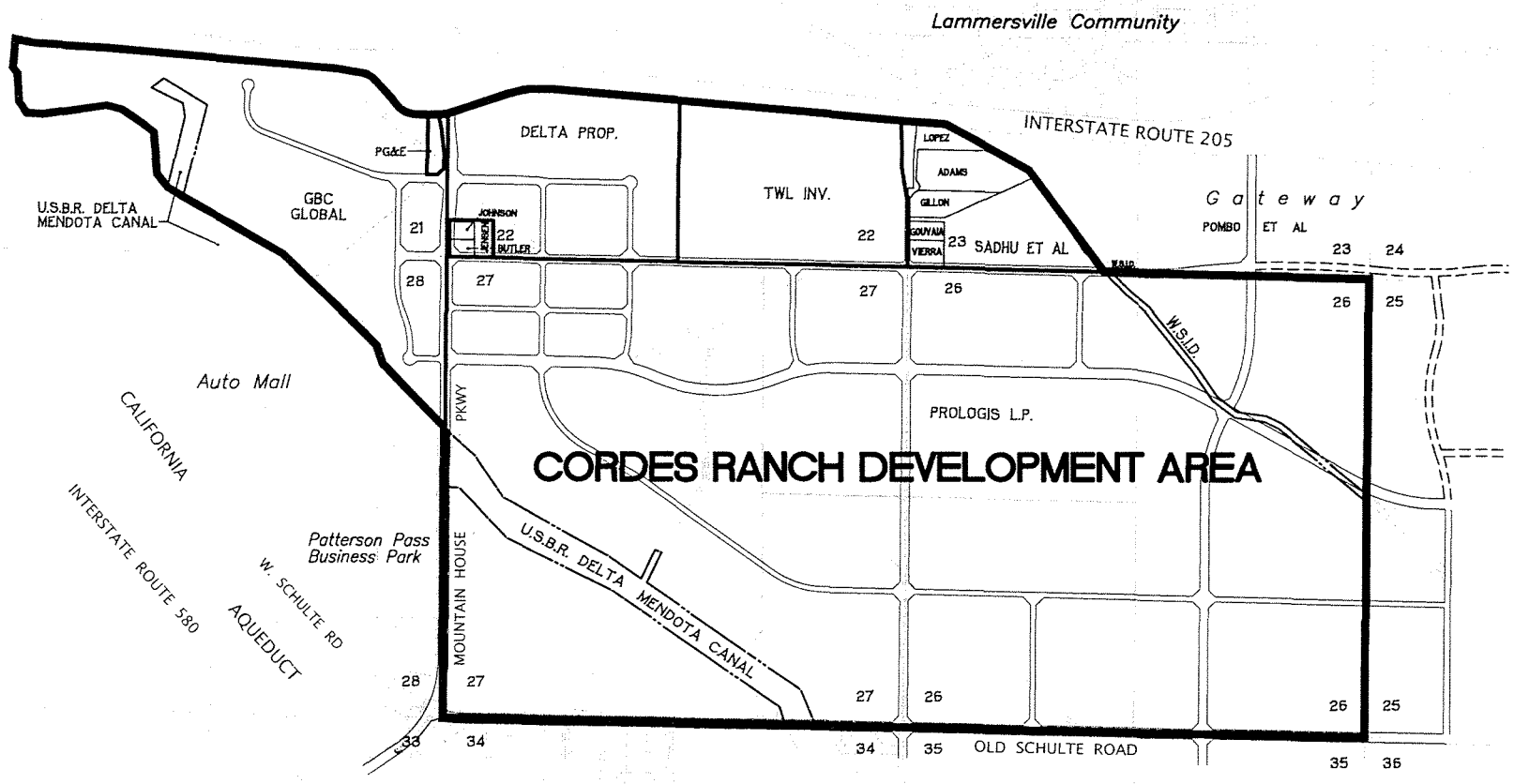
PROLOGIS:
PROLOGIS L.P., a Delaware limited partnership

By: Prologis, Inc., its General Partner

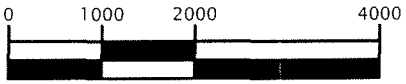
_____
Dan Letter
Its: Senior Vice President
Date:

EXHIBIT 1

MAP OF SPECIFIC PLAN AREA



SPECIFIC PLAN BOUNDARY



GRAPHIC SCALE 1" = 2000'

KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT 1

CORDES RANCH
OVERALL SITE

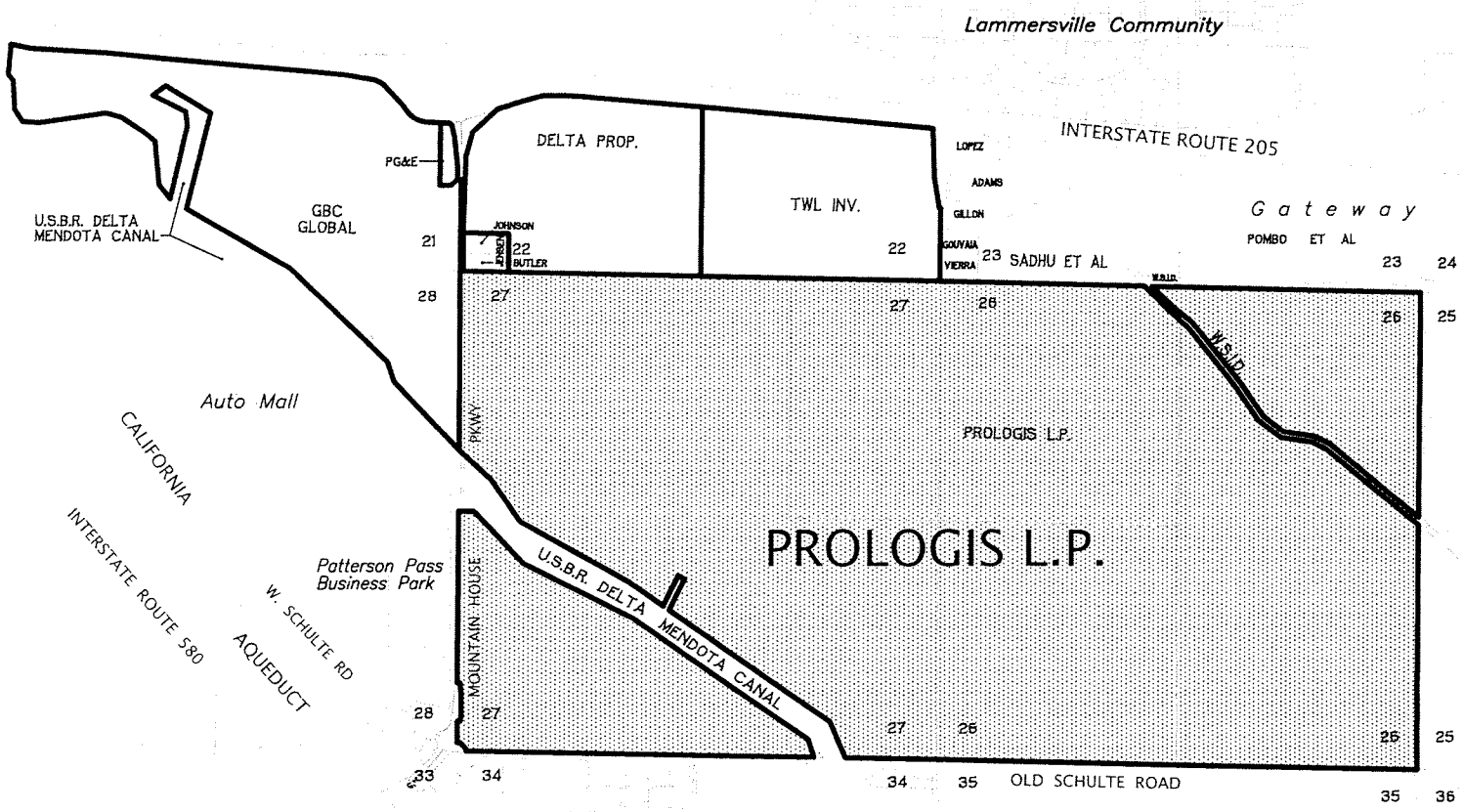
TRACY CALIFORNIA

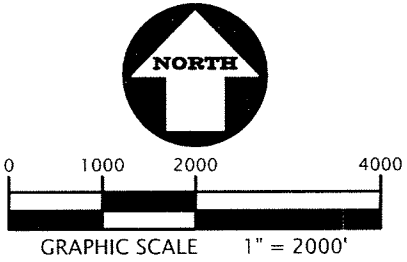
DATE	06/28/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	01

Z:\2009\A09500\COST SHARING.dwg 6/28/2013 6:20:17 PM PDT

EXHIBIT 2

MAP AND LEGAL DESCRIPTION OF PROPERTY





KIER & WRIGHT
CIVIL ENGINEERS & SURVEYORS, INC.
2850 Collier Canyon Road (925) 245-8788
Livermore, California 94551 Fax (925) 245-8796

EXHIBIT 2

CORDES RANCH
PROLOGIS L.P.

TRACY CALIFORNIA

DATE	04/15/2013
JOB NO.	A09500
SCALE	1" =2000'
SHEET	03

Z:\2009\A09500\COST SHARING.dwg 6/28/2013 6:20:17 PM PDT

Exhibit 2
Legal Description of Property

Real property in the unincorporated area of the County of SAN JOAQUIN, State of CALIFORNIA, described as follows:

PARCEL A:

PARCEL 2 AS SHOWN ON NOTICE OF LOT LINE ADJUSTMENT NO. LA-01-0017 AS EVIDENCED BY DOCUMENT RECORDED APRIL 26, 2001 AS INSTRUMENT NO. 2001-062040 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
THE NORTH ½ OF SECTION 27 TOGETHER WITH THE SOUTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.
EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED IN THE DEED TO THE UNITED STATES OF AMERICA, RECORDED FEBRUARY 25, 1945 IN VOLUME 1103 OF OFFICIAL RECORDS, PAGE 464, SAN JOAQUIN COUNTY RECORDS, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 27 AND
RUNNING THENCE NORTH 00° 20. WEST, ALONG THE WESTERLY BOUNDARY OF SAID SECTION 27, A DISTANCE OF 405.3 FEET TO A POINT, SAID POINT BEING SOUTH 00° 20. EAST 2234.5 FEET FROM THE NORTHWEST CORNER OF SAID SECTION 27;
THENCE CONTINUING NORTH 00° 20. WEST, ALONG SAID WESTERLY BOUNDARY, 252.8 FEET;
THENCE LEAVING SAID BOUNDARY, SOUTH 48° 17. EAST 481.7 FEET;
THENCE SOUTH 35° 17. EAST 432.1 FEET TO A POINT IN THE SOUTHERLY BOUNDARY OF THE NORTHWEST QUARTER OF SAID SECTION 27, SAID POINT IS SOUTH 89° 31. EAST 605.3 FEET FROM THE POINT OF BEGINNING;
THENCE NORTH 89° 31. WEST, ALONG LAST NAMED BOUNDARY, 215.7 FEET TO A POINT;
THENCE CONTINUING NORTH 89° 31. WEST, ALONG SAID BOUNDARY, 389.6 FEET TO THE POINT OF BEGINNING.
ALSO EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED IN THE DEED TO THE UNITED STATES OF AMERICA, RECORDED MAY 15, 1947 IN VOLUME 1065 OF OFFICIAL RECORDS, PAGE 227, SAN JOAQUIN COUNTY RECORDS, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT A POINT THAT IS ON THE NORTHERLY BOUNDARY OF THE SOUTH ½ OF SAID SECTION 27, AND IS DISTANT THERE ALONG, SOUTH 89° 31. EAST 389.6 FEET FROM THE WEST ¼ CORNER OF SAID SECTION 27, AND
RUNNING THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89° 31. EAST 215.7;
THENCE LEAVING SAID BOUNDARY AND RUNNING SOUTH 35° 17. EAST 127.2 FEET;
THENCE SOUTH 61° 36. EAST 1374.2 FEET;
THENCE SOUTH 55° 51. EAST 455.1 FEET;
THENCE NORTH 25° 54. EAST 367.6 FEET;
THENCE SOUTH 64° 06. EAST 80.00 FEET;
THENCE SOUTH 25° 54. WEST 379.2 FEET;
THENCE SOUTH 55° 41. EAST 2161.3 FEET;

