

**Tuesday, February 4, 2014, 7:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

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

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

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

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

**Presentations to Council** - Persons who wish to make presentations which may exceed the time limits are encouraged to submit comments in writing at the earliest possible time to ensure distribution to Council and other interested parties. Requests for letters to be read into the record will be granted only upon approval of the majority of the Council. Power Point (or similar) presentations need to be provided to the City Clerk's office at least 24 hours prior to the meeting. All presentations must comply with the applicable time limits. Prior to the presentation, a hard copy of the Power Point (or similar) presentation will be provided to the City Clerk's office for inclusion in the record of the meeting and copies shall be provided to the Council. Failure to comply will result in the presentation being rejected. Any materials distributed 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](http://www.ci.tracy.ca.us)

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS – Employees of the Month

– Certificates of Appointment – Parks and Community Services Commission

1. CONSENT CALENDAR

A. Approval of Minutes

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

C. Approve Various Amendments to the Professional Services Agreements (PSAs) with Kimley-Horn and Associates for Completion of Roadway Analysis for Cordes Ranch and Tracy Hills Developments, and Authorize the Mayor to Execute the Agreements

D. Approve Various Professional Services Agreements (PSAs) with West Yost and Associates Related to Water Analysis for Cordes Ranch and Tracy Hills Developments and Authorize the Mayor to Execute the Agreements

2. ITEMS FROM THE AUDIENCE

3. PUBLIC HEARING TO CONSIDER AN APPLICATION TO AMEND THE GENERAL PLAN, APPROVE A VESTING TENTATIVE SUBDIVISION MAP ON A 10-ACRE PARCEL TO CREATE 59 LOTS, AND A PRELIMINARY AND FINAL DEVELOPMENT PLAN (PDP/FDP) AMENDMENT TO ALLOW FOR THE CONSTRUCTION OF 59 SINGLE-FAMILY HOMES LOCATED AT THE NORTHWEST CORNER OF CROSSROADS DRIVE AND SOLOMON LANE. THE APPLICANT AND OWNER IS WILLIAM LYON HOMES, INC.- APPLICATION NUMBERS GPA13-0003, TSM13-0003 AND PUD13-0003

4. PUBLIC HEARING TO CONSIDER A REZONE APPLICATION FROM LIGHT INDUSTRIAL (M-1) TO MEDIUM DENSITY RESIDENTIAL (MDR) FOR A SITE COMPRISED OF TWO PARCELS ON SOUTH C STREET BETWEEN THIRD AND FOURTH STREETS, ASSESSOR'S PARCEL NUMBERS 235-070-64 & 66. THE APPLICANT IS ANDRE STAMBUK AND THE PROPERTY OWNERS ARE JAVIER AND JUANA DIAZ – APPLICATION NUMBER R13-0001

5. ADOPT A RESOLUTION APPROVING LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS (CFDs) AND PROVIDE DIRECTION REGARDING THE REQUIREMENT OF A FISCAL IMPACT ANALYSIS (FIA) TO ASSESS PUBLIC SERVICES COSTS AS A RESULT OF NEW DEVELOPMENT

6. RECEIVE AND DISCUSS THE GRAND THEATRE CENTER FOR THE ARTS ANNUAL REPORT AND ACCEPT THE GRAND FOUNDATION'S FISCAL YEAR 2013-2014 ANNUAL UNDERWRITING SUPPORT AND APPROVE SUPPLEMENTAL APPROPRIATION OF PROCEEDS FOR PROGRAMMING AND TECHNICAL SUPPORT AT THE GRAND THEATRE CENTER FOR THE ARTS

7. ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO TERMINATE THE FUEL SALES AND FUEL FACILITY LEASE AGREEMENT BETWEEN THE CITY OF TRACY AND TURLOCK AIR CENTER, LLC
8. ITEMS FROM THE AUDIENCE
9. STAFF ITEMS
10. COUNCIL ITEMS
  - A. Appointment of City Council Subcommittee to Interview Applicants for Vacancies on the Measure E Residents' Oversight Committee
11. ADJOURNMENT

**December 3, 2013, 6:00 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

Mayor Ives called the meeting to order at 6:00 p.m

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

3. Items from the Audience – None.
4. Wastewater Ratepayer Workshop – Steve Bayley, Project Specialist, provided a presentation regarding wastewater rates. Mr. Bayley discussed wastewater collection system asset management and outlined the major sewer system areas. Mr. Bayley also discussed maintaining an acceptable level of risk and how risks are scored. Mr. Bayley outlined salinity issues and stated the City of Tracy does not meet current or future standards.

Mr. Bayley discussed the Combined Solar Technology project, its estimated costs and benefits. Mr. Bayley stated the City of Tracy has a well-managed system evidenced by effective wastewater treatment, few violations, few complaints, and competitive rates. Mr. Bayley suggested Council adopt new rates in 2014 to become effective in 2016.

Mayor Pro Tem Maciel asked what type of rate increase would be expected if the desalination project did not go forward. Mr. Bayley stated there would be another type of rate increase, but he was not sure what type. Mr. Bayley added the desalination project was still speculative pending funding.

Mayor Pro Tem Maciel asked what type of rate increases the City would be looking for if the project did not move forward. Mr. Bayley stated the City would be looking for an alternative project such as reverse osmosis and pretreatment of water. Mr. Bayley added that the rate impact would be more than currently shown.

Mayor Pro Tem Maciel asked if the Outfall project included a new pipeline and a reinforcement of the existing pipeline. Mr. Bayley stated that was correct and desirable to have redundancy.

Council Member Rickman asked for clarification regarding the life span of asbestos cement pipe. Mr. Bayley stated asbestos cement pipes are used for both water and wastewater lines and could be used for wastewater for a very long time if it was kept 100% full of water at all times. Mr. Bayley explained how high spots in the City's wastewater pipeline could have deteriorated due to the presence of air.

Council Member Rickman, referring to risk management, asked if the City should spend the money to replace the pipeline. Mr. Bayley outlined the hazards in case of a failure. Mr. Bayley added that the pipeline was also needed to support continued growth.

Council Member Rickman asked if the growing of sugar beets has started. Mr. Bayley stated the project has grown 300 acres of sugar beets in Tracy to determine the amount of yield and to see what type of beets grow best.

Council Member Rickman asked why Mr. Bayley suggested raising rates in 2014 if the project was not anticipated until 2016. Mr. Bayley stated he did not believe the project would be speculative in 2014 which is why he suggested the rate increase at that time.

Mayor Ives asked if other cities in San Joaquin Valley were also looking at new discharge requirements. Mr. Bayley indicated some cities meet the current standards, but many cities will have issues meeting the proposed salinity standards which are more lenient than current standards.

Mayor Ives asked if this was a function of groundwater. Mr. Bayley stated not in Tracy. Mayor Ives asked why salinity was an issue for Tracy. Mr. Bayley attributed the salinity issue to water softeners and industries that generate salt.

Mayor Ives asked for capacity of the desalination plant. Mr. Bayley stated the plant is proposed to run at approximately one million gallons of distilled water coming back to the City of Tracy daily.

Mayor Ives asked for clarification regarding beet processing. Mr. Bayley explained the processing of beets and indicated the processing was done in a closed facility that will not emit odor.

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

Robert Tanner asked why it was important to increase rates in 2014, before making sure the process worked. Mr. Bayley stated it was important to have the same City Council that causes the rate increase to do the increase.

Leon Churchill, Jr., City Manager, added that sometimes the rate increase is critical to the financing of the project which is privately financed. Mr. Bayley added that rates would not be increased until the City knew that the project would work and was under construction.

Kuldeep Sharma, City Engineer, provided additional information regarding the Outfall project. Mr. Sharma discussed accessibility of the Outfall pipeline and the various structures it passes through including Eastside Drainage, Tom Paine Slough and Paradise Cut, ending at Old River. The existing capacity of the Outfall project is 9 million gallons per day (mgd) with the future expansion to 12 mgd.

Mr. Sharma outlined possible construction issues including dewatering, traffic control on MacArthur Drive, repaving of roads, and restoring of farm lands between MacArthur Drive and the River. Mr. Sharma added that the project requires over 100 permits which the City has already obtained and will take over 900 days to complete.

Mr. Sharma stated the City will undergo two major expansions of the wastewater treatment plant which will be funded by the development community. Mr. Sharma stated phase one of the wastewater treatment plant will expand from 10.8 mgd to 12 mgd and will cost approximately \$25 million.

Council Member Rickman asked for clarification regarding the number of expansions. Mr. Sharma stated there will be three projects; the Outfall project, and two expansions of the wastewater treatment plant which will be funded by future development.

Mayor Ives asked if the 16 mgd plant would include recycled water. Mr. Sharma stated recycled water is part of the Water and Wastewater Master Plans. Mr. Sharma stated there will be a recycled water system in place compatible with the City's water distribution network.

Mayor Ives asked if the backbone infrastructure would be in place for purple pipes (recycled water). Mr. Sharma stated the City will have the main pipelines on Corral Hollow and Chrisman Road moving to the south side of the City.

Mr. Churchill added that development pays for expansion of the plant and that development cannot occur until the plant is expanded. For that reason, Mr. Churchill stated a change was needed in the Utilities Department to ensure projects move forward. Mr. Churchill stated he will be proposing an organizational change creating a Utilities Director position and adding depth to the Development Services Department, asking Council for their positive disposition on these items when brought forward.

Council accepted the report.

5. 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: 6:43 p.m.

The above agenda was posted at the Tracy City Hall on November 26, 2013. The above are summary minutes. A recording is available at the office of the City Clerk.

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Mayor

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City Clerk

**December 17, 2013, 5:30 p.m.**

City Council Chambers, 333 Civic Center Plaza

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

1. CALL TO ORDER – Mayor Ives called the meeting to order at 5:30 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. Personnel Matter (Gov. Code, § 54957  
  
Public Employee Appointment, Employment, Evaluation of Performance, Discipline, or Dismissal  
  
Position Titles: City Attorney and City Manager
5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Maciel motioned to recess the meeting to closed session at 5:31 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 6:36 p.m.
7. REPORT OF FINAL ACTION – None.
8. ADJOURNMENT – It was moved by Council Member Manne and seconded by Mayor Pro Tem Maciel to adjourn the meeting. Voice vote found all in favor; passed and so ordered. Time: 6:37 p.m.

The above agenda was posted at City Hall on December 12, 2013. The above are action minutes.

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Mayor

ATTEST:

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City Clerk

February 4, 2014

AGENDA ITEM 1.B

REQUEST

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

EXECUTIVE SUMMARY

The City of Tracy has elected to act as the Successor Agency for the former City of Tracy Community Development Agency following the dissolution of redevelopment agencies by the California State Legislature in February 2012. The attached Recognized Obligation Payment Schedule lists the Enforceable Obligations proposed for payment by the Successor Agency for the period July 1, 2014, through December 31, 2014, as required by law.

DISCUSSION

Effective February 1, 2012, the State of California dissolved redevelopment agencies through the passage of ABX1 26 and replaced them with successor agencies. The City of Tracy City Council elected to serve as the successor agency for the former City of Tracy Community Development Agency (CDA). The City Council previously approved an Enforceable Obligation Payment Schedule (EOPS) which listed various financial obligations of the City's former CDA. The law now requires that successor agencies adopt a Recognized Obligation Payment Schedule (ROPS) twice a year that lists all enforceable obligations proposed for payment. Attached is ROPS 14-15A for the period July 1, 2014, through December 31, 2014.

In summary, of the \$1,694,231 being requested for this six-month period, \$117,238 is for estimated administrative costs associated with the administration of the Successor Agency. The remaining \$1,576,993 is for outstanding debt obligations of the former CDA including \$655,522 for 2003 Tax Allocation Bond A payments, \$521,471 for 2003 Tax Allocation Bond B payments, and the remaining \$400,000 is for a 2008 Lease Revenue Bond obligation. These bond payments will continue through 2034 for the Tax Allocation Bonds and 2038 for the Lease Revenue Bonds.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact to the City's General Fund. Recognized obligations are paid from property tax revenue that previously was allocated to the Tracy Community Development Agency.

Agenda Item 1.B  
February 4, 2014  
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RECOMMENDATION

It is recommended that the City Council adopt the attached resolution approving the Recognized Obligation Payment Schedule of the former Tracy Community Development Agency for the period July 1, 2014, through December 31, 2014.

Prepared by: Robert Harmon, Senior Accountant

Reviewed by: Jenny Haruyama, Finance and Administrative Services Director  
Maria A. Hurtado, Assistant City manager

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

ATTACHMENTS

Attachment A – ROPS 14-15A

**Recognized Obligation Payment Schedule (ROPS 14-15A) - Summary**

Filed for the July 1, 2014 through December 31, 2014 Period

**Name of Successor Agency:** Tracy  
**Name of County:** San Joaquin

<b>Current Period Requested Funding for Outstanding Debt or Obligation</b>		<b>Six-Month Total</b>
<b>Enforceable Obligations Funded with Non-Redevelopment Property Tax Trust Fund (RPTTF) Funding</b>		
<b>A Sources (B+C+D):</b>		<b>\$ -</b>
B Bond Proceeds Funding (ROPS Detail)		-
C Reserve Balance Funding (ROPS Detail)		-
D Other Funding (ROPS Detail)		-
<b>E Enforceable Obligations Funded with RPTTF Funding (F+G):</b>		<b>\$ 1,701,993</b>
F Non-Administrative Costs (ROPS Detail)		1,576,993
G Administrative Costs (ROPS Detail)		125,000
<b>H Current Period Enforceable Obligations (A+E):</b>		<b>\$ 1,701,993</b>
<b>Successor Agency Self-Reported Prior Period Adjustment to Current Period RPTTF Requested Funding</b>		
I Enforceable Obligations funded with RPTTF (E):		1,701,993
J Less Prior Period Adjustment (Report of Prior Period Adjustments Column S)		(7,762)
<b>K Adjusted Current Period RPTTF Requested Funding (I-J)</b>		<b>\$ 1,694,231</b>
<b>County Auditor Controller Reported Prior Period Adjustment to Current Period RPTTF Requested Funding</b>		
L Enforceable Obligations funded with RPTTF (E):		1,701,993
M Less Prior Period Adjustment (Report of Prior Period Adjustments Column AA)		-
<b>N Adjusted Current Period RPTTF Requested Funding (L-M)</b>		<b>1,701,993</b>

Certification of Oversight Board Chairman:

Pursuant to Section 34177(m) of the Health and Safety code, I hereby certify that the above is a true and accurate Recognized Obligation Payment Schedule for the above named agency.