THENCE SOUTH 23° 19. EAST 370.6 FEET;
THENCE SOUTH 23° 19. EAST 50.0 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF THE EXISTING RIGHT OF WAY FOR THE COUNTY ROAD ALONG THE SOUTHERLY BOUNDARY OF SAID SECTION 27;
THENCE SOUTH 23° 19. EAST 21.9 FEET TO A POINT THAT IS ON THE SOUTHERLY BOUNDARY OF SAID SECTION 27 AND IS DISTANT THERE ALONG NORTH 89° 25. WEST 1006.8 FEET FROM THE SOUTHEAST CORNER OF SAID SECTION 27;
THENCE ALONG THE SOUTHERLY BOUNDARY OF SAID SECTION 27, NORTH 89° 25. WEST 166.2 FEET;
THENCE CONTINUING ALONG SAID SOUTHERLY BOUNDARY, NORTH 89° 25. WEST 179.7 FEET;
THENCE LEAVING SAID BOUNDARY AND RUN NORTH 18° 21. WEST 21.1 FEET TO A POINT IN THE NORTHERLY BOUNDARY OF THE EXISTING RIGHT OF WAY FOR SAID COUNTY ROAD;
THENCE NORTH 18° 21. WEST 40.0 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT C;
THENCE NORTH 18° 21. WEST 151.3 FEET;
THENCE NORTH 55° 51. WEST 316.2 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER AS POINT D;
THENCE NORTH 55° 51. WEST 2044.6 FEET;
THENCE NORTH 64° 13. WEST 1341.4 FEET;
THENCE NORTH 44° 08. WEST 299.4 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT A;
THENCE NORTH 44° 08. WEST 423.7 FEET TO A POINT DESIGNATED FOR THE PURPOSE OF REFERENCE THERETO HEREINAFTER, AS POINT B;
THENCE NORTH 44° 08. WEST 67.8 FEET TO A POINT ON THE NORTHERLY BOUNDARY OF THE SOUTH 1/2 OF SAID SECTION 27 AND IS DISTANT THERE ALONG NORTH 89° 31. WEST 220.0 FEET FROM THE POINT OF BEGINNING;
THENCE ALONG SAID NORTHERLY BOUNDARY, SOUTH 89° 31. EAST 220.00 FEET TO THE POINT OF BEGINNING.
ALSO EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED
IN THE DEED TO THE STATE OF CALIFORNIA, RECORDED SEPTEMBER 14, 1962 IN VOLUME 2595 OF OFFICIAL RECORDS, PAGE 390, SAN JOAQUIN COUNTY RECORDS, SAID PARCELS

BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL NO. 1:
COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SCHULTE ROAD, COUNTY ROAD NO. 01-281 (A ROAD 60-FEET WIDE) WITH THE EAST LINE OF PATTERSON PASS ROAD, COUNTY ROAD NO. 01-280 (A ROAD 60-FEET WIDE); SAID INTERSECTION BEARS NORTH 44° 32. 52" EAST 43.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 27;
THENCE ALONG SAID EAST LINE, NORTH 00° 19. 04" EAST 301.97 FEET TO THE TRUE POINT OF BEGINNING; SAID POINT BEING AT THE COORDINATES Y=446,917.88 FEET AND X=1,702,034.86 FEET;
THENCE, CONTINUING ALONG SAID EAST LINE, NORTH 00° 19. 04" EAST 426.72 FEET;
THENCE SOUTH 05° 06. 42" EAST 100.45 FEET;
THENCE SOUTH 00° 17. WEST 252.65 FEET;
THENCE SOUTH 07° 44. 03" WEST 74.72 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL NO. 2:
BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SCHULTE ROAD, COUNTY ROAD NO. 01-281 (A ROAD 60-FEET WIDE) WITH THE EAST LINE OF PATTERSON PASS ROAD, COUNTY ROAD NO. 01-280 (A ROAD 60-FEET WIDE); SAID INTERSECTION BEARS NORTH 44°32. 52" EAST 43.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 27, SAID INTERSECTION BEING AT THE COORDINATES Y=446,615.92 FEET AND X=1,702,033.19 FEET;

THENCE ALONG SAID EASTERLY LINE OF PATTERSON PASS ROAD, NORTH 00° 19. 04" EAST 65.00 FEET;
THENCE SOUTH 45° 27. 08" EAST 90.69 FEET TO SAID NORTHERLY LINE OF SCHULTE ROAD;
THENCE ALONG SAID NORTHERLY LINE, NORTH 88° 46. 38" WEST 65.00 FEET TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN THE NORTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN;
THENCE ALONG THE EAST LINE OF SAID SECTION 27, SOUTH 0° 22. 36" WEST 2635.22 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 88° 53. 27" WEST 1652.51 FEET;
THENCE ALONG A LINE PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 00° 22. 36" EAST 2636.66 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE NORTH LINE OF NORTHEAST QUARTER OF SAID SECTION 27, SOUTH 88° 50. 27" EAST 1652.53 FEET TO THE POINT OF BEGINNING.

PARCEL B:

PARCEL 1 AS SHOWN ON NOTICE OF LOT LINE ADJUSTMENT NO. LA-01-0017 AS EVIDENCED BY DOCUMENT RECORDED APRIL 26, 2001 AS INSTRUMENT NO. 2001-062040 OF OFFICIAL RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
ALL THAT CERTAIN REAL PROPERTY SITUATE, LYING AND BEING IN THE COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, LYING IN THE NORTH ½ OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN, DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHEAST CORNER OF SECTION 27, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN;
THENCE ALONG THE EAST LINE OF SAID SECTION 27, SOUTH 0° 22. 36" WEST 2635.22 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE SOUTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 88° 53. 27" WEST 1652.51 FEET;
THENCE ALONG A LINE PARALLEL WITH THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27, NORTH 00° 22. 36" EAST 2636.66 FEET TO THE NORTH LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27;
THENCE ALONG THE NORTH LINE OF NORTHEAST QUARTER OF SAID SECTION 27, SOUTH 88° 50. 27" EAST 1652.53 FEET TO THE POINT OF BEGINNING.

PARCEL C:

ALL THAT PORTION OF THE NORTHEAST ¼ OF SECTION 26 TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTH AND EAST OF THE NORTHERLY LINE OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT, AND ALSO ALL THAT PORTION OF THE NORTHWEST ¼ OF SAIDSECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING NORTH AND EAST OF THE NORTHERLY LINE OF THE SAID UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT.

PARCEL C-1:

AN EASEMENT 30 FEET IN WIDTH ALONG THE SOUTHERLY PORTION OF THE SOUTHWEST ¼ OF SECTION 23, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTH OF THE SOUTHWESTERLY BOUNDARY LINE OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT BEING DESCRIBED AS PARCEL A AS SHOWN ON THE PARCEL MAP RECORDED IN BOOK OF PARCEL MAPS, BOOK 3, PAGE 114, SAN JOAQUIN COUNTY RECORDS AS RESERVED IN AN INSTRUMENT RECORDED JANUARY 13, 1989 RECORDER'S INSTRUMENT NO. 89003100, SAN JOAQUIN COUNTY RECORDS.

PARCEL D:

THE EAST ½ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTH OF THE UPPER MAIN CANAL OF THE WEST SIDE IRRIGATION DISTRICT.

PARCEL E:

THE SOUTHWEST ¼ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN.

PARCEL F:

THE NORTHWEST ¼ OF SECTION 26, TOWNSHIP 2 SOUTH, RANGE 4 EAST, MOUNT DIABLO BASE AND MERIDIAN LYING SOUTHWESTERLY OF THE WEST SIDE IRRIGATION UPPER MAIN CANAL.

APN:
209-120-030-000 (AFFECTS PORTION OF PARCEL A)
209-120-040-000 (AFFECTS PORTION OF PARCEL A)
209-120-050-000 (AFFECTS PARCEL B)
209-120-060-000 (AFFECTS PORTION OF PARCEL A)
209-120-070-000 (AFFECTS PORTION OF PARCEL A)
209-220-030-000 (AFFECTS PARCEL D)
209-220-040-000 (AFFECTS PARCEL E)
209-220-060-000 (AFFECTS PARCEL F)
209-220-070-000 (AFFECTS PARCEL C)

EXHIBIT 3

MASTER PLAN IMPROVEMENTS SUBJECT TO PROLOGIS' ELECTION

Exhibit 3

Master Plan Improvements Subject To Prologis' Election To Construct Pursuant to DA

Improvements

	Master Plan Traffic Improvement
	Bridges and Interchanges
1	California Aqueduct Bridge *
2	Mountain House Parkway Canal Bridge *
3	Old Schulte Road Canal Bridge *
	Intersections and On/Off Ramps
4	I-580 Interchange - Interim Traffic Signals *
5	Mountain House and New Shulte
6	Mountain House and Capital Parkway
7	Mountain House and Old Schulte
8	Capital Parkway and Hanson Road
9	Capital Parkway and Pavillion Parkway
10	New Shulte and Hanson Road
11	New Shulte and Pavillion Parkway
12	Old Shulte and Pavillion Parkway
13	Old Shulte and Hanson Road
	Roadways
17	Mountain House Parkway*
18	Capital Parks Drive
19	New Schulte Road*
20	Old Schulte Road
21	Hansen Road
22	Pavillion Parkway
23	Intelligent Transportation System (conduit only)
	Master Plan Storm Drain Improvements
24	On-Site Storm Drain Pipe System
25	Storm Drain Basins
26	Storm Drain - Greenbelt Parkway
	Master Plan Potable Water Improvements
27	All Potable Water Lines within Specific Plan
28	Water Tank - 1.5 MG / Booster Pump (Zone 3)
29	Pressure Regulating Stations # 9 and # 10
	Master Plan Recycled Water Improvements
30	All Recycled Water Lines - 30 inches or less within Specific Plan

* City may construct these projects due to multiple agency involvement.

EXHIBIT 4

CITYWIDE MASTER PLAN FEE PROGRAM

Exhibit 4

City of Tracy
Draft Master Plan Fees
8/28/2013

		Water				Wastewater			Storm Drainage*							
	Transportation	Distribution	Supply	Treatment	Recycled Water	Treatment Plant	East Conveyance	West Conveyance	Lammers	Mtn. House	South MacArthur and Rocha	Parks	Public Safety	Public Facilities	Total (Lammers SD and West WW)	Total (South MacArthur SD and East WW)
	per unit															
Residential-Very Low Density	$ 8,362	$ 4,236	$ 1,813	$ 3,295	$ 2,653	$ 6,727	$ 2,405	$ 1,610	$ 1,475	NA	$ 4,866	$ 7,557	$ 1,353	$ 2,953	$ 42,034	$ 46,220
Residential-Low Density	$ 8,362	$ 4,236	$ 1,813	$ 3,295	$ 2,653	$ 6,727	$ 2,405	$ 1,610	$ 1,355	NA	$ 4,469	$ 7,557	$ 1,353	$ 2,953	$ 41,914	$ 45,823
Residential-Medium Density (attached 2-4)	$ 5,101	$ 3,050	$ 1,305	$ 2,372	$ 2,282	$ 5,504	$ 1,968	$ 1,317	$ 902	NA	$ 2,971	$ 6,183	$ 1,107	$ 2,416	$ 31,540	$ 34,259
Residential-High Density (attached 4+)	$ 5,101	$ 2,160	$ 925	$ 1,680	$ 1,539	$ 4,485	$ 1,603	$ 1,073	$ 807	NA	$ 2,659	$ 5,038	$ 902	$ 1,969	$ 25,679	$ 28,061
	per acre												per 1,000 sf	per 1,000 sf		
Commercial/Retail	$ 217,757	$ 17,622	$ 7,542	$ 13,707	$ 14,939	$ 29,048	$ 10,385	$ 6,952	$ 24,736	$ 15,795	$ 81,501	$ -	$ 410	$ 77	$ 338,664	$ 398,862
Office	$ 173,185	$ 13,216	$ 5,657	$ 10,280	$ 12,179	$ 29,048	$ 10,385	$ 6,952	$ 24,736	$ 15,795	NA	$ -	$ 683	$ 128	$ 291,148	NA
Industrial	$ 75,011	$ 13,216	$ 5,657	$ 10,280	$ 12,179	$ 26,908	$ 9,620	$ 6,440	$ 24,736	$ 15,795	NA	$ -	$ 137	$ 26	$ 177,968	NA

* only 3 of the 9 SD zones are shown on the summary - picked a representation of the fees.