\_\_\_\_\_  
Name Title

/s/ \_\_\_\_\_  
Signature Date



ATTACHMENT A

**Recognized Obligation Payment Schedule (ROPS) 14-15A - Report of Cash Balances**

(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177(l), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation.									
A	B	C	D	E	F	G	H	I	
Cash Balance Information by ROPS Period		Fund Sources						Comments	
		Bond Proceeds		Reserve Balance		Other	RPTTF		
		Bonds Issued on or before 12/31/10	Bonds Issued on or after 01/01/11	Prior ROPS period balances and DDR balances retained	Prior ROPS RPTTF distributed as reserve for next bond payment	Rent, Grants, Interest, Etc.	Non-Admin and Admin		
<b>ROPS 13-14A Actuals (07/01/13 - 12/31/13)</b>									
1	<b>Beginning Available Cash Balance (Actual 07/01/13)</b> Note that for the RPTTF, 1 + 2 should tie to columns J and O in the Report of Prior Period Adjustments (PPAs)	3,733,628	-	2,378,129	-	-	1,737,487	Col E - includes \$2,251,467 from OFA DDR being held subject to City of Tracy CDA v Matosantos, et.al.	
2	<b>Revenue/Income (Actual 12/31/13)</b> Note that the RPTTF amounts should tie to the ROPS 13-14A distribution from the County Auditor-Controller during June 2013	15,140		-			1,733,144		
3	<b>Expenditures for ROPS 13-14A Enforceable Obligations (Actual 12/31/13)</b> Note that for the RPTTF, 3 + 4 should tie to columns L and Q in the Report of PPAs						1,723,382		
4	<b>Retention of Available Cash Balance (Actual 12/31/13)</b> Note that the RPTTF amount should only include the retention of reserves for debt service approved in ROPS 13-14A	3,748,768		2,406,467				Col A - Restricted by indenture, with fiscal agent; Col E - includes \$2,281,467 from OFA DDR being held subject to City of Tracy CDA v Matosantos, et.al. & \$125,000 from M&C.	
5	<b>ROPS 13-14A RPTTF Prior Period Adjustment</b> Note that the RPTTF amount should tie to column S in the Report of PPAs.	No entry required						7,762	
6	<b>Ending Actual Available Cash Balance</b> C to G = (1 + 2 - 3 - 4), H = (1 + 2 - 3 - 4 - 5)	\$ 0	\$ -	\$ (28,338)	\$ -	\$ -	\$ -	\$ 1,739,487	
<b>ROPS 13-14B Estimate (01/01/14 - 06/30/14)</b>									
7	<b>Beginning Available Cash Balance (Actual 01/01/14)</b> (C, D, E, G = 4 + 6, F = H4 + F4 + F6, and H = 5 + 6)	\$ 3,748,768	\$ -	\$ 2,378,129	\$ -	\$ -	\$ -	\$ 1,747,249	
8	<b>Revenue/Income (Estimate 06/30/14)</b> Note that the RPTTF amounts should tie to the ROPS 13-14B distribution from the County Auditor-Controller during January 2014						2,582,969		
9	<b>Expenditures for 13-14B Enforceable Obligations (Estimate 06/30/14)</b>						2,643,144		
10	<b>Retention of Available Cash Balance (Estimate 06/30/14)</b> Note that the RPTTF amounts may include the retention of reserves for debt service approved in ROPS 13-14B	3,748,768		2,406,467				Col A - Restricted by indenture, with fiscal agent; Col E - includes \$2,281,467 from OFA DDR being held subject to City of Tracy CDA v Matosantos, et.al. & \$125,000 from M&C.	
11	<b>Ending Estimated Available Cash Balance (7 + 8 - 9 - 10)</b>	\$ 0	\$ -	\$ (28,338)	\$ -	\$ -	\$ -	\$ 1,687,074	





RESOLUTION \_\_\_\_\_

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

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

WHEREAS, On January 19, 2012 and pursuant to Health and Safety Code Section 34173, the City Council of the City of Tracy (the "City Council") declared that the City of Tracy, a municipal corporation (the "City"), would act as successor agency (the "Successor Agency") for the dissolved Community Development Agency of the City of Tracy (the "Former CDA") effective February 1, 2012; and

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

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

WHEREAS, Health and Safety Code Section 34177(l)(2)(A) requires the Successor Agency to prepare a draft Recognized Obligation Payment Schedule (the "ROPS") and make associated notifications and distributions;

NOW, THEREFORE, BE IT RESOLVED, That the City Council, acting as the Governing Board of the Successor Agency, hereby authorizes and directs the City Manager or the City Manager's designee, acting on behalf of the Successor Agency, to organize and call the meetings of the Oversight Board to facilitate the Oversight Board's approval of the ROPS.

BE IT FURTHER RESOLVED, That the City Council, acting as the Governing Board of the Successor Agency, hereby approves the ROPS which contains the Successor Agency Administrative Cost Estimates.

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

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

Resolution \_\_\_\_\_  
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ADOPTED \_\_\_\_\_, 2014 by the City Council of the City of Tracy, acting in its capacity as the Successor Agency of the Community Development Agency of the City of Tracy, by the following vote, to wit:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

\_\_\_\_\_  
Chair

ATTEST:

\_\_\_\_\_  
Successor Agency Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
Successor Agency Counsel

AGENDA ITEM 1.C

REQUEST

**APPROVE VARIOUS AMENDMENTS TO THE PROFESSIONAL SERVICES AGREEMENTS (PSAs) WITH KIMLEY-HORN AND ASSOCIATES FOR COMPLETION OF ROADWAY ANALYSIS FOR CORDES RANCH AND TRACY HILLS DEVELOPMENTS, AND AUTHORIZE THE MAYOR TO EXECUTE THE AGREEMENTS**

EXECUTIVE SUMMARY

During the processing of the Cordes Ranch Specific Plan, additional traffic analyses were requested by the California Department of Transportation (Caltrans) to address their concerns at the Mountain House Parkway interchanges with I-205 and I-580. In addition, the Cordes Ranch development has begun planning their initial projects and has requested the City to identify the trigger points of roadway improvements during various scenarios. Similarly, Tracy Hills is planning their Phase One development and has requested the City to review the traffic circulation. Approval of amendments to the existing PSAs with Kimley-Horn and Associates will expedite the completion of the above tasks.

DISCUSSION

The City Council adopted a Roadways and Transportation Master Plan in November 2012, to facilitate new developments. Since then various developers have been working on planning their respective specific plans and projects. Owners of both Cordes Ranch and Tracy Hills developments have requested the City to continue using the services of Kimley-Horn and Associates to complete the various tasks associated with their specific plans and initial planning as discussed below.

Cordes Ranch Development

On June 4, 2013, City Council approved a PSA with Kimley-Horn and Associates to provide professional services to address traffic related issues for the Cordes Ranch Development. Amendments to this PSA are necessary to complete additional tasks required during the specific plan and initial planning phases.

1. Amendment One to PSA with Kimley-Horn and Associates to provide additional services to evaluate roadway infrastructure trigger points in different planning areas within Cordes Ranch for a not to exceed amount of \$38,285.

Additional services are needed from Kimley-Horn and Associates to evaluate different scenarios of development within the Cordes Ranch development area. This analysis identifies the trigger of roadway improvements with proposed developments. Prologis, owner of a portion of Cordes Ranch, has reviewed the proposal and has requested the City to proceed with this task.

2. Amendment Two to PSA with Kimley-Horn and Associates to update the Roadways Master Plan and provide traffic analysis for the interchanges of Mountain House Parkway with I-205 and I-580 for a not to exceed amount of \$38,196.

During processing of the Cordes Ranch Specific Plan, additional services were needed from Kimley-Horn and Associates to provide various traffic analyses to address Caltrans' concerns. This included additional traffic analysis at interchanges of Mountain House Parkway with I-205 and I-580. Kimley-Horn and Associates have submitted amendments to their existing PSA to complete this task for a not to exceed amount of \$38,196. Prologis, a major developer within Cordes the Cordes Ranch area, has reviewed the proposal and requested the City to proceed with the work.

#### Tracy Hills

3. Amendment Two to PSA with Kimley-Horn and Associates to review proposed traffic circulation in the Tracy Hills area for a not to exceed amount of \$36,000.

Tracy Hills is planning the development of Phase One of their project and has requested the City to review the traffic circulation within the proposed development. Kimley-Horn and Associates has submitted a proposal to complete this task for a not to exceed amount of \$36,000.

#### STRATEGIC PLAN

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

#### FISCAL IMPACT

Approval of these PSA amendments will have no impact to the General Fund. The cost of services for PSA amendments for Cordes Ranch will be paid through the existing Cost Recover Agreement (CRA) with the City. Integral Communities Development, the applicant for the Tracy Hills project will provide a cash deposit for the amendment related to their project before work commences.

#### RECOMMENDATION

It is, therefore, recommended that City Council, by resolution, approve the PSA amendments:

1. Amendment One to PSA with Kimley-Horn and Associates to provide additional services to evaluate roadway infrastructure trigger points in different planning areas within Cordes Ranch for a not to exceed amount of \$38,285, and
2. Amendment Two to PSA with Kimley-Horn and Associates to update the Roadways Master Plan and provide traffic analysis for the interchanges of Mountain House Parkway with I-205 and I-580 for a not to exceed amount of \$38,196, and
3. Amendment Two to PSA with Kimley-Horn and Associates to review proposed traffic circulation in the Tracy Hills area for a not to exceed amount of \$36,000, and authorize the Mayor to execute the agreement.

Prepared by: Kuldeep Sharma, City Engineer

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

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

ATTACHMENTS

Attachment A – Amendment One to PSA with Kimley-Horn and Associates to evaluate roadway infrastructure trigger points in different planning areas within Cordes Ranch

Attachment B – Amendment Two to PSA with Kimley-Horn and Associates to update the Roadways Master Plan

Attachment C – Amendment Two to PSA with Kimley-Horn and Associates to review proposed traffic circulation in the Tracy Hills area.

**CITY OF TRACY  
AMENDMENT NO. 1 TO  
PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
For Infrastructure Improvements Within the Cordes Ranch Project**

This Amendment No. 1 (hereinafter "Amendment") to the Professional Services Agreement is made and entered into by and between the City of Tracy, a municipal corporation ("CITY"), and Kimley-Horn & Associates, Inc. (hereinafter "CONSULTANT").

*and EN*  
**RECITALS**

- A. The CITY and CONSULTANT entered into Professional Services Agreement (hereinafter "Agreement") for Infrastructure Improvements within the Cordes Ranch Project.
- B. Additional services from CONSULTANT are required to complete the project.

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

1. **Incorporation By Reference.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement that are not specifically modified by this Amendment shall remain in full force and effect.
2. **Terms of Amendment.** Section 1, "Scope of Services" of the Agreement is amended to provide additional technical analysis as described in detail under RECITAL A and Section 5, "Compensation", is amended to add **THIRTY EIGHT THOUSAND, TWO HUNDRED AND EIGHTY FIVE DOLLARS (\$38,285)** to the contract amount.
3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
4. **Severability.** In the event any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in full force and effect.
5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the CONSULTANT and the CITY. This Amendment shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**  
**AMENDMENT NO. 1 TO PROFESSIONAL SERVICES AGREEMENT**  
**for Infrastructure Improvements Within the Cordes Ranch Project**  
**Page 2 of 2**

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

CITY OF TRACY

By: \_\_\_\_\_  
Brent H. Ives  
Title: MAYOR  
Date: \_\_\_\_\_  
Attest:

By: \_\_\_\_\_  
Sandra Edwards  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved as to form

By: \_\_\_\_\_  
Daniel G. Sodergren  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

CONSULTANT

By:   
Laura Worthington-Forbes  
Title: Regional Vice President  
Date: 12-16-2013

By:   
Enda Melvin  
Title: Assistant Secretary/Senior Vice President  
Date: 12-16-2013

**EXHIBIT A**  
**SCOPE OF SERVICES**

**For Infrastructure Improvements Within the Cordes Ranch Project**

**Amendment No.: 01**

The undersigned hereby amend the Agreement between the City of Tracy and Kimley-Horn & Associates, Inc. for the reasons indicated in the manner indicated below:

**Brief Description of Amendment:**

Kimley-Horn assessed the proposed Delta Project for consistency with the Cordes Ranch Specific Plan. After the first assessment, the site plan changed and an additional driveway was added which resulted in a rerouting of traffic. Scenarios were added to the scope for consistency analysis and phasing of the project. In addition, the City requested that a trigger analysis be performed based on buildout of the surrounding land uses and the TMP identified improvements.

Kimley-Horn will prepare a technical memorandum for the City of Tracy to evaluate the proposed Delta Project (Area 1) in the context of the Cordes Ranch FEIR. In addition, KHA will assist the City staff in determining the required roadway and intersection improvements to accommodate the development of the Delta Project and potential adjacent projects as identified by the project team. This analysis will include the evaluation of several alternatives, all within the range of development described by the Cordes Ranch EIR. Each deliverable will be documented as a separate technical memorandum.

**Task 1: Area 1 Phase 1 Traffic Analysis Consistency Memorandum** – Kimley-Horn and Associates will obtain land use and trip generation information for Project Delta Phase I from the project team for buildout and Phase 1 conditions. In addition, the TRAFFIX file data and traffic distribution data will be obtained from Fehr and Peers for the Cordes Ranch EIR project. It is understood that the Project Delta site will have access from Old Schulte Road onto Hansen Road and onto Road I and Road E. EV access only will be provided from Hansen Road. KHA will extract the geometry and volume data from the DEIR and FEIR reports for Cordes Ranch. This project is understood to be planned for implementation in the short term (2016 for Phase 1) and thus only short term conditions will be analyzed.

**Task 2a: Cordes Ranch Road Infrastructure Development** - Using the trip generation determined for Project Delta as well as other information provided in the DEIR, peak-hour level of service (LOS) analysis will be conducted for weekday AM and PM peak-hours for the following scenarios:

- A. Existing Conditions without project (2013)
- B. Area 1- Project Delta (2013)
- C. A combination of Area 1 – Project Delta, Area 2, Area 3a/3b, and Area 4 (2018) through an iterative process.

The peak hour LOS analysis will be conducted for up to 15 driveways and the following intersections (total of up to 25 locations) for Scenarios A through C:

1. Mountain House Parkway / I-205 WB Ramps
2. Mountain House Parkway / I-205 EB Ramps
3. Mountain House Parkway / Old Schulte Road
4. Mountain House Parkway / I-580 WB Ramps
5. Mountain House Parkway / I-580 EB Ramps
6. Hansen Road / Road E
7. Hansen Road / New Schulte Road
8. Road E / Road I
9. New Schulte Road / Road I
10. Lammers Road / Old Schulte Road

LOS will be determined using methods defined in the Highway Capacity Manual, 2010, using appropriate traffic analysis software and mitigation improvements identified.

KHA will evaluate AM and PM peak-hour vehicle queuing for all study area intersections for which LOS analysis is completed

**Task 2b: Technical Memorandum for Scenario Analysis Meetings** - Graphics, tables and technical analysis will be prepared for the scenario analyses. This will include cross section, turn pocket, intersection control, turn lane storage, and road network connection recommendations as well as a determination of the proportionate share of traffic attributable to each project under each scenario. KHA will prepare and submit an electronic (PDF) version of the draft letter report to the Client.

KHA will address one set of consolidated, non-conflicting comments. If the comments require additional analysis or data collection beyond that provided for in this Scope of Services, this work will be billed on an hourly basis in accordance with the attached rate schedule. Subsequently, KHA will prepare and submit an electronic (PDF) version of the final letter report to the Client.

**Reason for Amendment:**

Services provided, and to be provided outside of the original scope of services.

**Cost Adjustment:**

Project	Estimated Fee
Delta TIA Phase 1, New Access and Implementation	\$10,089
Cordes Implementation Areas 1-4 Analysis	\$25,900
Expenses, travel, printing	\$2,296
<b>Total Fee</b>	<b>\$38,285</b>

**Time/Schedule Adjustment:** None

**Revised Deliverables:** Additional technical memorandums, graphics, and meetings

**CITY OF TRACY**  
**AMENDMENT NO. 2 TO**  
**PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS**  
**CEQA Documentation for Infrastructure Improvements & Development Permits**  
**Within the Cordes Ranch Project**

This Amendment No. 2 (hereinafter "Amendment") to the Professional Services Agreement is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "CITY"), and Kimley-Horn & Associates, Inc. (hereinafter "CONSULTANT").

*and EM*

**RECITALS**

- A. The CITY and CONSULTANT entered into Professional Services Agreement (hereinafter "Agreement") for CEQA Documentation for Infrastructure Improvements and Development Permits Within the Cordes Ranch Project.
- B. Additional services from CONSULTANT are required to complete the project.

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

1. **Incorporation By Reference.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement that are not specifically modified by this Amendment shall remain in full force and effect.
2. **Terms of Amendment.** Section 1, "Scope of Services" of the Agreement is amended to provide additional technical analysis as described in detail under RECITAL A and Section 5, "Compensation", is amended to add **THIRTY EIGHT THOUSAND, ONE HUNDRED AND NINETY SIX DOLLARS (\$38,196)** to the contract amount.
3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
4. **Severability.** In the event any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in full force and effect.
5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the CONSULTANT and the CITY. This Amendment shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

**CITY OF TRACY**  
**AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT**  
**CEQA Documentation for Infrastructure Improvements & Development Permits**  
**Within the Cordes Ranch Project**  
**Page 2 of 2**

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

CITY OF TRACY

CONSULTANT

By: \_\_\_\_\_  
Brent H. Ives  
Title: MAYOR  
Date: \_\_\_\_\_

By: Laura Worthington-Forbes  
Laura Worthington-Forbes  
Title: Regional Vice President  
Date: 12-13-2013

Attest:

By: \_\_\_\_\_  
Sandra Edwards  
Title: CITY CLERK  
Date: \_\_\_\_\_

By: Enda Melvin PE (#4422)  
Enda Melvin  
Title: Assistant Secretary/Senior Vice President  
Date: 12-16-2013

Approved as to form

By: \_\_\_\_\_  
Daniel G. Sodergren  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

**EXHIBIT A  
SCOPE OF SERVICES**

**CEQA Documentation For Infrastructure Improvements & Development  
Permits Within the Cordes Ranch Project**

**Amendment No.: 02**

The undersigned hereby amend the Agreement between the City of Tracy and Kimley-Horn & Associates, Inc. for the reasons indicated in the manner indicated below:

**Brief Description of Amendment:**

Kimley-Horn was retained to assist City staff in reviewing the CEQA technical studies for the Cordes Ranch Specific Plan Environmental Impact Report. The review, comments from Caltrans and initial analysis resulted in changes to site plan layouts and access for the project and off site traffic analysis included coordination with Fehr and Peers, Caltrans and City staff, as well as the addition of additional interchanges to the City Transportation Master Plan and the City Traffic Impact Fee Program.

Following is a detailed scope of work for the additional services: Kimley-Horn will prepare an addendum to the November 2012 Transportation Master Plan and the proposed 2013 Traffic Impact Fee program for the City of Tracy to include the revisions to the I-580/Patterson pass interchange and the I-205 Mountain House interchange.

In addition KHA will prepare a signal warrant analysis at three study intersections.

**Task 1: TMP and TIF Update** - KHA will develop conceptual layouts of the interchange improvements and prepare an estimate of probable engineering cost for the proposed improvements, for incorporation in the Citywide TIF and the Citywide TMP. The Layouts will be conducted on an aerial photo only, to scale. The improvements will be based on the mitigation language for the FEIR and include the most cost prohibitive alternative. The TIF document tables will be updated to include the two additional interchanges and submitted for review by the City, the developers and the public. In addition, this task includes support to technical team and City staff in discussions with Caltrans regarding the Buildout analysis for the two interchanges. The task also includes a full operational analysis of the I205/Mountain House Interchange for LOS, queues and ramp metering. The analysis will include the development of three alternatives for Caltrans review.

**Task 2: Signal Warrants Analysis for 3 Study Intersections** - KHA will conduct detailed signal warrants analysis per the MUTCD at the following four intersections to evaluate the installation of signals. Twenty four hour tubular counts and the peak hour turning volumes will be utilized with other factors and an Engineering Analysis conducted. The following intersections will be studied:

1. Hansen Road/Old Schulte Road
2. Hansen Road/Road E
3. Road I/Old Schulte Road

**Reason for Amendment:**

Services provided, and to be provided outside of the original scope of services

**Cost Adjustment:**

<b>Project</b>	<b>Estimated Fee</b>
Tracy TMP update and TIF update with I-205 Mountain House and I-580- Patterson Pass Interchanges.	\$22,500
Signal Warrants at 3 intersections (Old Schulte/Hanson, Old Schulte/Road I, and Hanson/Road E).	\$13,400
Expenses, travel, printing	\$2,296
<b>Total Fee</b>	<b>\$38,196</b>

**Time/Schedule Adjustment:** The Schedule will be adjusted to meet the target dates for finalizing the Cordes Ranch Specific Plan EIR, the TMP Addendum and adoption of the TIF program

**Revised Deliverables:** Additional technical memorandums, graphics, conceptual layouts, and meetings

**CITY OF TRACY  
AMENDMENT NO. 2 TO  
PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
Tracy Hills Specific Plan Amendment and Subsequent Environmental Review:  
Phase 1 Tentative Map Review for Transportation, Traffic Circulation and  
Roadway Network Layout**

This Amendment No. 2 (hereinafter "Amendment") to the Professional Services Agreement is made and entered into by and between the City of Tracy, a municipal corporation (hereinafter "CITY"), and Kimley-Horn & Associates, Inc. (hereinafter "CONSULTANT").

**RECITALS**

- A. The CITY and CONSULTANT entered into Professional Services Agreement S019796 (hereinafter "Agreement") for Tracy Hills Specific Plan Amendment a Subsequent Environmental Impact Report, which was approved by City Council on May 7, 2013, under Resolution No. 2013-063.
- B. Additional services from CONSULTANT are required to complete the project. The Project Developer has requested the City to hire the City's CONSULTANT to conduct a peer review of the report prepared by TJKM Consultants for the Phase 1 Tentative Map for the Specific Plan for Traffic Circulation and road network layout.

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

- 1. **Incorporation By Reference.** This Amendment hereby incorporates by reference all terms and conditions set forth in the Agreement, unless specifically modified by this Amendment. All terms and conditions set forth in the Agreement that are not specifically modified by this Amendment shall remain in full force and effect.
- 2. **Terms of Amendment.** Section 1, "Scope of Services" of the Agreement is amended to provide additional technical analysis as described in detail under RECITAL A and Section 5, "Compensation", is amended to add **THIRTY FIVE THOUSAND, FIVE HUNDRED AND NINETY SEVEN DOLLARS (\$35,597)** to the contract amount.
- 3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
- 4. **Severability.** In the event any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in full force and effect.

CITY OF TRACY  
AMENDMENT NO. 2 TO PROFESSIONAL SERVICES AGREEMENT  
Tracy Hills Specific Plan : Phase 1 Tentative Map Review for Transportation,  
Traffic Circulation and Roadway Network Layout  
Page 2 of 2

5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Amendment on behalf of the respective legal entities of the CONSULTANT and the CITY. This Amendment shall inure to the benefit of and be binding upon the parties thereto and their respective successors and assigns.

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

CITY OF TRACY

By: \_\_\_\_\_  
Brent H. Ives  
Title: MAYOR  
Date: \_\_\_\_\_

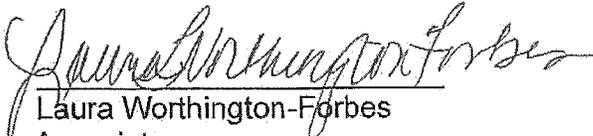
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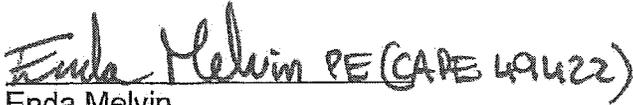
By: \_\_\_\_\_  
Sandra Edwards  
Title: CITY CLERK  
Date: \_\_\_\_\_

Approved as to form

By: \_\_\_\_\_  
Daniel G. Sodergren  
Title: CITY ATTORNEY  
Date: \_\_\_\_\_

CONSULTANT

By:   
Laura Worthington-Forbes  
Title: Associate  
Date: 01-17-14

By:   
Enda Melvin  
Title: Assistant Secretary  
Date: 01-17-2014

KHACA  
03

**EXHIBIT A**  
**SCOPE OF SERVICES**

Tracy Hills Specific Plan Amendment a Subsequent Environmental Impact Report: Tentative Map Phase 1 Review

**Brief Description of Amendment:**

Kimley-Horn (KHA) was retained to assist City staff in compiling the EIR documentation for the proposed Amendments to the Tracy Hills Specific Plan. The project developer has subsequently submitted a tentative map application to the City, which closely relates to the Traffic Impact Analysis for the Specific Plan Amendment Analysis. The purpose of this change order is to conduct a review of the analysis performed by TJKM consultants and conduct additional review in collaboration with City Staff of the Phase 1 Tentative Map for the Tracy Hills Specific Plan. The following tasks are included in this amendment:

1. Develop and review Phase 1 turning movements during the AM and PM peak hours at the street intersections along Spine Road with only buildout of Phase 1.
2. Determine the need for turn pockets and storage length of the turn pockets from Spine Road to the local side streets and from the side streets onto Spine Road.
3. Develop and review Phase 1 turning movements during the AM and PM peak hours at the street intersections along Spine Road with buildout of the Tracy Hills Project and the extension of Spine Road to the future extension of Lammers Road: Note that the trip distribution patterns change significantly once the Lammers Road connection and interchange is constructed.
4. Review the placement, control and access of local street intersections: sight distance and potential queuing. Conduct an assessment of the placement of the proposed roundabouts.
5. Peer review school trip generation, travel patterns, traffic flow on site, and traffic flow on the surrounding residential neighborhood. KHA will prepare two site plan alternative reviews with the focus on the school site, neighboring residential and business park. These layouts will be submitted in red line format only, and include both on-site circulation for the proposed school, as well as minimize potential impacts to the adjacent residential neighborhood.
6. Assess access to the business park land uses off Spine Road for shared driveways, geometry, and limited turn movements.
7. Assess short block spacing and traffic operations on the local street connections to Spine Road.
8. Determine geometric detail for the Phase 1 and buildout of the intersection of Spine Road/Corral Hollow Road. This assessment will also determine the lane configuration along Corral Hollow Road between the I-580 interchange along the Specific Plan boundary for Phase 1 and Buildout conditions.
9. Prepare a layout of a potential Partial Clover Leaf interchange at I-580/Corral Hollow Road and intersection spacing to Spine road, including RIRO driveways to the adjacent retail and business park land uses.
10. Determine the need for additional ROW and lanes on Corral Hollow Road.
11. Coordinate our comments with City Comments on one combined Administrative Draft Technical Memorandum.
12. Prepare a Technical Memorandum in Draft and Final Format.
13. Meet with City Staff and Development Team to review the Comments (three meetings). The meetings also a face-t- face meeting to review (fourth meeting) the changed layout which will be prepared by the Project Developer's engineers based on the comments compiled by KHA and City staff.

**Reason for Amendment:**

Services provided, and to be provided is outside of the original scope of services.