EXHIBIT 5

SPECIFIC PLAN PRIVATE AND PUBLIC IMPROVEMENTS

EXHIBIT 5

	TABLE 6.3 SPECIFIC PLAN PUBLIC AND PRIVATE IMPROVEMENT OBLIGATIONS				
	Obligation	Depiction	Trigger	Area Responsibility	Maintenance Responsibility
Public Roadways					
1	Road A (East of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
2	Road A (West of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2	City Of Tracy*
3	Road B (North Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
4	Road B (South Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
5	Road C	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2	City Of Tracy*
6	Road D	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2	City Of Tracy*
7	Road E (North Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
8	Road E (South Of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
9	Road F (North of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 3	City Of Tracy*
10	Road F (South of Capital Parks)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
11	Road G	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
12	Road H	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
13	Road I	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
14	Frontage Improvements Mountain House(Between Capital Parks/ I-205)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 2 and 3 Along Frontage Behind Curb and Shared Intersections	City Of Tracy*
15	Frontage Improvements Mountain House(Between Capital Parks/ Delta	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1 and 2 Along Frontage Behind Curb and Shared Intersections	City Of Tracy*
16	Frontage Improvements Mountain House(Between Delta/Old Shulte)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
17	Frontage Improvements Capital Parks	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1 -5 Along Frontage and Shared Intersections	City Of Tracy*
18	Frontage Improvements New Shulte (East of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
19	Frontage Improvements Hanson (Between Capital Parks/ Delta Mendota)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
20	Frontage Improvements Hanson (Between Capital Parks/Old Schulte)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 4	City Of Tracy*
21	Frontage Improvements Hanson Road (Between Capital Parks/ I-205)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 4 and 5 Along Frontage and Shared Intersections	City Of Tracy*
22	Northern Frontage Improvements Old Schulte(East of Mountain House)	Shown on Exhibit 6.2	Subdivision Mapping	Zone 1	City Of Tracy*
Public Utilities					
1	Potable Water Pipelines	Shown on Exhibit 6.42	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
2	Recycled Water Pipelines	Shown on Exhibit 6.43	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
3	Sanitary Sewer Pipelines	Shown on Exhibit 6.44	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
4	Landscaping and Bike Trails within Storm Drain and Basins	Shown on Exhibit 6.45	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
5	Storm Drains Within Roads	Shown on Exhibit 6.45	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy
6	*All Joint Trench(electric, telecommunications, gas)	Shown on Exhibit 6.46	Subdivision Mapping	Zones 1-5 Based on Exhibit	City Of Tracy

TABLE 6.3 SPECIFIC PLAN PUBLIC AND PRIVATE IMPROVEMENT OBLIGATIONS					
	Obligation	Depiction	Trigger	Area Responsibility	Maintenance Responsibility
Private Improvements					
1	City Gateway Signage	Section 5.3	After First 650 acres of Development	Zone 1-4	Owners Association Per Exhibit 6.47
2	Entryway Signage	Section 5.4	At Time of Construction of Intersection	Zone 1-4	Owners Association Per Exhibit 6.47
3	Major Intersections	Section 5.5	At Time of Construction of Intersection	Based on Zone Location	Owners Association Per Exhibit 6.47
4	Minor Intersections	Section 5.6	At Time of Construction of Intersection	Based on Zone Location	Owners Association Per Exhibit 6.47
5	Central Green Bicycle Trails and Passive Park	Section 5.7	Recordation of First Map Adjacent to Central Green	Zone 1	Owners Association Per Exhibit 6.47
6	Eastside Park	Section 5.8	Recordation of First Map North to Eastside Park	Zone 1	Owners Association Per Exhibit 6.47
7	Street Frontage Landscape Behind Walks	Section 5.9	At time of Development of Each Adjacent Parcel Unless Otherwise Approved by Development Director	Based on Zone Location	Owners Association Per Exhibit 6.47
8	Drainage Easement Landscaping and Trails	Section 5.10	Landscaping and Trails shall be constructed by each adjacent parcel at time of development. Design shall be done on timing based on final approved wetlands mitigation plan.	Zone 1	Owners Association Per Exhibit 6.47
9	I-205 Frontage Landscaping	Section 5.11	At time of Development of Each Adjacent Parcel Unless Otherwise Approved by Development Director	Zone 2-5 (Based on Zone Location)	Owners Association Per Exhibit 6.47

**** Road Improvements Include Required Intersections.***

***** Joint Trench in curb to curb program Roads to accommodate lighting and traffic Signals are considered program improvements***

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EXHIBIT 6

FORM OF ASSUMPTION AGREEMENT

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

_____
_____
_____
Attention: _____

ASSIGNMENT AND ASSUMPTION AGREEMENT
(Development Agreement)

This Assignment and As sumption Agreement (Development Agreement) (the "**Agreement**") is made effective as of _____, ____, by and bet ween _____, a _____ ("**Assignor**"), and _____, a _____ ("**Assignee**").

A. Assignor and the _____, _____ (the "**City**") entered into that certain Development Agreement, dated as of _____, 2013 and recorded as Instrument No. _____ on _____ (the "**DA**"), relating to certain real property in located in the City of Tracy, County of San Joaquin, State of California (the "**Property**"). The Property is more particularly described in the DA. All capitalized terms used herein shall have the definitions given to them in the DA, unless otherwise expressly stated herein.

B. The DA provides for development of the Project (as that term is defined therein) on the Property, as more particularly described in the DA.

C. Assignor desires to assign to Assignee all of Assignor's rights and obligations as "Developer" under the DA with respect to the Property (the "**Assigned Interests**") and Assignee desires to assume from Assignor the Assigned Interests.

NOW, THEREFORE, in consideration of the promises and the mutual agreements and covenants set forth herein and intending to be legally bound hereby, Assignor and Assignee do hereby agree as follows:

1. Assignment. Assignor hereby assigns to Assignee all of Assignor's right, title and interest in and to the Assigned Interest.

2. Assumption. Assignee hereby assumes from Assignor all of Assignor's right, title and interest in and to the Assigned Interests relating to the period from and after the effective date of this Agreement, and agrees to perform all of Assignor's obligations as "Developer" under the DA with respect to the Assigned Interests relating to the period from and after the effective date of this Agreement.

3. Consent. The City has consented to such assignment and assumption pursuant to the Consent set forth in Exhibit A.

4. Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation shall no affect the validity or enforceability of the offending term or provision in any other situation.

5. Successors and Assigns. This Agreement shall be binding upon and inure solely to the benefit of the parties hereto and their permitted successors and assigns.

6. Applicable Law. T his Agreement shall be governed by, and c onstructed in accordance with, the laws of the State of California, applicable to contracts executed in and to be performed entirely within that state, and without regard to the conflict of laws provisions thereof.

7. Counterparts. This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, Assignor and A ssignee have caused this Agreement to be executed as of the date first written above by their respective officers thereunto duly authorized.

ASSIGNOR:

_____,
a _____

By: _____
Name: _____
Title: _____

ASSIGNEE:

_____,
a _____

By: _____
Name: _____
Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT A

CONSENT TO ASSIGNMENT AND ASSUMPTION

The CITY OF TRACY, a municipal corporation (the "**City**"), hereby consents to the Assignment and A ssumption Agreement (Development Agreement) by and bet ween _____, a _____, as Assignor, and _____, a _____, as Assignee (the "**Assignment**"), to which this Consent to Assignment and A ssumption is attached, and releases Assignor from obligations under the DA (as defined in the Assignment) relating to the period from and after the effective date of the Assignment.

CITY:

CITY OF TRACY, a municipal corporation

_____

Development Services Director
Date:

APPROVED AS TO FORM:
City of Tracy City Attorney's Office

_____

City Attorney
Date:

Attested:

_____
Name: _____
Secretary

Approved as to form:

By: _____
Name: _____
Title: _____

STATE OF CALIFORNIA)
) ss.
COUNTY OF _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

Exhibit 2

Consistency Findings between the General Plan and Development Agreement

For the reasons set forth below, the development agreement between the City of Tracy and Prologis, L.P. (hereinafter "Development Agreement") and the development it contemplates (hereinafter "Project"), including the Cordes Ranch Specific Plan (hereinafter "Specific Plan") are consistent with the objectives, policies, profiles for general land uses and programs specified in the City of Tracy's 2011 General Plan subject to the proposed 2013 Cordes Ranch General Plan Amendment. In particular, the Project (including Specific Plan) is consistent with, and in furtherance of, the following components of the 2011 General Plan:

Statistical Profile: Urban Reserve 6

• **Policy 6a**. Direct vehicular, bicycle and pedestrian connections to Tracy Gateway to the east should be provided.

Grounds for finding of consistency: The Project proposes to increase east-west connectivity in the Specific Plan Area. These new streets would have Class 1 bikeways and pedestrian sidewalks that connect with existing facilities located to the east of the Specific Plan Area.

• **Policy 6b**. Direct connections to I-205 and I-580 via Mountain House Parkway should be provided.

Grounds for finding of consistency: Along Mountain House Parkway, the Project proposes a six-lane parkway north of Old Schulte Road and a four-lane parkway south of Old Schulte Road in order to enhance the existing vehicle connections to I-205 and I-580.

• **Policy 6c**. Parcel sizes should vary in size in order to accommodate a range of uses including high density housing, large-scale industrial uses such as regional warehouse and distribution facilities, as well as smaller-scale uses such as commercial, office, office-flex, and industrial flex businesses.

Grounds for finding of consistency: The Project proposes a range of parcel sizes to accommodate a range of complimentary non-residential land uses. For instance, the parcels for commercial uses, located near the intersection of I-205 and Mountain House Parkway, would be much smaller than the parcels for business park industrial uses, located along Old Schulte Road. In addition, the Project would be consistent with this policy because the General Plan Amendment would remove the reference to high-density residential housing within the Specific Plan Area, to conform to the City's current residential growth areas and growth management ordinance guidelines.

• **Policy 6d**. Development proposals should include land for public facilities, parks and/or open spaces to ensure consistency with the standards established in the Community Character Element of this General Plan.

Grounds for finding of consistency: The Project proposes approximately 89 acres of parks and open space areas to be used in conjunction with storm drainage facilities, including an approximately 35-acre Central Green and an approximately 18-acre Eastside Park. As discussed below (Goals CC-1, CC-2, CC-9, and CC-11), these proposals are consistent with the standards established in the Community Character Element.

• **Policy 6e**. Appropriate setbacks and landscaping along I-205 should be provided to create an aesthetically pleasing visual entryway to the city.

Grounds for finding of consistency: As shown in the Master Landscape Plan (Chapter 5 of the Specific Plan), the Project proposes setbacks and landscaped buffers along I-205. Additionally, the conceptual landscape designs for entry intersections, which are described in Chapter 6 of the Specific Plan, would provide a sense of arrival and visual emphasis to entryways in the Specific Plan Area. The Specific Plan also contains the I-205 Overlay which establishes additional land use and development standards to further direct the orientation, design, and detailing of buildings and landscaping and enhance this visual entryway to the City.

• **Policy 6f**. Industrial uses on the eastern side of this Urban Reserve should be designed with adequate buffers from residential uses.

Grounds for finding of consistency: No residential uses are proposed by the Project or the Gateway Project, or adjacent lands to the east. Additionally, the Project proposes office uses in the southeastern corner of the I-205 and Hansen Road intersection to create a transition zone between the Lammersville residential neighborhood (north of I-205) and the business industrial park in the Specific Plan Area.

• **Policy 6g**. Consistent with the goals, objectives, policies, and actions in the Community Character and Economic Development Elements, areas along I-205 should be developed with office-flex or higher quality space, rather than warehousing and distribution uses, to capitalize upon their proximity to entryways of the city.

Grounds for finding of consistency: The Project proposes the development of high-quality space with an emphasis on commercial, office, and business park industrial uses on the properties along I-205. The development standards also discourage truck stops in this area and prohibit outdoor storage. The Specific Plan also contains the I-205 Overlay which establishes additional land use and development standards to further enhance this visual entryway to the City.

•**Goal LU-1**. A balanced and orderly pattern of growth in the City.

Grounds for finding of consistency: As discussed below, the Project is consistent with the LAFCO approved SOI and includes a Specific Plan which promotes a comprehensive planning vision consistent with the General Plan as well as a framework to develop the Project in an orderly fashion.

• **Objective LU-1.2**. Comprehensively plan for new development in the City's Sphere of Influence.

• **Policy P3**. The first application for development in each Urban Reserve shall be responsible for preparing a General Plan amendment to establish specific land use designations for each parcel of land within the Urban Reserve and a Zoning District, Specific Plan or PUD for the entire Urban Reserve area. When the development intended for areas within an Urban Reserve is initiated solely to accommodate schools, parks, and public facilities, then the requirement to prepare comprehensive Zoning Districts, Specific Plans or PUDs for the entire area does not apply until development of commercial, industrial, office or residential development is proposed.

Grounds for finding of consistency: The Project includes a General Plan Amendment to establish Industrial, Office, Commercial, and Park land use designations across the entire Specific Plan Area. The Project also includes a Specific Plan containing zoning and development regulations for the Specific Plan Area, as well as a comprehensive planning vision and framework.

• **Goal LU-2**. Expanded economic opportunities in Tracy.

Grounds for finding of consistency: As discussed below, the Specific Plan would bring job-generating development to the city.

• **Objective LU-2.1**. Balance residential development with jobs, retail growth, and the ability to provide services.

• **Policy P1**. The City's priorities for future growth, in order of priority, are: job-generating development to match the skills of Tracy residents; diversification of housing types suitable for Tracy's workforce, including those types suitable for Tracy's workforce; and continued growth of the retail base.

Grounds for finding of consistency: The Project would include office, retail, and business park industrial developments, which would bring a range of jobs that match the skills of Tracy residents and encourage the growth of the retail base.

• **Objective LU-2.3**. Expand the City's industrial base.

Policy P3. Consistent with goals in the Economic Development Element, office-flex uses, or higher-quality space should be located in areas at entryways to the city such as in Tracy Gateway, Cordes Ranch, and the Tracy Hills Specific Plan area along I-205 and I-580. The Specific Plan Area should also contain commercial uses and services to meet the daily needs of workers and high-density housing suitable for the workforces in these areas.

Grounds for finding of consistency: Per Table 1.1 of the Specific Plan, at least 75 percent of the Specific Plan Area would consist of business park, industrial and office uses. As discussed below (Objective ED 6.7), the Project would include high-quality business space and would contain commercial uses and services to meet the daily needs of workers. However, the Specific

Plan area would not include high-density, workforce housing. The Project includes a proposal to amend the General Plan to remove the reference to high-density residential housing within the Specific Plan Area, in order to implement the Cordes Ranch planning vision which is consistent with the City's goals for this area.

• **Goal LU-6**. Land development that mitigates its environmental, design and infrastructure impacts.

Grounds for finding of consistency: The Project includes sustainable measures and other features that are designed to enhance sustainability, reduce greenhouse gas emissions, decrease water and energy consumption, and minimize, to the extent feasible, the impacts of construction activities and waste generation. In addition, the Draft Environmental Impact Report (hereinafter "DEIR") prepared for the Project evaluates its potential environmental impacts and identifies mitigation measures that will reduce, to the extent feasible, these impacts to a less than significant level.

• **Objective LU-6.1**. Minimize the impact of industrial development or aggregate mining on adjacent uses.

• **Policy P1**. New industrial or mining uses shall be designed to not adversely impact adjacent uses, particularly residential neighborhoods, with respect to, but not limited to, noise, dust and vibration, water quality, air quality, agricultural resources and biological resources.

Grounds for finding of consistency: The sustainable measures and other Project components as well as the identified mitigation measures in the DEIR would help minimize the impact of the proposed business park industrial development on the adjacent uses. The Specific Plan contains land use limitations, design and development standards to appropriately regulate the type of development allowed in the Specific Plan Area.

• **Objective LU-6.2**. Ensure land use patterns that minimize conflicts between transportation corridors and neighboring uses.

• **Policy P1**. Uses that are compatible with the noise, air quality and traffic impacts associated with freeways, such as auto-oriented commercial and industrial uses, should be located near and along freeway corridors whenever possible.
The proposed business park industrial uses are located near I-580 or along I-205 to maximize the use of these transportation corridors. The Project would provide commercial and office development along I-205 with landscaped buffer zones, heightened development standards and design guidelines and other mitigation measures to reduce noise, air quality, and traffic impacts associated with freeways.

• **Policy P2**. Adequate environmental protection and mitigation shall be provided for uses that are less compatible with development near and along freeway corridors.

Grounds for finding of consistency: As discussed above, the proposed business park industrial uses are located near I-580 or along I-205 to maximize the use of these transportation corridors. The Project would provide commercial and office development along I-205 with landscaped buffer zones, heightened development standards and design guidelines and other mitigation measures to reduce noise, air quality, and traffic impacts associated with freeways. The Project has designated truck routes which exclude Hansen Road north of I-205 (which leads to the Lammersville residential neighborhood).

• **Goal LU-8**. No urbanization in unincorporated County areas as defined by this General Plan or the San Joaquin County General Plan, whichever is more restrictive, without annexation to the city, a pre-annexation agreement, or a letter of support from the City.

Grounds for finding of consistency: Development under the Specific Plan would not occur until LAFCO approves the annexation of the Specific Plan area to the City.

• **Objective LU-8.1**. Participate proactively in land use decision making within Tracy's Planning Area in pursuit of the above-stated goal.

• **Policy P1**. The City shall strongly oppose all development in the area defined by Goal LU-8 unless the property is annexed, unless there is a pre-annexation agreement, or unless San Joaquin County receives a letter of support from the City of Tracy.

• **Policy P2**. The City shall not make new commitments to provide water and wastewater services to areas outside the City limits unless such commitment is accomplished by a pre-annexation agreement and approved by LAFCO if required.

Grounds for finding of consistency: The Project proposes to annex the Specific Plan Area to the City. No utility services to the Project would be provided by the City prior to approval of the annexation.

<u>Community Character Element</u>

• **Goal CC-1**. Superior design quality throughout Tracy.

Grounds for finding of consistency: The Design Guidelines of the Plan would ensure that the architecture, landscape, and streetscape in the Specific Plan area feature high-quality design.

• **Objective CC-1.1**. Preserve and enhance Tracy's unique character and "hometown feel" through high-quality urban design.

• **Policy P2**. All new development and redevelopment shall adhere to the basic principles of high quality urban design, architecture and landscape architecture including, but not limited to, human-scaled design, pedestrian-orientation, interconnectivity of street layout, siting buildings to hold corners, entryways, focal points and landmarks.

Grounds for finding of consistency: The Development Standards and Design Guidelines of the Specific Plan, as well as other land use planning and development design policies, would ensure that development under the Specific Plan contains high-quality urban design, human-scaled design, and pedestrian-orientation. One of the goals of the Specific Plan calls for creating a gateway to the City. To achieve this, the Specific Plan designates an I-205 Overlay Zone along Interstate 205, where heightened development standards and design guidelines would be imposed, which would require, among other things, an enhanced gateway design, addressing building orientation, signage, focal points, and landscaping. Other examples of design techniques to enhance the quality of the built environment within the Specific Plan Area include requirements for pedestrian connectivity, building orientation, site planning, screening, walls, fences, parking areas, lighting, among other techniques, as more fully described Chapter 4 of the proposed Specific Plan.

• **Goal CC-2**. A high level of connectivity within the City of Tracy.

Grounds for finding of consistency: The Project proposes a circulation network that is designed to create connectivity between uses, to reduce vehicle miles traveled, and to provide increased connectivity and mobility options for pedestrians and bicycles. As shown in Figure 6.28 of the proposed Specific Plan, the Project includes Class I bikeways and sidewalks on every street.

• **Objective CC-2.1**. Maximize direct pedestrian, bicycle and vehicle connections in the city.

Grounds for finding of consistency: The Project proposes a circulation network that is designed to create connectivity between uses, to reduce vehicle miles traveled, and to provide increased connectivity and mobility options for pedestrians and bicycles. As shown in Figure 6.28 of the proposed Specific Plan, the Project includes Class I bikeways and sidewalks on every street.

• **Goal CC-11**. Well-designed Employment Areas that are integrated with other parts of Tracy.

Grounds for finding of consistency: The Project proposes two focal points within the Specific Plan Area: an approximate 35-acre Central Green that would provide a main focal point and amenity for the employees and visitors of the Specific Plan Area; and an approximate 18-acre Eastside Park, located at the eastern edge of the Specific Plan area, providing an additional focal point and amenity. These two focal points would be within walking or biking distance from all developments in the Specific Plan Area. Additionally, there are two planned roadways (Capitol Parks Drive and New Schulte Road) that further connect the Specific Plan Area with the City and finally, the City's TRACER bus system will further connect this area with residential, commercial, and downtown areas. The Project also includes entry monumentation and landscape features at major intersections to further enhance the identity of the Project Area.

• **Objective CC-11.1**. Ensure those Employment Areas is developed with a recognizable identity and structure.

• **Policy P1**. Employment Areas should contain one or more Focal Points such as a retail use, park, or plaza.

• **Policy P3**. Development within an Employment Areas should occur such that a majority of business parks or office parks are within a reasonable walking or biking distance, generally ½ mile, of one or more Focal Points.

Grounds for finding of consistency: The Project proposes two focal points within the Specific Plan Area: an approximate 35-acre Central Green that would provide a main focal point and amenity for the employees and visitors of the Specific Plan Area; and an approximate 18-acre Eastside Park, located at the eastern edge of the Specific Plan area, providing an additional focal point and amenity. These two focal points would be within walking or biking distance from all developments in the Specific Plan Area. Additionally, there are two planned roadways (Capitol Parks Drive and New Schulte Road) that further connect the Specific Plan Area with the City and finally, the City's TRACER bus system will further connect this area with residential, commercial, and downtown areas. The Project also includes entry monumentation and landscape features at major intersections to further enhance the identity of the Project Area.

<u>Economic Development Element</u>

• **Goal ED-1**. A diversified local economy.