**Cost Adjustment:**

<b>Project Tasks</b>	<b>Estimated Fee</b>
Review (Task 1-10 above)	\$26,247
Admin, Draft and Final Technical Memorandums	\$3,750
Meetings (four) and Project Management	\$5,100
Expenses, travel, printing	\$500
<b>Total Fee</b>	<b>\$35,597</b>

**Time/Schedule Adjustment:** The schedule will meet the target dates for submitting the Memorandum to the Developer within 3 weeks of receiving a Notice to Proceed.

**Revised Deliverables:** Additional technical memorandums, graphics, conceptual layouts, and meetings.

RESOLUTION 2014 - \_\_\_\_\_

APPROVING VARIOUS AMENDMENTS TO THE PROFESSIONAL SERVICES AGREEMENTS (PSAs) WITH KIMLEY-HORN AND ASSOCIATES FOR COMPLETION OF ROADWAYS ANALYSIS FOR CORDES RANCH AND TRACY HILLS DEVELOPMENTS, AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS

WHEREAS, City Council adopted a Roadways and Transportation Master Plan in November 2012, to facilitate new developments, and

WHEREAS, Both the Cordes Ranch and Tracy Hills developments have begun planning their respective projects and have requested the City to continue using the services of Kimley-Horn and Associates, and

WHEREAS, On June 4, 2013, City Council approved a PSA with Kimley-Horn and Associates to provide professional services to address traffic related issues for the Cordes Ranch development, and

WHEREAS, Amendments to this PSA are necessary to complete additional tasks required during the specific plan and initial phases of development, and

WHEREAS, Additional services are also needed from Kimley-Horn and Associates to evaluate different scenarios of development within the Cordes Ranch and Tracy Hills development area, and

WHEREAS, Additional services from Kimley-Horn and Associates include completion of various traffic analyses to address Caltrans' for circulation at interchanges of Mountain House Parkway with I-205 and I-580

WHEREAS, Tracy Hills and Cordes Ranch developers have requested the City acquire the services of Kimley-Horn and Associates to complete these tasks, and

WHEREAS, Both Cordes Ranch and Tracy Hills developers have reviewed Kimley-Horn and Associates proposal and have consented to pay the cost of services, and

WHEREAS, Approval of this agenda item will have no impact to the City's General Fund and funding for PSA Number One (\$317,000) and PSA Number Two (\$20,900) will be paid by Tracy Hills and PSA Number Three (\$35,000) will be paid for by Prologis through the existing Cost Recovery Agreement;

NOW, THEREFORE, BE IT RESOLVED, That City Council, by resolution, approve the PSA amendments:

1. Amendment One to PSA with Kimley-Horn and Associates to provide additional services to evaluate roadway infrastructure trigger points in different planning areas within Cordes Ranch for a not to exceed amount of \$38,285, and
2. Amendment Two to PSA with Kimley-Horn and Associates to update the Roadways Master Plan and provide traffic analysis for the interchanges of Mountain House Parkway with I-205 and I-580 for a not to exceed amount of \$38,196, and
3. Amendment Two to PSA with Kimley-Horn and Associates to review proposed traffic circulation in the Tracy Hills area for a not to exceed amount of \$36,000, and authorize the mayor to execute the agreement.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council on the 4<sup>th</sup> Day of February, 2014, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 1.D

REQUEST

**APPROVE VARIOUS PROFESSIONAL SERVICES AGREEMENTS (PSAs)  
WITH WEST YOST AND ASSOCIATES RELATED TO WATER ANALYSIS FOR  
CORDES RANCH AND TRACY HILLS DEVELOPMENTS AND AUTHORIZE  
THE MAYOR TO EXECUTE THE AGREEMENTS**

EXECUTIVE SUMMARY

City Council adopted the Citywide Water Master Plan in January 2013, which identifies the major backbone infrastructure to serve new developments. The developers fund the cost of the Master Plan improvements through the Council adopted development impact fees. In addition, the developers are responsible to plan, design and construct the onsite water infrastructure within the constraints of the Master Plans. Since the initial developments can only fund a portion of the backbone infrastructure, both the Master Plans and the onsite infrastructure is further refined and updated as the development occurs. Alternate analyses are completed to identify various phases of construction to achieve the ultimate improvements. Both Cordes Ranch and Tracy Hills developments are now planning their initial phases of development and fund the respective phases of construction. Both developments have requested the City to enter into Professional Service Agreements (PSAs) with West Yost and Associates to identify the initial phases of improvements.

DISCUSSION

On January 15, 2013, City Council adopted the Citywide Water Master Plan to serve new developments. The Master Plan identifies the ultimate backbone infrastructure improvements to serve approximately 8,850 acres in various parts of the City. On January 7, 2014, City Council adopted development impact fees to fund construction of the required improvements to serve the new developments. The water infrastructure improvements will be designed and constructed in multiple phases as more funding becomes available through the development impact fees.

Since the new developments will occur within the next twenty year horizon, the fair share development impact fees collected from the initial developments will not be sufficient to construct all infrastructure improvements identified in the Master Plan in a timely manner. As a result, the infrastructure improvements will be constructed in multiple phases within the confines of the approved Master Plans, with minor changes as warranted.

Tracy Hills and Cordes Ranch developments have started planning their initial phases and are working on the design of onsite infrastructure improvements to service the proposed projects. Since the initial projects do not generate enough fee revenue to construct the major infrastructure improvements, the City is working with them to make use of the modified existing capacities combined with the new infrastructure to serve initial projects on interim basis until the ultimate infrastructure improvements are completed. Both Cordes Ranch and Tracy Hills have requested the City to acquire the

services of West Yost and Associates to coordinate, review, analyze and complete certain tasks to identify the required improvements to serve their initial projects. In order to accommodate this request, the following PSAs require approval from City Council:

1. Professional Services Agreement with West Yost and Associates for the design, preparation of improvement plans and construction documents for John Jones Water Treatment Plant (JJWTP) booster pump station for a not to exceed amount of \$317,900.

The Citywide Water Master Plan requires construction of clear well number three (storage reservoir) and a booster pump station to serve new developments north of Linne Road. The Tracy Hills development, located on the south side of the City, is required to construct its own water storage facilities within the Tracy Hills Specific Plan area. However, due to existing environmental constraints, these storage facilities cannot be constructed in a cost effective manner and needs to be deferred. Tracy Hills has proposed to fund construction of clear well number three and the booster pump station at the City's JJWTP. Tracy Hills proposes to use part of the water storage capacity created from clear well three for interim use until the water storage is needed at the treatment plant by other developments. At that time, the temporary environmental restrictions for the construction of storage tanks in the Tracy Hills area are anticipated to be removed.

In addition to Tracy Hills, the use of the clear well number three and the booster pump station will be shared by other developments. The booster pump station will be designed to serve these interim as well as the ultimate needs as specified in the Master Plan. The City awarded a PSA to Carollo Engineers for the design of clear well number three at the JJWTP last year. For completion of design and preparation of improvement plans and construction documents for the booster pump station, a request for proposal was posted on the City web site and three proposals were received. After careful review the proposal from West Yost and Associates was found to be the most qualified based upon their qualifications, experience and cost.

2. Professional Services Agreement with West Yost and Associates to complete the Tracy Hills water supply assessment for a not to exceed amount of \$20,900.

West Yost and Associates has completed the Tracy Hills water supply assessment in accordance with the original land uses. However, the developer has changed certain land uses within the Specific Plan area resulting in a need for an update of the water supply assessment with revised water demand. In addition, the SB 221 analysis needs to be completed to ensure compliance for the project. West Yost and Associates has submitted a proposal to complete this task for a not to exceed amount of \$20,900. Tracy Hills has reviewed the proposal, agreed to pay this amount and has requested the City to proceed with the PSA.

3. Professional Services Agreement with West Yost and Associates for the water system re-analysis for the proposed Cordes Ranch project for a not to exceed amount of \$85,000.

After approval of the City's Water Master Plan, Prologis, the developer of Cordes Ranch, proposed to relocate a water tank and pump station to another site. In addition, the initial project is proposed to be served from the existing Patterson Pass booster station with minor modifications instead of a new water main line from JJWTP serving both Cordes Ranch and Ellis developments. Prologis hired their own consultant to rerun the water model with these changes and requested the City to review and approve the proposed improvements to their initial projects.

To ensure that the proposed changes do not impact other developments, the City needs to conduct an additional analysis of the water system model. Since West Yost and Associates completed the City's Water Master Plan and are the most familiar and has extensive knowledge of the water model, a proposal was solicited from them to complete this task. West Yost and Associates have submitted a proposal for a not to exceed amount of \$35,000 on hourly basis. Prologis has reviewed the proposal and the cost of services will be paid by the City through the existing Cost Recovery Agreement with Prologis.

In addition to the above work, Prologis has requested to include additional services from West Yost and Associates for a not to exceed amount of \$50,000 to be used on an as needed basis for time and materials. Additional services will be authorized after the City has received specific task requests from Prologis.

4. Professional Services Agreement with West Yost and Associates for water system evaluation for Ellis Program for a not to exceed amount of \$39,950.

The Ellis development will be served by the City's water distribution zones two and three. These water zones also serve other existing and new developments within the city. Since the water infrastructure for new developments, including the Ellis program area, will be constructed in multiple phases; and as more development impact fees are collected, it will be crucial that the water infrastructure for each phase be identified and constructed systematically to assure that the development needs are properly met.

The Ellis development wants to identify the water infrastructure required for various scenarios of their development and has requested the City to hire the services of the City's Water Meter Plan Consultant to complete these analyses. West Yost and Associates submitted a proposal to complete this task for a not to exceed amount of \$39,950. Surland Companies, the developers of the Ellis Program area, have reviewed the proposal and concur with the cost amount.

## STRATEGIC PLAN

This agenda item is consistent with the City's Economic Development Strategy and meets goals to ensure a physical infrastructure and system necessary for developments.

### FISCAL IMPACT

Approval of this agenda item will have no impact to the City's General Fund. Through a Cost Recovery Agreement, Tracy Hills will pay for PSA Number One (\$317,000) and PSA Number Two (\$20,900). Prologis will cover the cost of PSA Number Three (\$85,000). Surland Companies will cover the PSA Number Four for the water system evaluation for the Ellis Program area (\$39,950).

### RECOMMENDATION

It is, therefore, recommended that City Council, by resolution

1. Approve a PSA with West Yost and Associates for design, preparation of improvement plans and construction documents for JJWTP booster pump station for a not to exceed amount of \$317,900, and
2. Approve a PSA with West Yost and Associates to complete the Tracy Hills water supply assessment for a not to exceed amount of \$20,900, and
3. Approve a PSA with West Yost and Associates for a water system re-analysis of the Cordes Ranch project for a not to exceed amount of \$85,000, and
4. Approve a PSA with West Yost and Associates for the water system evaluation for the Ellis Program area for a not to exceed amount of \$39,950, and authorize the Mayor to execute the agreements.

Prepared by: Kuldeep Sharma, City Engineer

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

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

### ATTACHMENTS

Attachment A – West Yost and Associates PSA for design, preparation and implementation plans and construction documents for JJWTP

Attachment B – West Yost and Associates PSA for Tracy Hills water supply assessment

Attachment C – West Yost and Associates PSA for the water system re-analysis for the Cordes Ranch Project

Attachment D – West Yost and Associates PSA for the water system re-analysis for the Ellis Program area Project

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
DESIGN OF BOOSTER PUMP STATION AT  
JOHN JONES WATER TREATMENT PLANT**

This Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost Associates ("Consultant").

**RECITALS**

- A. Consultant is a registered professional engineer.
- B. Consultant's services are needed related to providing a water system model and flow-pressure verification, a preliminary design, a detailed design and inter-project coordination for the design of the City-side Zone 3, and Tracy Hills Zone 3 and 4 Booster Pump Stations.
- C. At the request of the City, in September 2013, Consultant submitted a proposal to perform the services described in this Agreement. After negotiations between City and Consultant, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

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

1. **SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Gerry Nakano. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use any subcontractors or subconsultants, without City's prior written consent.
2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN  
PROFESSIONALS  
DESIGN OF BOOSTER PUMP STATION AT JOHN JONES WATER TREATMENT  
PLANT  
Page 2 of 6**

3. **INDEPENDENT CONTRACTOR STATUS.** Consultant is an independent contractor and is solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Consultant. Consultant is free to work for other entities while under contract with the City. Consultant is not entitled to City benefits.
4. **CONFLICTS OF INTEREST.** Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest.
5. **COMPENSATION.**
  - 5.1 **General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$317,900. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 **Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 **Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.
6. **TERMINATION.** The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
7. **OWNERSHIP OF WORK.** All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
DESIGN OF BOOSTER PUMP STATION AT JOHN JONES WATER TREATMENT PLANT  
Page 3 of 6**

8. **INDEMNIFICATION.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 10 relating to insurance.

9. **BUSINESS LICENSE.** Before beginning work under this Agreement, Consultant shall obtain a City of Tracy Business License.