Grounds for finding of consistency: The Project provides for approximately 126 acres of office uses, which would allow for corporate headquarters and emerging industries, including technical, finance, insurance, and information technologies uses. Another approximately 1,291 acres of business park industrial uses would allow for a variety of service, manufacturing, distribution, and warehousing related uses. In so doing, the Project would provide enhanced employment opportunities for a wide range of skill levels and salaries to meet the needs of the Tracy community.

• **Objective ED-1.1**. Attract emerging growth industries in order to increase employment opportunities for a wide range of skill levels and salaries to meet the current and future employment needs of residents.

• **Policy P1**. The City shall target corporate headquarters, high-wage office uses and emerging, high-wage industries for attraction, including but not limited to industries within the North American Industry Standard Classification (NAISC) subcategories of manufacturing, health care, professional, scientific and technical, finance and insurance, and information technologies.

Grounds for finding of consistency: The Project provides for approximately 126 acres of office uses, which would allow for corporate headquarters and emerging industries, including technical, finance, insurance, and information technologies uses. Another approximately 1,291 acres of business park industrial uses would allow for a variety of service, manufacturing, distribution, and warehousing related uses. In so doing, the Project would provide enhanced employment opportunities for a wide range of skill levels and salaries to meet the needs of the Tracy community.

• **Goal ED-5**. Support for Tracy's key economic assets.

Grounds for finding of consistency: The Project would allow business to expand and provide significant employment opportunities along the intersection of two inter regional freeway corridors.

• **Objective ED-5.3**. Support I-205/I-580/I-5 infrastructure as key to economic growth in the area.

Grounds for finding of consistency: The development in the Specific Plan Area would fund and extend planned infrastructure as contemplated in the Citywide Infrastructure Master Plans. This would allow for development to occur on the Specific Plan Area which will facilitate enhanced business expansion opportunities, and significantly increase employment opportunities along the I-205 and I-580 corridors.

• **Goal ED-6**. Healthy, key economic activity centers.

Grounds for finding of consistency: The Project would add an economic activity center to the City, which also includes pedestrian and bicycle paths, open space, and parks to promote healthy lifestyles for the employees and visitors to the Project.

• **Objective ED-6.7**. Develop higher end office and office–flex uses, particularly along entryways to the City along 1-205 and I-580.

• **Policy P1**. Development of a high amenity campus style business park is encouraged.

• **Policy P2**. The City shall support attraction efforts for Class A Office and certain flex-tech development tenants seeking a high amenities workplace, particularly along entryways to the City along I-205 and I-580.

• **Policy P3**. High-speed telecommunications systems should be included in development to help create the premier office location in Tracy.

Grounds for finding of consistency: The Project's development standards and design guidelines support the design of high quality business space and architecture along major entryways and streets within the Specific Plan Area. The Project proposes the development of office uses that contain a variety of amenities, such as plazas, framed open space areas, pedestrian pathways, and connections to open spaces. The Specific Plan also includes an overlay zone along I-205 that requires heightened standards for architecture and landscaping. It also limits land uses, and prohibits large distribution facilities from locating along I-205. Consistent with modern business requirements, all developments under the Specific Plan would include high-speed telecommunications systems.

<u>Open Space and Conservation Element</u>

• **Goal OSC-4**. Parks, open space, and recreation facilities and services that maintain and improve the quality of life for Tracy residents.

Grounds for finding of consistency: There would be approximately 89 acres of open space and parks, including a drainage corridor and trails, in the Specific Plan Area. These would provide park and outdoor use areas for employees and users of the Project and Tracy residents.

• **Objective OSC-4.2**. Ensure that new development is responsible for providing parks and recreation facilities throughout the City of Tracy.

Grounds for finding of consistency: See above.

Public Facilities and Services Element

• **Goal PF-7**. Meet all wastewater treatment demands and federal and State regulations.

Grounds for finding of consistency: Implementation of the Project would comply with all applicable federal and state laws and regulations as they relate to wastewater treatment.

• **Objective PF-7.3**. Promote coordination between land use planning and wastewater conveyance, treatment, and disposal.

• **Policy P3**. The approval of new development shall be conditioned on the availability of sufficient capacity in the wastewater collection and treatment system to serve the project.

Grounds for finding of consistency: The amount of development that would be allowed under the Specific Plan is consistent with the Citywide Infrastructure Master Plans, which established the relationship between land use development and supporting infrastructure. The Citywide Infrastructure Master Plans contemplated development of the Project, and the Project's proposed uses are consistent with the existing and planned utility capacity. Further, the Project will be required to have sufficient capacity in the wastewater collection and treatment system to serve its proposed uses.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTION 10.08.980, NAMES OF ZONES, AND ADDING SECTION 10.08.3021, CORDES RANCH SPECIFIC PLAN ZONE (CRSP) TO THE TRACY MUNICIPAL CODE, AND PREZONING THE CORDES RANCH SPECIFIC PLAN AREA AS CRSP

WHEREAS, On February 1, 2012, the City of Tracy adopted a General Plan ("General Plan"), which guides the growth of the City of Tracy (Resolution 2011-029); and

WHEREAS, A Final Environmental Impact Report ("FEIR") for the General Plan (SCH# 2008092006) was certified in 2011, which considered the environmental consequences of the adoption of the General Plan and included the adoption of a series of self-mitigating goals, policies, actions, and mitigation measures; and

WHEREAS, With certification of the FEIR in 2011, the City Council of the City of Tracy adopted a Statement of Overriding Considerations (Resolution No. 2011-028) for a number of unavoidable significant impacts identified within the General Plan FEIR, which is incorporated herein by reference; and

WHEREAS, The General Plan establishes areas for future growth, and identifies one of those areas as Urban Reserve 6, otherwise known as the Cordes Ranch site; and

WHEREAS, Applications were submitted to the City of Tracy for the Cordes Ranch Specific Plan, a General Plan Amendment, and Prezoning/ Annexation (Application Numbers GPA13-0002 and A/P13-0001); and

WHEREAS, A Final Environmental Impact Report ("FEIR") for the Cordes Ranch Specific Plan (SCH No. 2011122015) was prepared in compliance with the requirements of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines and certified by City Council Resolution No._____ on September 3, 2013; and

WHEREAS, On September 3, 2013, the City Council adopted Resolution No. _____ approving the Cordes Ranch Specific Plan and the General Plan Amendment; and

WHEREAS, The Cordes Ranch Specific Plan Area is proposed to be annexed into the City of Tracy and prezoned as Cordes Ranch Specific Plan Zone (CRSP); and

WHEREAS, A Zoning Ordinance Amendment is necessary to establish a Cordes Ranch Specific Plan Zone (CRSP) within the text of the Tracy Municipal Code as well as on the Zoning Map; and

WHEREAS, The Planning Commission held a duly noticed public hearing on July 30, 2013 to review and consider the proposed establishment of the Cordes Ranch Specific Plan Zone (CRSP) and the prezoning of the Cordes Ranch Specific Plan Area to CRSP and recommended approval; and

WHEREAS, The City Council held a duly noticed public hearing on September 3, 2013 to review and consider the proposed establishment of the Cordes Ranch Specific Plan Zone (CRSP) and the prezoning of the Cordes Ranch Specific Plan Area to CRSP, and found the proposed zoning actions to be consistent with the City's General Plan in all required

respects;

The city council of the City of Tracy hereby does ordain as follows:

SECTION 1: Section 10.08.980, Names of zones, of the Tracy Municipal Code, is amended to read as follows:

"**10.08.980 - Names of zones.**
In order to classify, regulate, restrict, and segregate the uses of land and buildings, to regulate and restrict the height and bulk of buildings, to regulate the area of yards and other open spaces about buildings, and to regulate the density of population, the following zones are hereby established:

(a) Residential Estate Zone .....RE;
(b) Low Density Residential Zone .....LDR;
(c) Medium Density Cluster Zone .....MDC;
(d) Medium Density Residential Zone .....MDR;
(e) High Density Residential Zone .....HDR;
(f) Medical Office Zone .....MO;
(g) Professional Office and Medical Zone .....POM;
(h) Planned Unit Development Zone .....PUD;
(i) Residential Mobile Home Zone .....RMH;
(j) Community Shopping Center Zone .....CS;
(k) Neighborhood Shopping Zone .....NS;
(l) Central Business District Zone .....CBD;
(m) General Highway Commercial Zone .....GHC;
(n) Light Industrial Zone M-1;
(o) Heavy Industrial Zone M-2;
(p) Highway Service Zone .....HS;
(q) Agricultural Zone .....A;
(r) Airport Overlay Zone .....AO;
(s) Northeast Industrial Specific Plan Zone ...NEI; and
(t) Cordes Ranch Specific Plan Zone….CRSP."

SECTION 2: A new Article 22.2, Cordes Ranch Specific Plan Zone (CRSP), and a new Section 10.08.3021, Cordes Ranch Specific Plan Zone, are added to the Tracy Municipal Code to read as follows:

"**Article 22.2 Cordes Ranch Specific Plan Zone (CRSP)**

10.08.3021 Cordes Ranch Specific Plan Zone.
The zoning within the Cordes Ranch Specific Plan Zone is governed by the Cordes Ranch Specific Plan."

SECTION 3: The Cordes Ranch Specific Plan Area is hereby prezoned Cordes Ranch Specific Plan Zone (CRSP). The zoning of said Project site as CRSP, including amendment of the Zoning Map, shall take effect on the same date that annexation of the site occurs.

SECTION 4: This Ordinance shall take effect thirty (30) days after its final passage and adoption.

SECTION 5: This Ordinance shall be published once in the San Joaquin Edition of the Tri Valley Herald, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

* *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 3rd day of September, 2013, and finally adopted on the ____ day of September, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk

AGENDA ITEM 4

REQUEST

UPDATE ON CITY-INITIATED ABATEMENT OF NUISANCES AT 1690 DUNCAN DRIVE

EXECUTIVE SUMMARY

At the August 20, 2013 City Council meeting, Marla Israel addressed Council regarding the health and safety violations which exist on a property located adjacent to her residence at 1690 West Duncan Drive. This report responds to Ms. Israel's comments and provides an update to City Council on the progress of a city-initiated abatement.

DISCUSSION

On November 1, 2011, Code Enforcement staff presented Council with a request to conduct a public hearing declaring the existence of weeds, rubbish, refuse and flammable material at 1690 West Duncan Drive and 2200 Martin Road, both owned by Olga Mullins (Attachment A). Council conducted public hearings without protest to the declarations and ultimately voted in favor of staff's recommendation by adopting Resolution 2011-209 declaring the weeds, rubbish, refuse and flammable material to be a public nuisance at the two above-referenced locations (Attachment B). Further, Council approved funding to cover the cost of said abatements and directed staff to hire a contractor to abate such nuisances, with the cost of abatement filed against the property as a tax lien by the San Joaquin County Auditor Controller.

On August 3, 2013, staff received information concerning the continued substandard condition of the property located at 1690 West Duncan Drive. Upon researching case history for this this address, staff discovered the case was prematurely closed by former staff just prior to their retirement late last year.

After becoming aware of the current condition at 1690 West Duncan Drive, staff reinstated the abatement process and a city-initiated abatement is currently underway. On Thursday, August 22, 2013, staff met with the property owner regarding the continued violations on her property at 1690 West Duncan Drive and at the conclusion of the meeting, the owner agreed to enter into a Voluntary Consent to Abate Public Nuisance agreement (Attachment C). This agreement allows the City, with property owner approval, to proceed with abatement for inspecting and abating all existing nuisance conditions without the need for a court-ordered inspection/abatement warrant.

The following abatement schedule is established:

Friday, August 23, 2013
- Contractor re-evaluated the existing violations

Wednesday, August 28, 2013
- Contractor begins abatement process

Tuesday, September 3, 2013

- Property expected to be cleared of existing nuisances.

Staff will schedule recurring code inspections to ensure the property remains compliant.