10. **INSURANCE.**

- 10.1 **General.** Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.
- 10.2 **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- 10.3 **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01, for "any auto") coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 10.4 **Workers' Compensation** coverage shall be maintained as required by the State of California.
- 10.5 **Professional Liability** claims made" coverage shall be maintained to cover damages from negligent errors, omissions, or acts of Consultant in an amount not less than \$2,000,000 per claim and in the aggregate.
- 10.6 **Endorsements.** Consultant shall obtain endorsements to the commercial general liability with the following provisions:

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
DESIGN OF BOOSTER PUMP STATION AT JOHN JONES WATER TREATMENT PLANT  
Page 4 of 6**

- 10.6.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- 10.6.2** For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
- 10.7** **Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- 10.8** **Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 10.9** **Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five days after the execution of this Agreement.
- 10.10** **Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.
- 10.11** **Consultant's Obligation.** Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary.
- 11. ASSIGNMENT AND DELEGATION.** This Agreement and any portion of it shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated, without the City's written consent. Any attempt to assign or delegate this Agreement without the City's written consent shall be void and of no effect. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
DESIGN OF BOOSTER PUMP STATION AT JOHN JONES WATER TREATMENT PLANT  
Page 5 of 6**

**12. MISCELLANEOUS.**

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

To City:

Mr. Kuldeep Sharma  
City Engineer  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

To Consultant:

Gerry Nakano  
Vice President  
West Yost Associates  
7041 Koll Center Parkway, Suite 110  
Pleasanton, CA 94566

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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

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

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

**12.4 Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

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

**12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.

CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
DESIGN OF BOOSTER PUMP STATION AT JOHN JONES WATER TREATMENT PLANT  
Page 6 of 6

**12.7 Compliance with the Law.** Consultant shall comply with all applicable and non-conflicting local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

**12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

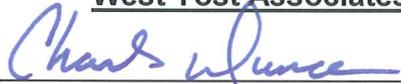
**13. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City. This Agreement shall inure to the benefit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

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

City of Tracy

Consultant  
West Yost Associates

By: Brent H. Ives  
Title: Mayor  
Date: \_\_\_\_\_

  
By: Charles Duncan  
Title: President  
Date: 1-23-14  
Fed. Employer ID No. 68-0370826

Attest:

By: Sandra Edwards  
Title: City Clerk  
Date: \_\_\_\_\_

  
By: Elizabeth M. Nilsen  
Title: Chief Financial Officer  
Date: 1/23/14

Approved As To Form:

By: Daniel G. Sodergren  
Title: City Attorney  
Date: \_\_\_\_\_



# **John Jones Water Treatment Plant**

## **Booster Pump Station**

### **Approach and Scope of Work**

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#### **PROJECT UNDERSTANDING**

The design of a new Booster Pump Station to serve the City-side Pressure Zone 3 and the Tracy Hills Pressure Zones 3 and 4 at the City's John Jones Water Treatment Plant is an extremely complex project with several specific design, timing, and operational needs and constraints that must be taken into account and integrated into the planning and design of the new facility.

Currently the City provides treated water to primarily two distribution system pressure zones: City-side Pressure Zone 1 (City-side PZ1) and City-side Pressure Zone 2 (City-side PZ2). The City also provides water service to some properties in City-side Pressure Zone 3 (City-side PZ3). However, as discussed in the City's recently completed Citywide Water System Master Plan (completed by West Yost in December 2012), several new pressure zones, including an expanded City-side PZ3, must be established to provide water service to proposed new developments located at elevations higher than those the City currently provides service to. For example, the proposed Tracy Hills project will have three new and distinct pressure zones: Tracy Hills PZ3 (which will be separate from the City-side PZ3), Tracy Hills PZ4 and Tracy Hills PZ5.

The City's existing JJWTP currently has three existing booster pump stations: one each to serve the City-side PZ1, City-side PZ2 and City-side PZ3. The expanded City-side PZ3, Tracy Hills PZ3 and PZ4 will be served from a new Booster Pump Station (BPS) to be located at the JJWTP (Tracy Hills PZ5 will be served from the Tracy Hills PZ4 via a new booster pump station to be designed in the future by others). It is assumed that the City's PZ3 and Tracy Hills PZ3 and PZ4 will be served by separate pumps located in a single BPS building at the JJWTP. The BPS building is being designed by others as part of the design of the new Clear Well No. 3 at the JJWTP. As described in the Citywide Water System Master Plan, the required water treatment capacity to serve these new pressure zones has already been accounted for at the JJWTP with the recently completed plant expansion.

With the on-going upturn in the economic climate statewide and in the Tracy area, development is moving forward and pumping facilities to serve the City-side PZ3 and the Tracy Hills PZ3 and PZ4 need to be constructed as soon as possible to meet the Phase 1 demands of several proposed projects (including Ellis, Tracy Hills and possibly Cordes Ranch, among others) starting in late 2014/early 2015. As discussed in the Citywide Water System Master Plan, the new JJWTP BPS will be designed to take supply (suction) from the new Clear Well No. 3, which will be constructed at the JJWTP site. However, it is anticipated that Clear Well No. 3 will not be constructed and available for use until mid to late 2015. Therefore, for the interim period before Clear Well No. 3 is completed, an interim BPS will have to be constructed to draw water from the existing Clear Well No. 2. It may be possible to utilize the pumps from this interim BPS as part of the permanent BPS pumping out of Clear Well No. 3. This interim solution will be designed in Task 3 as described in our proposed Scope of Work.

Another consideration for the design of the new BPS is that, ultimately, the Tracy Hills PZ3 pumps at the JJWTP will pump to a Tracy Hills PZ3 storage tank to be located in Tracy Hills. However, the Tracy Hills PZ3 storage tank is not anticipated to be constructed and operational until mid- to late-2016, which will require that the Tracy Hills PZ3 pumps at the JJWTP pump



## John Jones Water Treatment Plant Booster Pump Station Approach and Scope of Work

continuously to meet demands and maintain minimum distribution system pressures at all times. This operational need will be taken into consideration in the design of the pumps to serve the initial Tracy Hills PZ3 demands, until the Tracy Hills Storage Tank can be constructed (anticipated completion mid- to late-2016).

### DESIGN ASSUMPTIONS

Based on the Citywide Water System Master Plan completed by West Yost in December 2012, the ultimate capacities and approximate pressures for the new booster pumps serving these new pressure zones are summarized below:

CITY-SIDE ZONE 3	Firm capacity of 4,500 gallons per minute (gpm) at a TDH of 155 feet (total of 4 pumps; 2 @ 1,175 gpm plus 2 @ 2,150 gpm)
TRACY HILLS ZONE 3	Firm capacity of 2,400 gpm at a TDH of 230 feet (total of 3 pumps; 3 @ 1,200 gpm)
TRACY HILLS ZONE 4	Firm capacity of 1,700 gpm at a TDH of 390 feet (total of 3 pumps; 3 @ 850 gpm)

Both the flow rates and heads will need to be confirmed by additional hydraulic system modeling based on the most current information on planned projects to be served to properly select the required pumping equipment. It is anticipated that each of the flows to City-side PZ3 and Tracy Hills PZ3 will draw from Clear Well No. 2 for an interim period, and will then draw from the new Clear Well No. 3 (when completed). Clear Well No. 3 is being designed by others. Because of the disparity in required heads, it is anticipated that each of the pressure zones will be served by separate booster pumps. To take advantage of economies of scale and reduce the overall costs, the following are also anticipated:

- The booster pumps will be housed in a common building near the southeastern side of Clear Well No. 2;
- The structural design of the pump station building is being performed by others (West Yost has included budget to provide coordination of the design of the booster pumps with the structural design of the pump station building);
- For the interim period before Clear Well No. 3 is available, a single City-side PZ3 booster pump and a single Tracy Hills PZ3 booster pump could be installed in the existing wet well of Clear Well No. 2. It is assumed that these pumps could be eventually be relocated to the future BPS building to provide for pumping out of Clear Well No. 3;



## John Jones Water Treatment Plant Booster Pump Station Approach and Scope of Work

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- Until the Tracy Hills PZ3 storage tank can be constructed (anticipated to be completed by mid- to late-2016), the Tracy Hills PZ3 booster pump will need to be operated continuously to meet demands and maintain minimum distribution system service pressures in Tracy Hills PZ3;
- Electrical power distribution will be through a common feeder circuit;
- Power for all three booster pumps will be backed up by one standby generator;
- On-site discharge piping to the JJWTP property line will be made up of approximately 1,900 feet (each) of 20-inch, 24-inch and 16-inch diameter pipelines;
- The off-site transmission mains will be designed by others (West Yost has included budget to provide coordination of the design of on-site pipelines with the design of the off-site pipelines); and
- Clear Well No. 3 and other improvements at the JJWTP are being designed by others (West Yost has included budget to provide coordination of the design of booster pump station with the design of Clear Well No. 3).

### PROPOSED SCOPE OF WORK

#### Task 1: Water System Model and Flow-Pressure Verification

West Yost will update the City's water distribution system hydraulic model to verify the required head conditions required for the new pumps to meet minimum water delivery pressures for peak hour, maximum day plus fire flow and average day flow conditions. West Yost will also confirm whether a single booster pump to serve the City-side PZ3 and a single booster pump to serve Tracy Hills PZ3 could be interimly installed in the wet well at Clear Well No. 2.

#### *Assumptions*

- Updated demands and specific development locations for any proposed development projects to be interimly served from Clear Well No. 2 (prior to the completed construction of Clear Well No. 3), will be confirmed by the City (e.g., Ellis, Tracy Hills and Cordes Ranch Projects)
- Any proposed phasing of each of these pressure zones will be provided to West Yost at the start of the project to assure that the number of pumps and the recommended sizes are identified as part of the pre-design report.

#### *Deliverables*

- No separate work product will be prepared for this task; however, the findings will be included in the Task 2 work product.

*Estimated Fee for Task 1 Services = \$28,100*

# John Jones Water Treatment Plant Booster Pump Station Approach and Scope of Work

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## Task 2: Preliminary Design

The preliminary design establishes the design conditions, proposed piping and equipment configurations, general pump and site layout, and applicable models/manufacturers. The preliminary design is culminated in a Preliminary Design Report that will summarize the flow and pressure requirements (as established in Task 1), basis of design of the pump stations' elements and the routing and preliminary design of the three on-site pipelines serving each of the designated pressure zones and 25% complete drawing set.

### *Assumptions*

- Previously conducted geotechnical engineering (conducted with the JJWTP expansions) will be suitable for use for the project
- Base plan with utility location indicated will be provided by the City

### *Deliverables*

- Preliminary Design Report – Draft Report and Final Report

*Estimated Fee for Task 2 Services = \$53,400*

## Task 3: Detailed Design for Interim BPS from Existing Clear Well No. 2

It is anticipated that the new Clear Well No. 3 will not be completed by the time water is needed to the new developments in Tracy Hills PZ3. To provide water to the new development, new pumps will be installed in the existing booster pump station at Clear Well No. 2. It is anticipated that Clear Well No. 2 has two pump slots available for this purpose and that the motor control center has space and capacity available to power the pumps. It is also anticipated that the conduits for power and control of the pumps is already in place at the Clear Well No. 2 Pump Station. The pumps will be sized for the use in the final project to be completed with Clear Well No. 3 (see Task 4). The pumps and motor starters will be reused in the final project.

West Yost will prepare a set of contract documents to modify the existing Clear Well No. 2 Pump Station to add two vertical turbine pumps with motor horsepower of approximately 125 horsepower each. The design will include the pump installation, piping and valving modifications, modifications to the motor control center, design of control and power cables, and modifications to the control system pumps.

The construction of the interim improvements for the Clear Well No. 2 pump station will be bid publically. West Yost will prepare contract drawings, technical specifications in CSI 16-division format, and modify the City's administrative and contract (front-end) documents as appropriate for the interim project.



## John Jones Water Treatment Plant Booster Pump Station Approach and Scope of Work

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### *Assumptions*

- The existing pump station at Clear Well No. 2 has sufficient power and control capacity for two additional interim pumps for this project
- Technical Specifications will be in CSI 1-16 format
- Front end specifications (bidding requirements, contract and general conditions) will be provided by the City
- Our current scope assumes that the required pumps will not be pre-purchased by the City. If the City wants to pre-purchase the pumps to expedite the completion of the Interim BPS, pre-purchase bid documents will need to be prepared. Preparation of such pre-purchase documents is not included in this scope of work, but can be provided by West Yost upon approval of a budget augmentation by the City.

### *Deliverables*

- 50% plans, specifications and construction cost estimate
- 90% plans, specifications, construction, cost estimate and responses to review comments
- 100% plans, specifications, construction, cost estimate and responses to review comments
- Final plans, specifications, construction cost estimate in photo-copy ready format for bidding

*Estimated Fee for Task 3 Services = \$24,800*

### **Task 4: Detailed Design for Permanent BPS from New Clear Well No. 3**

West Yost will prepare construction documents consisting of plans, specifications and construction cost estimates for the permanent booster pump station project to pump out of the new Clear Well No. 3.

### *Assumptions*

- Technical Specifications will be in CSI 1-16 format
- Front end specifications (bidding requirements, contract and general conditions) will be provided by the City

### *Deliverables*

- 50% plans, specifications and construction cost estimate
- 90% plans, specifications, construction, cost estimate and responses to review comments



## John Jones Water Treatment Plant Booster Pump Station Approach and Scope of Work

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- 100% plans, specifications, construction, cost estimate and responses to review comments
- Final plans, specifications, construction cost estimate in photo-copy ready format for bidding

*Estimated Fee for Task 4 Services = \$156,600*

### Task 5: Inter-Project Coordination

The BPS will need to serve the City-side PZ3 area and Tracy Hills PZ3 area prior to the completion of Clear Well No. 3. Ideally, interim pumps can be installed in existing slots in the existing wet well at Clear Well No. 2 to serve initial development in City-side PZ3 and Tracy Hills PZ3, and then be relocated to the final booster pump station location when Clear Well No. 3 is completed. The project will need to interface with changes at the JJWTP, including Clear Well No. 3 and the off-site transmission mains, both being designed by others. West Yost has included an allowance of \$18,200 to provide for the inter-project coordination that will be necessary on this project.

#### *Assumptions*

- Coordination following the completion of the design work described above (e.g., during bidding and during construction) is not included in our current scope and budget, but can be provided by West Yost upon approval of a budget augmentation by the City.

#### *Deliverables*

- No separate work product will be prepared for this task. The inter-project coordination will be reflected in correspondence, meetings, conference calls, and deliverables from other tasks.

*Estimated Fee for Task 5 Services = \$18,200*

### Task 6: Project Management

All phases of the work will be managed by a single Project Manager (Elizabeth Drayer). The subtasks for project management consist of the following:

- **Budget Control and Progress Reporting:** Project Manager will monitor project progress, respond to City requests and concerns, and maintain communications with City staff to ensure satisfactory completion of the work on schedule and within budget.
- **Work Coordination:** Project Manager will be responsible to assign labor resources, review work products and coordinate with the City. Project Manager will keep a log of all decisions made on the project and the specific actions to be taken, and who is responsible to take those actions.



## John Jones Water Treatment Plant Booster Pump Station Approach and Scope of Work

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- **Meetings:** West Yost will conduct a project kickoff meeting and monthly project status meetings to discuss progress to date, and any issues that have come up. Meetings to discuss comments to the 50% and 90% design submittals are also planned and budgeted.
- **QA/QC:** West Yost will implement a quality assurance/quality control (QA/QC) program. Under this program, all work products and deliverables will be reviewed by senior staff. Additionally, design documents will be reviewed by West Yost's construction staff for constructability and bid ability.

### *Assumptions*

- Progress reports, meeting agendas and notes will be in West Yost's standard format.

### *Deliverables*

- Progress Reports
- Meeting agendas and notes
- QA/QC review comments

*Estimated Fee for Task 6 Services = \$26,800*

### **Task 7: Additional Services**

As requested by the City, this additional services task has been included to provide for additional services as requested and authorized by the City related to the JJWTP Booster Pump Station Project.

### *Assumptions*

- Approximately 50 hours of senior engineering effort has been assumed with a budget of \$10,000

### *Deliverables*

- To be determined

*Estimated Fee for Task 7 Services = \$10,000*

***Total Estimated Fee for Tasks 1 – 7 Services = \$317,900***

### **PROJECT SCHEDULE**

The schedule provided on the following page shows the projected timeline for the design and construction of the JJWTP Booster Pump Station in relation to the design and construction of Clear Well No. 3, off-site pipelines from the JJWTP to the Tracy Hills Project Area, and the anticipated future design and construction of a new storage reservoir in Tracy Hills.

City of Tracy  
 Design of New Booster Pump Station at JWTP  
 Proposed Schedule

	2013				2014				2015				2016							
	O	N	D		J	F	M	A	J	F	M	A	J	F	M	A	J	F	M	A
<b>New Booster Pump Station at JWTP</b> (design by West Yost Associates) (Assumes Notice to Proceed January 1, 2014) <sup>(a)</sup>																				
Task 1: Water System Model and Flow-Pressure Verification																				
Task 2: Preliminary Design																				
Task 3: Detailed Design for Interim BPS from Existing Clear Well No. 2																				
Bidding of Interim BPS from Existing Clear Well No. 2																				
Construction of Interim BPS from Existing Clear Well No. 2																				
Task 4: Detailed Design for Permanent BPS from New Clear Well No. 3																				
Bidding of Permanent BPS from New Clear Well No. 3																				
Construction of Permanent BPS from New Clear Well No. 3																				
Task 5: Inter-Project Coordination																				
Task 6: Project Management																				
Task 7: Additional Services (as requested and authorized by the City)																				
<b>JWTP Cleanwell No. 3</b> (design by Carollo Engineers)																				
Preliminary Design																				
Final Design																				
Bidding																				
Construction																				
<b>Off-Site Transmission Lines to City-side PZ3 and Tracy Hills PZ3 and PZ4 (design by CH2M Hill)</b>																				
Design																				
Bidding																				
Construction																				
<b>Tracy Hills PZ3 Storage Tank</b> (Design by others)																				
Design																				
Bidding																				
Construction																				
<b>Interim Operation of New BPS out of Clear Well No. 2<sup>(a)</sup></b>																				
<b>Permanent Operation of New BPS out of Clear Well No. 3<sup>(b)</sup></b>																				

<sup>(a)</sup> Pumping out of Clear Well No. 2 with continuous (24/7) pumping to serve TH PZ3.

<sup>(b)</sup> Pumping out of Clear Well No. 3 with continuous (24/7) pumping to serve TH PZ3 until TH PZ3 storage tank is operational (mid-2016); then pumping from Clear Well No. 3 to fill TH PZ3 storage tank.

# John Jones Water Treatment Plant Booster Pump Station Approach and Scope of Work



## COST SCHEDULE

Tasks	Estimated West Yost Labor Hours	Estimated West Yost Labor Cost	Subconsultant Cost (A T.E.E.M) (includes 10% markup)	Direct Costs	Total
Task 1: Water System Model and Flow-Pressure Verification	139	\$27,600	\$-	\$500	\$28,100
Task 2: Preliminary Design	274	\$47,400	\$5,500	\$500	\$53,400
Task 3: Detailed Design for Interim BPS from Existing Clear Well No. 2	83	\$13,200	\$11,000	\$600	\$24,800
Task 4: Detailed Design for Permanent BPS from New Clear Well No. 3	588	\$94,600	\$60,500	\$1,500	\$156,600
Task 5: Inter-Project Coordination	87	\$18,200	\$-	\$0	\$18,200
Task 6: Project Management	124	\$26,800	\$-	\$0	\$26,800
Task 7: Additional Services	50	\$10,000	\$-	\$0	\$10,000
<b>TOTAL</b>	<b>1,345</b>	<b>\$237,800</b>	<b>\$77,000</b>	<b>\$3,100</b>	<b>\$317,900</b>

## PROJECT PERSONNEL

West Yost shall assign the following person/persons to perform the tasks set forth in this Agreement:

- Charles Duncan (President, Authorized Representative);
- Gerry S. Nakano (Vice President)
- Dave Ewing (Engineering Manager)
- Dave Jones (Engineering Manager)
- Elizabeth Drayer (Engineering Manager)
- Patrick Fuss (Principal Engineer)
- Brad Friederichs (Principal Engineer)
- Jim Connell (Principal Engineer)
- Ty Tadano (Associate Engineer)
- Amy Kwong (Senior Engineer)
- Irene Suroso (Senior Engineer)
- Doug DeMaster (Senior Engineer)
- Steve Barber (Senior Designer)
- Brian Coox (Engineer I)
- Christine Encelan (Administrative IV);
- Angelica Perea (Administrative III);
- Nikki Pacheco (Administrative III); and
- Tracy Baker (Administrative III).



**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**

Exhibit "B"

(Effective January 1, 2014 through December 31, 2014)\*

Position	Labor Charges (dollars per hr)
Principal/Vice President	240
Engineering Manager	229
Principal Engineer/Scientist	207
Senior Engineer/Scientist/GIS Analyst	186
Associate Engineer/Scientist	169
GIS Analyst	164
Engineer II/Scientist II	147
Engineer I/Scientist I	126
Construction Manager III	186
Construction Manager II	169
Construction Manager I	158
Resident Inspector III	140
Resident Inspector II	129
Resident Inspector I	115
Sr. Designer/Sr. CAD Operator	120
Designer/CAD Operator	107
Technical Specialist III	120
Technical Specialist II	104
Technical Specialist I	87
Engineering Aide	71
Administrative IV	109
Administrative III	98
Administrative II	82
Administrative I	66

Hourly labor rates include Direct Costs such as general computers, system charges, telephone, fax, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.

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Mileage will be billed at the current Federal Rate.

Subconsultants will be billed at actual cost plus 10%.

Computers are billed at \$25 per hour for specialty models and AutoCAD.

Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.

A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

\*This schedule will be updated annually.

**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**  
**(Cont'd.)**

(Effective January 1, 2014 through December 31, 2014)\*

**SURVEYING AND EQUIPMENT CHARGES**

Position	Labor Charges (dollars per hr)
GPS, 3-Person	366
GPS, 2-Person	317
GPS, 1-Person	246
Survey Crew, 2-Person	268
Survey Crew, 1-Person	202

**EQUIPMENT CHARGES**

Equipment	Billing Rate (dollars per day)	Billing Rate (dollars per week)
DO Meter	16	81
pH Meter	5	26
Automatic Sampler	128	698
Transducer/Data Logger	40	202
Hydrant Pressure Gage	11	49
Hydrant Pressure Recorder (HPR)	—	202
Hydrant Wrench	5	32
Pitot Diffuser	29	132
Well Sounder	29	132
Ultrasonic Flow Meter	—	264
Vehicle	87	437
Velocity Meter	11	64
Water Quality Multimeter	173	946
Thickness Gage	—	70

\* This schedule will be updated annually.

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
TRACY HILLS WATER SUPPLY ASSESSMENT**

This Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("CITY"), and West Yost Associates ("CONSULTANT").

**RECITALS**

- A. CONSULTANT is a registered professional engineer.
- B. CONSULTANT services are needed for performing additional work related to the preparation of the Tracy Hills Water Supply Assessment.
- C. At the request of the CITY, in November 2013, CONSULTANT submitted a proposal to perform the services described in this Agreement. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

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

1. **SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Gerry Nakano. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use any subcontractors or subconsultants, without City's prior written consent.
2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN  
PROFESSIONALS  
TRACY HILLS WATER SUPPLY ASSESSMENT  
Page 2 of 6**

3. **INDEPENDENT CONTRACTOR STATUS.** Consultant is an independent contractor and is solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Consultant. Consultant is free to work for other entities while under contract with the City. Consultant is not entitled to City benefits.
4. **CONFLICTS OF INTEREST.** Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest.
5. **COMPENSATION.**
  - 5.1 **General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$20,900.00. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 **Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 **Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.
6. **TERMINATION.** The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
7. **OWNERSHIP OF WORK.** All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS**  
**TRACY HILLS WATER SUPPLY ASSESSMENT**  
**Page 3 of 6**

8. **INDEMNIFICATION.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 10 relating to insurance.

9. **BUSINESS LICENSE.** Before beginning work under this Agreement, Consultant shall obtain a City of Tracy Business License.

10. **INSURANCE.**

- 10.1 **General.** Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.
- 10.2 **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01) "per occurrence" coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- 10.3 **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01, for "any auto") coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 10.4 **Workers' Compensation** coverage shall be maintained as required by the State of California.
- 10.5 **Professional Liability** "claims made" coverage shall be maintained to cover damages from negligent errors, omissions, or acts of Consultant in an amount not less than \$2,000,000 per claim and in the aggregate.
- 10.6 **Endorsements.** Consultant shall obtain endorsements to the commercial general liability with the following provisions:

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN  
PROFESSIONALS  
TRACY HILLS WATER SUPPLY ASSESSMENT  
Page 4 of 6**

- 10.6.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- 10.6.2** For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
- 10.7** **Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- 10.8** **Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 10.9** **Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five days after the execution of this Agreement.
- 10.10** **Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.
- 10.11** **Consultant's Obligation.** Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary.
- 11. ASSIGNMENT AND DELEGATION.** This Agreement and any portion of it shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated, without the City's written consent. Any attempt to assign or delegate this Agreement without the City's written consent shall be void and of no effect. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
TRACY HILLS WATER SUPPLY ASSESSMENT  
Page 5 of 6**

**12. MISCELLANEOUS.**

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

To City:

Mr. Kuldeep Sharma  
City Engineer  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

To Consultant:

Mr. Gerry Nakano  
Vice President  
West Yost Associates  
7041 Koll Center Parkway, Suite 110  
Pleasanton, CA 94566

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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

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

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

**12.4 Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

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

**12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
TRACY HILLS WATER SUPPLY ASSESSMENT  
Page 6 of 6**

**12.7 Compliance with the Law.** Consultant shall comply with all applicable and non-conflicting local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

**12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

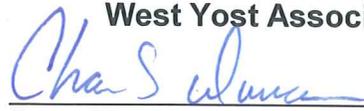
**13. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City. This Agreement shall inure to the benefit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

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

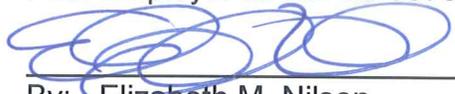
City of Tracy

Consultant  
**West Yost Associates**

\_\_\_\_\_  
By: Brent H. Ives  
Title: Mayor  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
By: Mr. Charles Duncan  
Title: President  
Date: 1-6-14  
Fed. Employer ID No. 68-0370826

Attest:

  
\_\_\_\_\_  
By: Elizabeth M. Nilsen  
Title: Chief Financial Officer  
Date: 1/6/14

\_\_\_\_\_  
By: Sandra Edwards  
Title: City Clerk  
Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
By: Daniel G. Sodergren  
Title: City Attorney  
Date: \_\_\_\_\_

**Proposed Scope of Work for  
Additional Work Related to the  
Preparation of the Tracy Hills Water Supply Assessment**



**Task 1: Revise Draft WSA to Incorporate Land Use Changes, Revised Water Demands and Revised Assumptions for Recycled Water Use**

The Draft Water Supply Assessment (WSA) prepared by West Yost Associates (CONSULTANT) for the Tracy Hills Specific Plan (PROJECT), dated September 2013, was prepared based on land use information and water demand calculations prepared and provided by RJA in August 2013.

Based on discussions with RJA, we understand that there have been some changes to the proposed land uses for the PROJECT which changes the projected water demands for the PROJECT (e.g., changes in the number of residential dwelling units in the various residential land use categories, although the total number of proposed residential dwelling units has not changed). We also understand that PROJECT representatives would like to revise the assumptions for the future use of recycled water within the PROJECT (e.g., reducing or eliminating the use of recycled water for residential landscaping and appropriately accounting for the future use of recycled water for irrigation of roadway median landscaping).

CONSULTANT understands that RJA will provide the revised land use data along with a revised water demand spreadsheet indicating the calculated potable and recycled water demands in the various phases and zones of the PROJECT. The water demand locations provided by RJA will also need to be broken down based on their location relative to irrigation district use areas, so that the water demands can be assigned appropriately to the various "places of use" included in the Project area.

Based on this data to be provided by RJA, CONSULTANT will revise the Draft WSA text, tables and figures so that the WSA will be consistent with other documents being prepared for the PROJECT.

**Task Deliverables:** There are no specific deliverables for this task. Revised text, tables and figures based on this task will be incorporated into a Final Draft WSA (see Task 3).

*Estimated Fee for Task 1 Services: \$5,400.00*

**Task 2: Revise Draft WSA to include Verification of Sufficient Water Supply in accordance with the requirements of SB 221 (California Government Code Section 66473.7)**

Because the PROJECT will include more than 500 residential dwelling units, the PROJECT is also subject to the requirements of SB 221 (California Government Code Section 66473.7). SB 221 amended State law to require that approval by a city or county of certain residential subdivisions requires an affirmative written verification of sufficient water supply. SB221 was intended as a fail-safe mechanism to ensure that collaboration on securing the needed water supplies to serve a new large residential subdivision occurs before construction begins.