STRATEGIC PLAN

This agenda item falls within Goal 2 of the City's Public Safety Strategy Plan by "Promoting public health, safety, and community welfare by responding and addressing unsafe, unhealthy or blighted conditions in homes, neighborhoods, and the entire community."

FISCAL IMPACT

Funding for this abatement was approved by City Council Resolution 2011-209 on November 1, 2011; however, since adopting this resolution, the property owner has agreed to take financial responsibility for the contractor's cost associated with the abatement.

RECOMMENDATION

That City Council accept staff's report regarding the abatement of nuisances located at 1690 West Duncan Drive. Per Tracy Municipal Code, the property owner is liable for the cost of abatement and will be billed for the actual cost of the City contractor's services, plus a twenty-five percent administrative charge. An agreement for monthly payments over a one year period to cover these costs has also been executed by the property owner. However, after following the procedures set forth in the Tracy Municipal Code, any unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property if needed.

Prepared by: Ana Contreras, Community Preservation Manager

Reviewed by: Andrew Malik, Development Services Director

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

ATTACHMENTS

Attachment A: City Council Staff Report dated November 1, 2011
Attachment B: City Council Resolution 2011-209 dated November 1, 2011
Attachment C: Consent to Abate Public Nuisance dated August 22, 2013

Attachment A

November 1, 2011

AGENDA ITEM 4

REQUEST

THAT CITY COUNCIL CONDUCT A PUBLIC HEARING DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL AT 1690 WEST DUNCAN DRIVE A PUBLIC NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVE A CONTRACTOR TO ABATE SAID NUISANCES

EXECUTIVE SUMMARY

The Code Enforcement Division performs inspections upon receipt of complaints regarding the existence of weeds, rubbish, refuse, rodents, vermin, and flammable material on residential and commercial parcels. An abatement notice has been sent to Olga Mullens (property owner) pursuant to Section 4.12.280 of the Tracy Municipal Code, ordering the property owner to abate the nuisance within 20 days of receipt of the abatement order.

Said notice outlines the time and date of the Public Hearing to be conducted by the City Council to address any and all objections to the proposed abatement and, as necessary, authorize Code Enforcement staff to direct the City's contractor to abate parcels determined to be a nuisance.

DISCUSSION

On April 7, 2011, Code Enforcement staff arrived at the home of the property owner of 1690 Duncan Drive, in response to a complaint regarding the issue of unsanitary conditions associated with her property. These nuisances included an excessive amount of garbage, debris, overgrown vegetation, rodents, vermin, and an overall accumulation of items both inside and outside the structure. On April 7, 2011, the property owner was issued her first criminal citation for violation of Tracy Municipal Code Section 5.20.050.

A second follow-up inspection was performed at the property on April 14, 2011. No progress was noted and an administrative citation was issued on April 20, 2011 for continuing violation of TMC Section 5.20.050.

A third follow-up inspection was done on May 27, 2011 and no progress was observed. A second Administrative Citation was issued. To date, the property has accrued $400 in administrative citations, all of which are past due.

On June 29, 2011 an Order to Abate or Show Cause listing the above mentioned violations was served and posted at the property with a copy mailed to the property owner (Attachment A).

Subsequent inspections on August 10, 2011 and September 9, 2011, revealed that violations still exist on the property. The property owner was issued a second criminal citation for violation of TMC Section 5.20.050. The property owner was also

provided with copies of Administrative Citations issued on May 27, 2010 and June 29, 2010 for violation of the same Municipal Code section listed above which she claims she never received.

On September 21, 2011, pursuant to Tracy Municipal Code, Section 4.12.280, the Code Enforcement Division sent a notice to the property owner, requiring the abatement of weeds, rubbish, refuse and flammable material on the parcel within twenty days of receipt of the notice and further advised the owner of the City's intent to abate the nuisance following Council's consideration of the matter during a public hearing. The Tracy Municipal Code provides that upon failure of the owner, or authorized agent, to abate the nuisance within twenty days from the date of notice, the City will perform the necessary work by private contractor and the cost of such work will be made a personal obligation of the owner, or become a tax lien against the property. All unpaid assessments will be filed with the San Joaquin County Auditor Controller's office to establish a lien on the property.

As of the date of writing this report, the property owner was diligently working on abating the weeds, rubbish and refuse in the front yard area, however, staff was denied access to the rear yard and the inside of the structure by the property owner. Therefore, in order to verify the continued existence of the nuisances described herein, staff is moving forward with an inspection warrant for judicial review and consideration to allow staff to gain entry into the rear yard and the inside of the structure to substantiate the existence of a fire hazard.

Tumbleweeds, weeds, rubbish, refuse, and/or flammable materials have the potential of becoming a fire hazard and constitute a public nuisance under Tracy Municipal Code section 4.08.260. After issuance of violation notices, administrative and criminal citations, the City has no option other than to move forward with forced compliance remedies.

Upon City Council's direction, abatement proceedings will begin and upon conclusion, the property owner billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee. Abatement fees are calculated based on the labor involved and the amount of weeds, rubbish, refuse, and/or flammable materials removed from the property.

STRATEGIC PLAN

This item relates to the City Council's Public Safety Strategy. More specifically, the goal to eliminate blighted and dangerous building conditions throughout the community.

FISCAL IMPACT

Staff estimates the cost to abate this property to be approximately $10,000 to $11,000. The property owner will be billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee. The City will be reimbursed the cost of the abatement once the property is sold, transfers ownership, or is refinanced.

RECOMMENDATION

That City Council conduct a Public Hearing to hear and consider any and all objections to the proposed abatement, and by resolution, declare the weeds, rubbish, refuse, and flammable material located at 1690 West Duncan Drive to be a nuisance, authorize the Code Enforcement Division to direct a contractor to abate such nuisances with the total cost for abatement to be placed with the San Joaquin County Auditor Controller's Office as a tax lien against the property.

Prepared by: Laura Serrano, Administrative Assistant II

Reviewed by: Ana Contreras, Community Preservation Manager

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

Attachments:

Attachment "A" - Notices of Intent to Abate

ATTACHMENT A

City of Tracy
Development & Engineering Services Department
Code Enforcement Division
333 Civic Center Plaza
Tracy, CA 95376

Notice To Remove Weeds, Rubbish, Refuse, and/or Flammable Materials (Fire Hazard)

Date of Abatement Order: September 22, 2011
Case Number: 08CD-00165
Property Owner: Olga E. Mullins
Assessor Parcel No.: 232-090-07
Address of Property in Violation: 1690 West Duncan Drive, Tracy, California 95376
Property Owner's Mailing Address: 1700 W. Duncan Drive, Tracy, CA 95376
MAILED VIA CERTIFIED MAIL 7010 1060 0000 4336 6861

OLGA E. MULLINS,
AS OWNER OF THE ABOVE REFERENCED PROPERTY,
YOU ARE HEREBY SERVED THIS NOTICE TO REMOVE WEEDS, RUBBISH, REFUSE, AND/OR FLAMMABLE MATERIALS

On April 14, 2011, May 2, 2011, June 29, 2011, August 10, 2011 and September 9, 2011, the City of Tracy Code Enforcement staff inspected the residence located at 1690 West Duncan Drive, Tracy, California, hereinafter referred to as the "referenced property" and determined the referenced property is being maintained as a public nuisance per the 2010 California Fire Code (CFC) and the Tracy Municipal Code (TMC) Chapter 1.32. The referenced property is a public nuisance because of violations of the California Fire Code and the Tracy Municipal Code which are set forth in more detail in the table below.

It was determined that if the tumbleweeds, weeds, rubbish, refuse, and/or flammable materials located inside and outside the property are not removed, they have the potential of becoming a fire hazard and constitute a public nuisance under Tracy Municipal Code section 4.08.260. For the safety of your property and those around you, the potential fire hazard must be removed. Please see attached Order to Abate for correction requirements.

Article 6 of Tracy Municipal code 4.12 (sections 4.12.250 et seq.) provides that you, as the property owner, have twenty (20) days to remove any such thing declared by the provisions of that article to be a public nuisance. Any property owner may abate the nuisance at his own expense prior to abatement by the City.

Weeds shall not exceed 4 inches in height and the preferred method of removing them is by discing, rototilling, or flail cutting (closely cut to the ground). Weeds shall be removed from around all fence lines. Handwork may be required to clear the borders around structures or fences. All cuttings must be removed from the property to reduce the fire hazard.

Chapter 10 of the Uniform Housing Code as replaced by Health and Safety Code Section 17920.3 (h), (i), (j) (k) states that any building or portion thereof, including any dwelling unit, guestroom or suite of rooms, or the

premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building;

(h) Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the chief of fire department or his deputy, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread of intensity of fire or explosion arising from any cause.

(i) All material of construction, except those which are specifically allowed or approved by the code, and which have been adequately maintained in good and safe condition.

(j) Those premises on which an accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rodent harborages, stagnant water, combustible materials, and similar materials or conditions constitute fire, health or safety hazards.

(k) Any building or portion thereof which is determined to be an unsafe building due to inadequate maintenance, in accordance with the latest edition of the Uniform Building Code.

The Code Enforcement Division will be conducting a re-inspection of your property on October 17, 2011. If your property is still out of compliance, abatement procedures will begin and you may be billed for all costs associated with abating the property (which includes the contractor's charges plus a 25% administrative fee). Abatement fees are calculated based on the labor involved and can be very expensive regardless of the size of the lot or the amount of weeds, rubbish, refuse, and/or flammable materials removed from the property.

At its regular City Council meeting on October 18, 2011 at 7:00 p.m., a public hearing conducted at 333 Civic Center Plaza, Tracy, to hear and consider any and all objections to the proposed abatement. By motion or resolution, the Council shall allow or overrule any objections. At that time, City Council shall acquire jurisdiction to proceed and perform the abatement of the nuisance. The decision of the Council shall be final. After having disposed of any objections, the Council shall, by motion or resolution action, order the abatement of the nuisance.

If you've removed the potential fire hazard(s) from your property or if you have questions about this notice, please call (209) 831-6410 and be prepared to leave your name, telephone number, situs address and parcel number.

Sincerely,

JIM DECKER
Code Enforcement Officer / Building Inspector II

Attachment: Order to Abate dated June 29, 2011

W:\Code Enforcement\CERTIFIED NOTICES TO ABATE\1690 W Duncan Dr - Certified Notice to Abate (final-revised) 09 22 2011.doc

City of Tracy
Development & Engineering Services Department
Code Enforcement Division
333 Civic Center Plaza
Tracy, CA 95376

ORDER TO ABATE PUBLIC NUISANCE OR SHOW CAUSE

Date of Abatement Order: June 29, 2011
Case Number: 08CD-00165
Property Owner: Olga E. Mullins, Et al
Assessor Parcel No.: 232-090-07
Address of Property in Violation: 1690 West Duncan Drive, Tracy, California 95376
Property Owner's Mailing Address: 1700 West Duncan Drive, Tracy, California 95376

OLGA E. MULLINS, ET AL, AS OWNERS OF THE ABOVE REFERENCED PROPERTY, YOU ARE HEREBY SERVED THIS ORDER TO ABATE PUBLIC NUISANCE OR SHOW CAUSE

On April 7, 2011 the City of Tracy Code Enforcement staff inspected the residence located at 1690 West Duncan Drive, Tracy, California, hereinafter referred to as the "referenced property" and determined the referenced property is being maintained as a public nuisance per the 2010 California Fire Code (CFC) and the Tracy Municipal Code (TMC) Chapter 1.32. The referenced property is a public nuisance because of violations of the California Fire Code and the Tracy Municipal Code which are set forth in more detail in the table below.

NARRATIVE

A single family residence with an attached garage is located on the property. The front, side and back yards have overgrown vegetation and weeds. The public sidewalk in front of the residence is partially blocked with this vegetation. The back, side yards and the residence contain trash, garbage and refuse including but not limited to; paper, cardboard, broken appliances, tires, glass, plastic storage containers, tin cans, clothing, kitchen utensils, lumber, ceramic tile, processed food items, broken furniture, and dead tree branches. This property was previously inspected on October 21, 2010, a violation notice was left at the property and a copy mailed to the property owner. Follow-up inspections were done on November 10, 2010, December 14, 2010, and April 7, 2011. No evidence of any effort to correct the violations was noted. Olga E. Mullins, who is in control of the property, was contacted at her residence on April 7, 2011 and issued a criminal citation for the accumulation of garbage and refuse. Follow up inspections were done on April 14, 2011 and May 2, 2011. All of the violations continued to exist.

VIOLATION DEFINITIONS

The following table shows definitions for some of the specific violations currently present at the referenced property. These violations must be promptly corrected as they constitute a public nuisance.

Code Section	Violation
TMC § 4.12.260 Weeds, rubbish, refuse, and flammable materials public nuisances.	It is hereby found and expressly declared that the existence of weeds, rubbish, refuse, and flammable material in, upon, or in front of any vacant lot or other property on any street, parkway, sidewalk, or alley in the City is a public nuisance and dangerous to the public health and safety of the inhabitants of the City. (Prior code § 4-3.702)
TMC § 4.12.265 Accumulation of rubbish and refuse prohibited.	(a) The accumulation of rubbish and refuse which creates filth shall be prohibited. No owner, lessee, agent, or occupant of any lot or parcel of land upon which a building of any kind may exist or any vacant lot or parcel of land shall allow any accumulation of refuse or solid waste matter of any kind or description to remain on a lot or parcel of land for longer than seven (7) days.
TMC § 5.20.050 Accumulation of garbage and refuse is prohibited.	The accumulation of refuse and solid waste, which creates filth, shall be prohibited. No owner, lessee, agent, or occupant of any lot or parcel of land upon which a building of any kind may exist or any vacant lot or parcel of land shall allow any accumulation of refuse or solid waste matter of any kind or description to remain on a lot or parcel of land for longer than seven (7) days. (Ord. 1058 § 1 (part), 2003)
CFC § 304.1.1 Waste Material.	Accumulations of wastepaper, wood, hay, straw, weeds, litter or combustible or flammable waste or rubbish of any type shall not be permitted to remain on a roof or in any court, yard, vacant lot, alley, parking lot, open space, or beneath a grandstand, bleacher, pier, wharf, manufactured home, recreational vehicle or other similar structure.

Copies of all Codes cited herein are available for review in the City Clerk's Office.

Corrections Required

(1) Remove all rubbish, refuse, garbage and overgrown weeds and dead vegetation from the premises as described above no later than ten (10) days from the date of this Order (July 10, 2011).

(2) Obtain a Board up permit, secure the structure no later than ten (10) days from the date of this Order; by July 10, 2011.

Please be advised that TMC Section 1.32.050 provides as follows:

> If the nuisance is not completely abated within the time prescribed by the notice to abate or show cause, or by date set forth in the hearing officer's notice of decision if a hearing is held, the enforcement officer may proceed to abate the nuisance by City personnel or private contractor. The City personnel and private contractor are expressly authorized to enter upon the property for this purpose. The enforcement officer shall obtain a warrant from the court to enter the property when required to do so by law. If you do not abate the above-described nuisance on or before the dates set forth above, or if you do not provide the City of Tracy Code Enforcement Division with a written request for an administrative hearing on this matter and an administrative hearing officer does not specify otherwise at any hearing that may be held, the City will enter the property and abate the nuisance. Pursuant to TMC Sections 1.32.060, 1.32.070, 1.32.080 and 1.32.090, the cost of abatement may become a charge against you personally and a lien or special assessment against the referenced property. Be advised that, due to administrative overhead and other costs related with being a public entity, the City's cost will likely be ***much higher*** than the cost of abating the nuisance by you or your contractor.

Failure to respond to this order may result in further action, up to and including Administrative and/or Criminal Citations issued for each day the violations continue to exist until all work set forth above is completed. Pursuant to Tracy Municipal Code Section 1.28, this Notice and Order serves as notification that the Tracy Municipal Code provides the legal authority to issue Administrative Citations for TMC violations. The fines are $100.00 for the first citation, $200.00 for the second, $500.00 for the third **and subsequent citations for violations of the same code section within one year.** These fines are cumulative and new citations may be issued for *each day the violation continues to exist.* A person who receives an Administrative Citation may contest the citation in the form of an appeal. Details regarding the appeal process are set forth in Chapter 1.28, attached.

Please be further advised that California law authorizes the Court to appoint a receiver to take possession of your property for the purposes of abating all nuisances. Pursuant to that receivership process, the receiver may have the ability to sell the property to recover all costs of abating the nuisance, including attorney fees, with the receiver's lien taking priority over any liens on the property that may be in effect at the time of the sale.

Any person having record title or legal interest in the referenced property may request an administrative hearing on this Order to Abate Public Nuisance or Show Cause provided the appeal is made pursuant to TMC Section 1.32.040(a) which specifies that a "written request for hearing must be received by the enforcement officer within the time specified in the notice to abate or show cause." Pursuant to TMC Section 1.32.040(a), failure to provide the City of Tracy with a written request for a hearing on this Order by July 28, 2011 shall constitute a waiver of all rights to an administrative hearing as to the validity of the Order to Abate.

If you have any questions regarding this Order to Abate or Show Cause and the provisions contained herein, please contact me at (209) 831-6408, Monday – Thursday, 8:00 a.m. to 6:00 p.m. and every other Friday, 8:00 a.m. to 5:00 p.m.

Sincerely,

JIM DECKER
Code Enforcement Officer / Building Inspector II

Attachments:

- Tracy Municipal Code Chapter 1.28 – Administrative Citations and Penalties

Attachment B

RESOLUTION 2011-209

DECLARING THE EXISTENCE OF WEEDS, RUBBISH, REFUSE AND FLAMMABLE MATERIAL AT 1690 WEST DUNCAN DRIVE A PUBLIC NUISANCE; CONSIDER OBJECTIONS TO ABATEMENT OF SAID NUISANCE, AND APPROVING A CONTRACTOR TO ABATE SAID NUISANCES

WHEREAS, On April 7, 2011, Code Enforcement staff arrived at 1690 Duncan Drive, in response to a complaint regarding the issue of unsanitary conditions associated with the property, and

WHEREAS, A second follow-up inspection was performed at the property on April 14, 2011; no progress was noted and an administrative citation was issued on April 20, 2011 for continuing violation of TMC Section 5.20.050, and

WHEREAS, A third follow-up inspection was done on May 27, 2011 and no progress was observed, and a second Administrative Citation was issued, and

WHEREAS, On June 29, 2011 an Order to Abate or Show Cause listing the violations was served and posted at the property with a copy mailed to the property owner, and

WHEREAS, Subsequent inspections on August 10, 2011 and September 9, 2011, revealed that violations still exist on the property and he property owner was issued a second criminal citation for violation of TMC Section 5.20.050, and

WHEREAS, On September 21, 2011, pursuant to Tracy Municipal Code, Section 4.12.280, the Code Enforcement Division sent a notice to the property owner, requiring the abatement of weeds, rubbish, refuse and flammable material on the parcel within twenty days of receipt of the notice and further advised the owner of the City's intent to abate the nuisance following Council's consideration of the matter during a public hearing, and

WHEREAS, Abatement proceedings will begin and the property owner billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee, and

WHEREAS, The cost to abate this property is estimate to be between $10,000 and $11,000; the property owner will be billed for all costs associated with the abatement, including contractor's charges plus a 25% administrative fee. The City will be reimbursed the cost of the abatement once the property is sold, transfers ownership, or is refinanced;

NOW, THEREFORE, BE IT RESOLVED That City Council declares the weeds, rubbish, refuse, and flammable material located at 1690 West Duncan Drive to be a nuisance, authorizes the Code Enforcement Division to direct a contractor to abate such nuisances with the total cost for abatement to be placed with the San Joaquin County Auditor Controller's Office as a tax lien against the property.

****

The foregoing Resolution 2011-209 was adopted by the Tracy City Council on the 1st day of November, 2011 by the following vote:

AYES:	COUNCIL MEMBERS:	ABERCROMBIE, ELLIOTT, MACIEL, RICKMAN, IVES
NOES:	COUNCIL MEMBERS:	NONE
ABSENT:	COUNCIL MEMBERS:	NONE
ABSTAIN:	COUNCIL MEMBERS:	NONE

MAYOR

ATTEST

CITY CLERK

Attachment C

City of Tracy
Development Services Department
Code Enforcement Division
333 Civic Center Plaza
Tracy, CA 95376

CONSENT TO ABATE PUBLIC NUISANCE

I, OLGA MULLINS, declare that I am the legal owner of the property located at 1690 Duncan Drive, Tracy, California, 95376, further identified as Assessor Parcel No.: 232-090-07. I hereby grant permission to the City of Tracy, its employees and/or contractors, to enter on the above referenced property for inspecting (including photographing and/or videotaping) and abating the nuisance conditions described herein, including, but not limited to the following:

- *Overgrown vegetation and weeds located within the front, side and back yards of the property.*

- *Trash, garbage and refuse located inside the residence and surrounding the property, including but not limited to; paper, cardboard, broken appliances, tires, glass, plastic storage containers, tin cans, clothing, kitchen utensils, lumber, ceramic tile, processed food items, dead animals, broken furniture, dead tree branches and an in-operative vehicle.*

This Release and Agreement is entered into voluntarily and is intended to release the City of Tracy, its officers and employees, and agents thereof, for any and all claims that may occur as a result of services performed.

Now, therefore, Owner and City agree as follows:

1. City shall remove all garbage, debris, and other materials, which constitute a public nuisance pursuant to the Tracy Municipal Code, Health, and Safety Codes with voluntary consent of Owner. Owner acknowledges the vacant structure is in a substandard, deteriorated, or dilapidated condition, and that its removal of the nuisances in and around the residence is in the best interest of the public's health, safety, and welfare.

2. Owner shall indemnify and hold City harmless of and from any and all claims, suits, actions, or judgments, including all expenses, attorney fees, witness fees, cost of defending any such action or claim, or appeals, therefrom, arising out of the City of Tracy's abatement of the nuisances.

3. Owner certifies that there are no hazardous materials located, stored, kept, maintained or possessed on or about the above-described property.

APPROVED BY OWNER:

Olga E. Mullins

Olga Mullins, Property Owner

Signed: Olga E. Mullins Date: 8/22/13

Witness: [illegible] Date: 08/22/13

Print Name: BRIAN WILMSHURST #1142 TRACY PR

City Representative: [illegible] Date: 8/22/13

September 3, 2013

AGENDA ITEM 5

REQUEST

APPROVAL OF A PURCHASE AND SALES AGREEMENT WITH SURLAND COMMUNITIES LLC FOR THE DISPOSITION OF THE CITY-OWNED 150- ACRE SCHULTE ROAD SITE (APN 209-230-30) AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENT

EXECUTIVE SUMMARY

City staff and Surland Communities LLC ("Surland") have been negotiating a purchase and sales agreement for the disposition of 150 acres of the city-owned 200 acre Schulte Road Antenna Farm site. This staff report requests that Council approve the Purchase and Sales Agreement with Surland.

BACKGROUND

The Schulte Road property is approximately 200-acres in total and is located on the south side of Schulte Road, west of Lammers Road (see Attachment A).

On May 21, 2013, Council directed staff to begin negotiations with Surland Communities LLC to purchase and/or lease the 200-acre Schulte Road site. This agenda item represents the approval of the Purchase and Sales Agreement with Surland Communities LLC for 150 acres of the 200-acre Schulte Road site.

DISCUSSION

The City and Surland have been negotiating a Purchase and Sales Agreement for 150 acres of the 200-acre Schulte Road site. A copy of the Purchase and Sales Agreement will be distributed prior to the meeting.