The SB 221 Verification can be conducted based on the analysis provided in the City's 2010 Urban Water Management Plan and the recently completed Draft SB 610 WSA, but has specific requirements of its own. The verification must demonstrate supply sufficiency by showing that



Proposed Scope of Work for  
Additional Work Related to the  
Preparation of the Tracy Hills Water Supply Assessment

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water supplies available during Normal, Single Dry and Multiple Dry years within a 20-year projection will meet the projected demand associated with the Proposed Project, in addition to existing and planned future uses, including, but not limited to, agriculture and industrial uses. Per the requirements of SB 221, the following must be considered:

- The City's historical water deliveries for the previous 20 years;
- Urban water shortage contingency analysis prepared for the UWMP;
- Supply reduction for specific water use sectors; and
- Amount of water expected from specified supply projects.

For budgeting purposes, CONSULTANT is assuming that the SB 221 verification will be included in the SB 610 Water Supply Assessment report (as a separate section) to provide the necessary linkages between the requirements for SB 610 and SB 221. If the City determines that a stand-alone, separate SB 221 Report is required, additional budget and a time extension must be authorized.

**Task Deliverables:** There are no specific deliverables for this task. Revisions based on this task will be incorporated into a Final Draft WSA (see Task 3).

*Estimated Fee for Task 2 Services: \$7,000.00*

**Task 3: Prepare and Submit Final Draft WSA for Review and Comment by the City and Project Representatives**

Based on the new/changed information described in Tasks 1 and 2 above, and the associated required revisions to the Draft WSA, CONSULTANT will prepare a Final Draft WSA, in track changes mode, to reflect the changes made to the Draft WSA. This Final Draft will be provided to the City, for review and distribution to PROJECT representatives. Upon receipt of comments on this Final Draft WSA, the WSA will be finalized as described in our original Scope of Work.

**Task Deliverables:** Under this task, CONSULTANT will provide a PDF version of the Final Draft WSA in track changes mode for review and comment by City staff and distribution to PROJECT representatives for their review and comment. Based on comments received on this Final Draft, the Final WSA will be prepared and submitted per our original agreement with the City.

*Estimated Fee for Task 3 Services: \$8,500.00*

***Total Estimated Fee for Tasks 1, 2 and 3: \$20,900.00***

**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**

(Effective January 1, 2014 through December 31, 2014)\*

Position	Labor Charges (dollars per hr)
Principal/Vice President	240
Engineering Manager	229
Principal Engineer/Scientist	207
Senior Engineer/Scientist/GIS Analyst	186
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Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.

A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

\*This schedule will be updated annually.



**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**  
**(Cont'd.)**

(Effective January 1, 2014 through December 31, 2014)\*

**SURVEYING AND EQUIPMENT CHARGES**

Position	Labor Charges (dollars per hr)
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**EQUIPMENT CHARGES**

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Hydrant Wrench	5	32
Pitot Diffuser	29	132
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Ultrasonic Flow Meter	—	264
Vehicle	87	437
Velocity Meter	11	64
Water Quality Multimeter	173	946
Thickness Gage	—	70

\* This schedule will be updated annually.

**CITY OF TRACY**  
**PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS**  
**WATER SYSTEM RE-ANALYSIS FOR THE PROPOSED CORDES RANCH**  
**PROJECT**

This Professional Services Agreement (“Agreement”) is entered into between the City of Tracy, a municipal corporation (“CITY”), and West Yost Associates (“CONSULTANT”).

**RECITALS**

- A.** CONSULTANT is a registered professional engineer.
- B.** CONSULTANT services are needed for performing a technical peer review and re-evaluation of the previously completed water system hydraulic analysis of the proposed Cordes Ranch Project (PROJECT) based on the CITY’s December 2012 Citywide Water System Master Plan and subsequent Tier 2 Infrastructure Evaluation. This technical peer review and re-analysis is required to evaluate possible alternative infrastructure configurations proposed by the PROJECT Proponents that are different than previously developed and evaluated by the City, and may include some other changed conditions since this PROJECT was previously analyzed (such as moving the potential location of the proposed storage tank and associated pump station to serve the proposed PROJECT).
- C.** At the request of the CITY, in August 2013, CONSULTANT submitted a proposal to perform the services described in this Agreement. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

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

- 1. SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit “A” attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant’s Authorized Representative: Gerry Nakano. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit “A,” nor shall Consultant use any subcontractors or subconsultants, without City’s prior written consent.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS, WATER SYSTEM RE-ANALYSIS FOR THE PROPOSED CORDES RANCH PROJECT**

Page 2 of 7

2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.
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  - 5.1 **General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$85,000.00. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 **Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 **Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS, WATER SYSTEM RE-ANALYSIS FOR THE PROPOSED CORDES RANCH PROJECT**

Page 3 of 7

6. **TERMINATION.** The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
7. **OWNERSHIP OF WORK.** All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.
8. **INDEMNIFICATION.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

The provisions of this section survive completion of the services or the termination of this contract, and are not limited by the provisions of Section 10 relating to insurance.

9. **BUSINESS LICENSE.** Before beginning work under this Agreement, Consultant shall obtain a City of Tracy Business License.
10. **INSURANCE.**
  - 10.1 **General.** Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS, WATER SYSTEM RE-ANALYSIS FOR THE PROPOSED CORDES RANCH PROJECT**

Page 4 of 7

- 10.2 Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01) “per occurrence” coverage shall be maintained in an amount not less than \$2,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- 10.3 Automobile Liability** (with coverage at least as broad as ISO form CA 00 01, for “any auto”) coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 10.4 Workers’ Compensation** coverage shall be maintained as required by the State of California.
- 10.5 Professional Liability** “claims made” coverage shall be maintained to cover damages from negligent errors, omissions, or acts of Consultant in an amount not less than \$2,000,000 per claim and in the aggregate.
- 10.6 Endorsements.** Consultant shall obtain endorsements to the commercial general liability with the following provisions:
- 10.6.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 10.6.2** For any claims related to this Agreement, Consultant’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant’s insurance and shall not contribute with it.
- 10.7 Notice of Cancellation.** Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.
- 10.8 Authorized Insurers.** All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 10.9 Insurance Certificate.** Consultant shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City, no later than five days after the execution of this Agreement.
- 10.10 Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS, WATER SYSTEM RE-ANALYSIS FOR THE PROPOSED CORDES RANCH PROJECT**

Page 5 of 7

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

**11. ASSIGNMENT AND DELEGATION.** This Agreement and any portion of it shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated, without the City's written consent. Any attempt to assign or delegate this Agreement without the City's written consent shall be void and of no effect. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

**12. MISCELLANEOUS.**

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

To City:

Mr. Kuldeep Sharma  
City Engineer  
City of Tracy  
325 Civic Center Plaza  
Tracy, CA 95376

To Consultant:

Mr. Gerry Nakano  
Vice President  
West Yost Associates  
7041 Koll Center Parkway, Suite 110  
Pleasanton, CA 94566

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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

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

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

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS, WATER SYSTEM RE-ANALYSIS FOR THE PROPOSED CORDES RANCH PROJECT**

Page 6 of 7

- 12.4 Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.
- 12.5 Jurisdiction and Venue.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
- 12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.
- 12.7 Compliance with the Law.** Consultant shall comply with all applicable and non-conflicting local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.
- 12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS, WATER SYSTEM RE-ANALYSIS FOR THE PROPOSED CORDES RANCH PROJECT**

Page 7 of 7

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

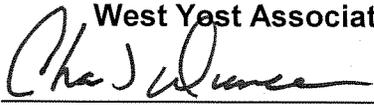
The parties agree to the full performance of the terms set forth here.

City of Tracy

Consultant

**West Yast Associates**

\_\_\_\_\_  
By: Brent H. Ives  
Title: Mayor  
Date: \_\_\_\_\_

  
\_\_\_\_\_  
By: Charles Duncan  
Title: President  
Date: 1-29-14  
Fed. Employer ID No. 68-0370826

Attest:

  
\_\_\_\_\_  
By: Elizabeth M. Nilsen  
Title: Chief Financial Officer  
Date: 1/28/14

\_\_\_\_\_  
By: Sandra Edwards  
Title: City Clerk  
Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
By: Daniel G. Sodergren  
Title: City Attorney  
Date: \_\_\_\_\_

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)
- B Compensation (See Agreement section 5.)

## **Proposed Scope of Work for Water System Re-Analysis Cordes Ranch Project**

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### **PROJECT UNDERSTANDING**

West Yost Associates (CONSULTANT) has prepared the 2012 City of Tracy Citywide Water System Master Plan (WSMP) which includes a Tier 1 analysis of the proposed Cordes Ranch Project (Project). This 2012 WSMP utilized data provided to CONSULTANT by the City of Tracy (City) (with approval by the Cordes Ranch representatives). This information was then used by CONSULTANT to determine the buildout potable and recycled demands for the PROJECT, and to determine the infrastructure needs to support buildout of both potable water and recycled water systems throughout the City including the entire PROJECT. This information was then used in the City's 2012 WSMP. CONSULTANT also prepared a subsequent Technical Memorandum (TM) (Tier 2 Study) regarding the required potable and recycled water infrastructure required to serve Phase 1 of the proposed PROJECT (as identified by the Project Proponents), based on the backbone infrastructure identified in the 2012 WSMP and revised pipeline alignments provided by the Project Proponents.

The Project Proponents have now conducted their own hydraulic analysis of the City's recommended water and recycled water system infrastructure required to meet the PROJECT's Phase 1 demands, and have prepared a TM discussing assumptions made by the Project Proponents which are different than assumed by CONSULTANT, as contained in the City's 2012 WSMP and subsequent Tier 2 Study. The Project Proponents conducted the hydraulic analysis using the City's hydraulic model and included modifications to reflect alternate proposed water system infrastructure configurations.

CONSULTANT's proposed scope of work is described below.

### **PROPOSED SCOPE OF WORK**

#### **Task 1. Technical Peer Review**

CONSULTANT will conduct a technical peer review of the results and findings provided in Project Proponents' TM and revised hydraulic model submitted to the City regarding required water system infrastructure to serve Phase 1 of the Project. Based on CONSULTANT's technical peer review, CONSULTANT will provide written responses to the findings and recommendations provided by the Project Proponents, identify issues of concern, if any, and re-run any hydraulic evaluations that are found to be necessary to hydraulically model the Project Proponents' proposed, revised infrastructure plans to serve Phase 1. CONSULTANT will document work in a TM to be provided to the City (to be clear, this scope does not assume that changes need to be made to the City's 2012 WSMP; however, if changes do need to be made, a budget augmentation and time extension will be required from the City).

CONSULTANT will also conduct a technical peer review of the Project Proponents' proposed water system infrastructure to serve the proposed Sub-Phase 1 service areas, and review of infrastructure plans to provide the Sub-Phase 1 area with fire flow during construction of the Sub-Phase 1 buildings, prior to occupancy. For budgeting purposes, it is assumed that the Project Proponents will be submitting a TM to the City to address how they propose to provide service to Sub-Phase 1 service areas, and for providing fire flow during construction (prior to



## Proposed Scope of Work for Water System Re-Analysis Cordes Ranch Project

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occupancy), and what existing water system infrastructure and supplies are being contemplated to be used. Again, CONSULTANT's work will include a technical review of the results and findings provided to the City by the Project Proponents in the form of a TM and revised hydraulic model, addressing how water service is being proposed to serve Sub-Phase 1 areas. Based on CONSULTANT's technical peer review of this TM and revised hydraulic model, we will provide written responses to the findings and recommendations provided by the Project Proponents, identify issues of concern, if any, and re-run any hydraulic evaluations that are found to be necessary to hydraulically model the Project Proponents proposed, revised infrastructure plans to serve Sub-Phase 1 areas. CONSULTANT will document work in a TM to be provided to the City.

Because of the critical need to consider the potential hydraulic impacts of any proposed Sub-Phase 1 PROJECT on the City's existing water system infrastructure and supplies (as described in the preceding paragraph), in conjunction with the other on-going development projects currently being processed throughout the City, and anticipated to be interimly drawing from (some portion of) the City's existing water system infrastructure and/or supplies within the next 2 to 3 year period, CONSULTANT must also evaluate the potential cumulative impacts of providing water service to any proposed Sub-Phase 1 Project service areas based on:

1. City prioritized interimly available storage in Clearwell #2,
2. Storage which will be available in the new Clearwell #3, currently being designed, and
3. Pumping capacity available under both interim and ultimate demand conditions from Zone 2 and Zone 3 interim and final booster pump stations that are also being currently designed.

The cumulative impacts of multiple projects all moving forward concurrently, particularly over the next two to three year period must be critically evaluated, coordinated and integrated to ensure that the City has sufficient hydraulic system capacity (by pressure zone), and supplies available to provide interim service, until the required buildout water system infrastructure and/or agreed upon Phase 1 PROJECT water system infrastructure is constructed and operational.

No infrastructure costs estimates or fee study will be developed as part of this proposed scope of services.

*Estimated Fee for Task 1 = \$35,000.00*



## Proposed Scope of Work for Water System Re-Analysis Cordes Ranch Project

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### **Task 2. Additional Services**

In addition to the above work, Prologis has requested to include additional services from West Yost for a not to exceed amount of \$50,000 to be used on an as needed basis for time and materials. Additional services will be authorized after the City has received specific task requests from Prologis.

*Estimated Fee for Task 2 = \$50,000.00*

***Total Estimated Fee for Tasks 1 and 2 = \$85,000.00***

### **PROJECT SCHEDULE**

CONSULTANT shall complete the Technical Memorandum identified in this Agreement within six weeks after receiving written authorization to proceed with this Agreement, and CONSULTANT's receipt of all requested information including the modified hydraulic water system model from Project Proponents.