Staff will be negotiating a lease and/or purchase agreement with Surland for the remaining 50 acres of the Schulte Road property in the near future.

The 150 acres Surland is purchasing is subject to restrictions that the property be used for educational and/or recreational purposes. However, Congressional legislation authorizes the removal of the use restrictions and reversionary rights on the 150 acres in exchange for the City paying the General Services Administration ("GSA") fair market value for the property. GSA has determined that fair market value for the property is $1.6 million. GSA has given the City until November 1, 2013 to pay this amount.

The Tracy Municipal Code provides that the disposition of real property shall be by competitive proposals unless the City Council, by resolution, determines that other procedures are in the best interest of the City. The City previously issued a Request for Proposals for this property. Because of the time lines established by GSA for payment for the removal of the use restrictions, staff believes that an additional competitive process is not in the City's best interests.

Pursuant to the Purchase and Sale Agreement, Surland will be purchasing the property for $1.6 million, which represents the cost to remove the use restrictions and reversionary rights on the property.

STRATEGIC PLAN

This agenda item supports the City Council approved Organizational Efficiency Strategy;

Goal 1: Advance City Council's Fiscal Policies

1. To change the City's organizational and fiscal structure, and
2. To take advantage of funding and revenue generating opportunities

FISCAL IMPACT

There is no impact to the General Fund as a result of approving this Purchase and Sales Agreement with Surland. If the Purchase and Sales Agreement is approved, the City may save approximately $1,000,000 in Residential Area Specific Plan (RSP) funds previously appropriated in that Surland would now purchase the 150-acre property instead of the City paying the purchase cost.

RECOMMENDATION

Staff recommends that Council approve by resolution, the Purchase and Sales Agreement with Surland for the disposition of 150 acres of the City-owned 200-acre Schulte Road site (APN209-230-30) and authorize the Mayor to execute the agreement.

Prepared by: Andrew Malik, Development Services Director

Reviewed by: Maria A. Hurtado, Assistant City Manager
Jenny Haruyama, Administrative Services Director

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

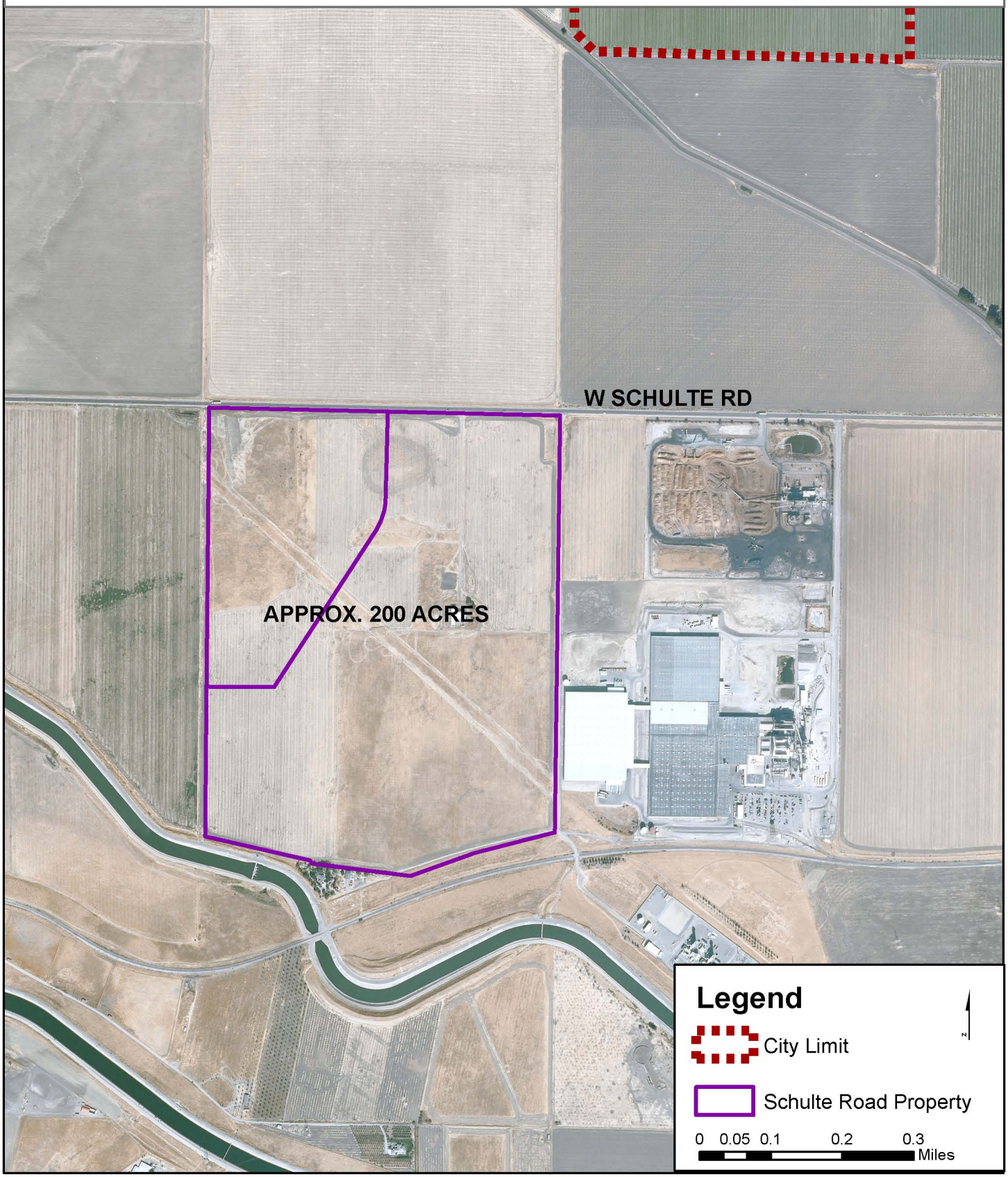
ATTACHMENT

Attachment A: Site Map

Schulte Road Property

Location Map

Attachment A



RESOLUTION 2013- _____

APPROVING A PURCHASE AND SALES AGREEMENT WITH SURLAND COMMUNITIES LLC FOR THE DISPOSITION OF 150 ACRES OF THE CITY-OWNED 200- ACRE SCHULTE ROAD SITE (APN 209-230-30) AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The Schulte Road property is approximately 200 acres in total and is located on the south side of Schulte Road, west of Lammers Road, and

WHEREAS, On May 21, 2013, Council directed staff to begin negotiations with Surland Communities LLC ("Surland") to purchase and/or lease the 200-acre Schulte Road site, and

WHEREAS, The City and Surland have been negotiating a Purchase and Sales Agreement for 150 acres of the 200-acre Schulte Road site, and

WHEREAS, The 150 acres Surland is purchasing is subject to restrictions that the property be used for educational and/or recreational purposes. However, Congressional legislation authorizes the removal of the use restrictions and reversionary rights on the 150 acres in exchange for the City paying the General Services Administration ("GSA") fair market value for the property. GSA has determined that fair market value for the property is $1.6 million. GSA has given the City until November 1, 2013 to pay this amount, and

WHEREAS, The City previously issued a Request for Proposals for the property. Because of the time lines established by GSA for payment for the removal of the use restrictions, the City Council finds that an additional competitive process is not in the City's best interests.

NOW, THEREFORE, BE IT RESOLVED, That City Council approves the Purchase and Sales Agreement with Surland Communities LLC for the disposition of 150 acres of the City-owned 200-acre Schulte Road site (APN 209-230-30) and authorizes the Mayor to execute the agreement.

****

The foregoing Resolution _____ was adopted by the Tracy City Council on the 3rd day of September, 2013 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST

_____
CITY CLERK

September 3, 2013

AGENDA ITEM 6

REQUEST

SECOND READING AND ADOPTION OF ORDINANCE 1186 AN ORDINANCE OF THE CITY OF TRACY REZONING A 47.1-ACRE PARCEL, LOCATED AT THE SOUTHEAST CORNER OF CORRAL HOLLOW ROAD AND KAGEHIRO DRIVE, ASSESSOR'S PARCEL NUMBER 242-040-36, FROM LOW DENSITY RESIDENTIAL (LDR) ZONE TO PLANNED UNIT DEVELOPMENT (PUD) ZONE. THE APPLICANT AND PROPERTY OWNER IS CORRAL HOLLOW DEVELOPMENT, LLC. APPLICATION NUMBER PUD13-0001

EXECUTIVE SUMMARY

Ordinance 1186 was introduced at the Council meeting held on August 20, 2013. Ordinance 1186 is before Council for a second reading and adoption.

DISCUSSION

Corral Hollow Development, LLC, submitted an application to rezone a 47.1-acre parcel located at the southeast corner of Corral Hollow Road and Kagehiro Drive – Assessor's Parcel Number 242-040-36, from Low Density Residential (LDR) to Planned Unit Development (PUD). The project is consistent with the Residential Low designation and density requirements of the General Plan. PUD zoning has been used in many areas of the City to achieve creative site plans that do not fit within the constraints of a particular zone, such as LDR.

Ordinance 1186 is before Council for a second reading and adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1186 following its second reading.

Attachment

Prepared by: Adrianne Richardson, Deputy City Clerk
Reviewed by: Sandra Edwards, City Clerk
Approved by: R. Leon Churchill, Jr., City Manager

ORDINANCE 1186

AN ORDINANCE OF THE CITY OF TRACY REZONING A 47.1-ACRE PARCEL, LOCATED AT THE SOUTHEAST CORNER OF CORRAL HOLLOW ROAD AND KAGEHIRO DRIVE, ASSESSOR'S PARCEL NUMBER 242-040-36, FROM LOW DENSITY RESIDENTIAL (LDR) ZONE TO PLANNED UNIT DEVELOPMENT (PUD) ZONE. THE APPLICANT AND PROPERTY OWNER IS CORRAL HOLLOW DEVELOPMENT, LLC. APPLICATION NUMBER PUD13-0001

WHEREAS, Corral Hollow Development, LLC submitted an application to rezone a 47.1-acre parcel, located at the southeast corner of Corral Hollow Road and Kagehiro Drive, Assessor's Parcel Number 242-040-36, from Low Density Residential (LDR) Zone to Planned Unit Development (PUD) Zone (Application Number PUD13-0001); and

WHEREAS, The project is consistent with the General Plan designation of Residential Low, including the density range of 2.1 to 5.8 dwelling units per gross acre; and

WHEREAS, The project is consistent with the Residential Low designation and density requirements of the General Plan, for which an Environmental Impact Report (EIR) was certified on February 1, 2011, and as described in the CEQA 15183 Analysis (Attachment J of City Council staff report dated July 24, 2013), all cumulative and offsite impacts associated with development and buildout of the project were fully addressed in the General Plan EIR and there are no site specific or peculiar impacts associated with the project that cannot be substantially mitigated to a less-than-significant level through the application of uniformly applied standards and policies that would be applied to the project, and therefore, in accordance with California Environmental Quality Act (CEQA) Guidelines Section 15183, no further environmental assessment is required; and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the project on July 24, 2013 and recommended City Council approval; and

WHEREAS, The City Council conducted a public hearing to review and consider the project on August 20, 2013;

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

SECTION 1: The zoning map of the City of Tracy is hereby amended to change the zoning on the following parcel from Low Density Residential (LDR) Zone to Planned Unit Development (PUD) Zone:

An approximately 47.1-acre parcel located at the southeast corner of Corral Hollow Road and Kagehiro Drive, Assessor Parcel Number 242-040-36.

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

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

The foregoing Ordinance 1186 was introduced at a regular meeting of the Tracy City Council on the 20th day of August, 2013, and finally adopted on the _____ day of September, 2013, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
Mayor

ATTEST:

_____
City Clerk