### **PROJECT PERSONNEL**

CONSULTANT shall assign the following persons to perform the tasks set forth in this Agreement:

- Charles Duncan (Principal in Charge);
- Gerry Nakano (Authorized Representative);
- Elizabeth Drayer (Engineering Manager);
- Irene Suroso (Senior Engineer);
- Amy Kwong (Senior Engineer);
- Brian Coox (Engineer I); and
- Christine Encelan (Administrative IV).



**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**

Exhibit "B"

(Effective January 1, 2014 through December 31, 2014)\*

Position	Labor Charges (dollars per hr)
Principal/Vice President	240
Engineering Manager	229
Principal Engineer/Scientist	207
Senior Engineer/Scientist/GIS Analyst	186
Associate Engineer/Scientist	169
GIS Analyst	164
Engineer II/Scientist II	147
Engineer I/Scientist I	126
Construction Manager III	186
Construction Manager II	169
Construction Manager I	158
Resident Inspector III	140
Resident Inspector II	129
Resident Inspector I	115
Sr. Designer/Sr. CAD Operator	120
Designer/CAD Operator	107
Technical Specialist III	120
Technical Specialist II	104
Technical Specialist I	87
Engineering Aide	71
Administrative IV	109
Administrative III	98
Administrative II	82
Administrative I	66

Hourly labor rates include Direct Costs such as general computers, system charges, telephone, fax, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.

Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, Travel, etc. will be billed at actual cost plus 15%.

Mileage will be billed at the current Federal Rate.

Subconsultants will be billed at actual cost plus 10%.

Computers are billed at \$25 per hour for specialty models and AutoCAD.

Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.

A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

\*This schedule will be updated annually.

**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**  
**(Cont'd.)**

(Effective January 1, 2014 through December 31, 2014)\*

**SURVEYING AND EQUIPMENT CHARGES**

Position	Labor Charges (dollars per hr)
GPS, 3-Person	366
GPS, 2-Person	317
GPS, 1-Person	246
Survey Crew, 2-Person	268
Survey Crew, 1-Person	202

**EQUIPMENT CHARGES**

Equipment	Billing Rate (dollars per day)	Billing Rate (dollars per week)
DO Meter	16	81
pH Meter	5	26
Automatic Sampler	128	698
Transducer/Data Logger	40	202
Hydrant Pressure Gage	11	49
Hydrant Pressure Recorder (HPR)	—	202
Hydrant Wrench	5	32
Pitot Diffuser	29	132
Well Sounder	29	132
Ultrasonic Flow Meter	—	264
Vehicle	87	437
Velocity Meter	11	64
Water Quality Multimeter	173	946
Thickness Gage	—	70

\* This schedule will be updated annually.

**CITY OF TRACY  
PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
WATER SYSTEM EVALUATION FOR ELLIS PROGRAM FIP**

This Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost Associates ("Consultant").

**RECITALS**

- A. CONSULTANT is a registered professional engineer.
- B. CONSULTANT services are needed related to the evaluation and preparation of an AB1600 Technical Report for the City of Tracy's Ellis Program FIP ("PROJECT").
- C. At the request of the CITY, in August 2013, CONSULTANT submitted a proposal to perform the services described in this Agreement. After negotiations between CITY and CONSULTANT, the parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

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

1. **SCOPE OF SERVICES.** Consultant shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Charles Duncan. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit "A," nor shall Consultant use any subcontractors or subconsultants, without City's prior written consent.
2. **TIME OF PERFORMANCE.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance, and shall complete all required services no later than the dates set forth in Exhibit "A." Any services for which times for performance are not specified in this Agreement shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Consultant. Consultant shall submit all requests for extensions of time to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN  
PROFESSIONALS  
WATER SYSTEM EVALUATION FOR ELLIS PROGRAM FIP  
Page 2 of 7**

- 3. INDEPENDENT CONTRACTOR STATUS.** Consultant is an independent contractor and is solely responsible for all acts of its employees, agents, or subconsultants, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Consultant. Consultant is free to work for other entities while under contract with the City. Consultant is not entitled to City benefits.
- 4. CONFLICTS OF INTEREST.** Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest.
- 5. COMPENSATION.**

  - 5.1 General.** For services performed by Consultant under this Agreement, City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference. Consultant's fee for this Agreement is Not to Exceed \$39,950. Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Not to Exceed amount without the City's prior written approval.
  - 5.2 Invoices.** Consultant shall submit monthly invoices to the City describing the services performed, including times, dates, and names of persons performing the service.
  - 5.3 Payment.** Within 30 days after the City's receipt of invoice, City shall make payment to the Consultant based upon the services described on the invoice and approved by the City.
- 6. TERMINATION.** The City may terminate this Agreement by giving ten days written notice to Consultant. Upon termination, Consultant shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant for this Agreement. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.
- 7. OWNERSHIP OF WORK.** All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS**  
**WATER SYSTEM EVALUATION FOR ELLIS PROGRAM FIP**  
Page 3 of 7

8. **INDEMNIFICATION.** Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence or willful misconduct of the City.

In this section, "City" means the City, its officials, officers, agents, employees and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses in connection therein) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to".

(The duty of a "design professional" to indemnify and defend the City is limited to claims that arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the design professional, under Civ. Code § 2782.8.)

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**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS**  
**WATER SYSTEM EVALUATION FOR ELLIS PROGRAM FIP**  
Page 4 of 7

- 10.6 Endorsements.** Consultant shall obtain endorsements to the commercial general liability with the following provisions:
- 10.6.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
- 10.6.2** For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.
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- 10.10 Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Consultant shall provide a substitute certificate of insurance.
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- 11. ASSIGNMENT AND DELEGATION.** This Agreement and any portion of it shall not be assigned or transferred, nor shall any of the Consultant's duties be delegated, without the City's written consent. Any attempt to assign or delegate this Agreement without the City's written consent shall be void and of no effect. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
WATER SYSTEM EVALUATION FOR ELLIS PROGRAM FIP  
Page 5 of 7**

**12. MISCELLANEOUS.**

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

To City:

Kul Sharma  
City Engineer  
City of Tracy  
333 Civic Center Plaza  
Tracy, CA 95376

To Consultant:

Mr. Charles Duncan  
President  
West Yost Associates  
7041 Koll Center Parkway, Suite 110  
Pleasanton, CA 94566

With a copy to:

City Attorney  
333 Civic Center Plaza  
Tracy, CA 95376

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

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

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

**12.4 Severability.** If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

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

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN  
PROFESSIONALS  
WATER SYSTEM EVALUATION FOR ELLIS PROGRAM FIP  
Page 6 of 7**

- 12.6 Entire Agreement.** This Agreement comprises the entire integrated understanding between the parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements.
- 12.7 Compliance with the Law.** Consultant shall comply with all applicable and non-conflicting local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.
- 12.8 Standard of Care.** Unless otherwise specified in this Agreement, the standard of care applicable to Consultant's services will be the degree of skill and diligence ordinarily used by reputable professionals performing in the same or similar time and locality, and under the same or similar circumstances.

**CITY OF TRACY -- PROFESSIONAL SERVICES AGREEMENT FOR DESIGN PROFESSIONALS  
WATER SYSTEM EVALUATION FOR ELLIS PROGRAM FIP  
Page 7 of 7**

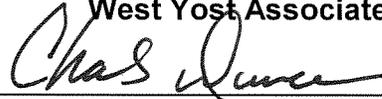
**13. SIGNATURES.** The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of the respective legal entities of the Consultant and the City. This Agreement shall inure to the benefit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

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

City of Tracy

Consultant

**West Yost Associates**



\_\_\_\_\_  
By: Brent H. Ives  
Title: Mayor  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: Charles Duncan  
Title: President  
Date: 1.28.14

Attest:

Fed. Employer ID No. 68-0370826



\_\_\_\_\_  
By: Elizabeth M. Nilsen  
Title: Chief Financial Officer  
Date: 1/28/14

\_\_\_\_\_  
By: Sandra Edwards  
Title: City Clerk  
Date: \_\_\_\_\_

Approved As To Form:

\_\_\_\_\_  
By: Daniel G. Sodergren  
Title: City Attorney  
Date: \_\_\_\_\_

Exhibits:

- A Scope of Services, including personnel and time of performance (See Agreement sections 1 and 2.)
- B Compensation (See Agreement section 5.)

## Water System Evaluation for Ellis Program FIP Approach and Scope of Work



### PROJECT UNDERSTANDING

The Ellis Program FIP is located north of Linne Road, and is bounded to the East by Corral Hollow Road and to the West by Lammers Road within the Tracy City Limits.

As previously analyzed by West Yost Associates (West Yost) in the July 2012 Revised Water Supply Assessment (WSA) for the Ellis Specific Plan and Ellis Program FIP, the Ellis Program FIP included a mix of residential, commercial, and recreational uses covering approximately 320 acres. The Ellis Program FIP included a maximum of 2,250 residential units, 180,000 square feet of commercial space, a 16-acre swim center, and approximately 21 acres of neighborhood parks.

At this time, it is West Yost's understanding that the Ellis Program FIP will develop incrementally, generally from the east to the west. The development increments are defined by neighborhoods in the Ellis Program FIP and are anticipated to be developed in the following order:

- Initial Ellis Phase 1 Development Increment
  - Includes the 540 Residential Units and swim center
- Ellis Phase 1 Development Increment = Village Neighborhood
  - Includes Swim Center, Village Center and 540 Residential Units
- Second Development Increment = Full Buildout
  - Includes buildout of 2,250 residential units, swim center and 16 acre school

Land uses to be included in each of the development increments (including the number and type of dwelling units, square footage of commercial space, and acres of neighborhood parks) will be provided to West Yost by the Ellis Program FIP developers prior to the start of work on this Water System Evaluation for the Ellis Program FIP.

The City has requested that West Yost make the following assumptions:

1. The Ellis Program FIP will receive their water supply from the Delta Mendota Canal through the City's existing water treatment plant, and local groundwater sources, and that no additional analysis regarding water supply source or reliability is required (however, Ellis Program FIP's proportionate share of the recent WTP upgrades and providing water supply reliability will be evaluated and cost allocated accordingly).
2. The Ellis Program FIP will be allowed to interimly use existing available capacity in the City's existing water system infrastructure for 540 residential units.
3. The Ellis Program FIP will be required to pay a proportionate share of new water system infrastructure (i.e., transmission pipelines, storage facilities, and/or pumping facilities) required to meet the projected future water demands associated with the Ellis Program FIP.
4. West Yost's technical memorandum should be prepared in accordance with the Mitigation Fee Act, also known as "AB 1600."

## Water System Evaluation for Ellis Program FIP Approach and Scope of Work

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A final technical memorandum summarizing the results and costs for the Ellis Specific Plan evaluation was presented to City staff on June 3, 2013. Based on comments from City staff and Project Representatives, additional modifications and analysis of the hydraulic model will be performed. The major tasks to complete the evaluation of the Project are presented below.

### BASIC SCOPE OF SERVICES

#### Task 1 – Addressing City Comments

West Yost will review comments received by City staff and Ellis Project Representatives and address comments by updating required tables and sections of the technical memorandum based on revised water demands and results of the hydraulic model analysis. For budgetary purposes, West Yost assumes attendance at up to four meetings to discuss and review comments.

#### Task 2 – Hydraulic Modeling

Under Task 2, West Yost will analyze the City's hydraulic model for the additional conditions requested by the City.

- Determine pumping capacity requirement for the initial Phase 1 of the ESP.
- Determine the number of residential units that can be supported by the initial pressure zone 3 facilities.
- Determine the point in time when the Zone 3 booster pump station must be expanded to its planned ultimate capacity.
- Confirm the portion of the Ellis Project that could be served by pressure zone 2 infrastructure and the impacts, if any to proposed pressure zone 3 infrastructure.
- Evaluation of Ellis "Avenues" Project.

#### Task 3 – Technical Memorandum

Under Task 3, West Yost will prepare and submit a revised draft and final technical memorandum that summarizes the results of the revised analysis.

#### Task 4 – Project Management and Coordination

Under Task 4, West Yost will keep project on track and within budget. Any additional coordination required for subsequent evaluations will also be performed under this task. For budgetary purposes, West Yost assumes up to 40 hours will be used for this coordination.

***Total Estimated Fee for Tasks 1 – 4 Services = \$39,950***

## **Water System Evaluation for Ellis Program FIP Approach and Scope of Work**

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### **SCHEDULE**

West Yost shall complete the revised Draft TM four (4) weeks after receiving verbal authorization to proceed with this agreement, and West Yost's receipt of all supporting information from the City. West Yost shall complete the Final TM, no later than two weeks after receiving written, consolidated comments on the revised Draft TM.

### **PERSONNEL**

West Yost shall assign the following person/persons to perform the tasks set forth in this Agreement:

- Charles Duncan, President (Authorized Representative);
- Shannon Barcal, Engineer II.
- Christine Encelan, Administrative IV

**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**

(Effective January 1, 2014 through December 31, 2014)\*

Position	Labor Charges (dollars per hr)
Principal/Vice President	240
Engineering Manager	229
Principal Engineer/Scientist	207
Senior Engineer/Scientist/GIS Analyst	186
Associate Engineer/Scientist	169
GIS Analyst	164
Engineer II/Scientist II	147
Engineer I/Scientist I	126
Construction Manager III	186
Construction Manager II	169
Construction Manager I	158
Resident Inspector III	140
Resident Inspector II	129
Resident Inspector I	115
Sr. Designer/Sr. CAD Operator	120
Designer/CAD Operator	107
Technical Specialist III	120
Technical Specialist II	104
Technical Specialist I	87
Engineering Aide	71
Administrative IV	109
Administrative III	98
Administrative II	82
Administrative I	66

Hourly labor rates include Direct Costs such as general computers, system charges, telephone, fax, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.

Outside Services such as vendor reproductions, prints, shipping, and major West Yost reproduction efforts, as well as Engineering Supplies, Travel, etc. will be billed at actual cost plus 15%.

Mileage will be billed at the current Federal Rate.

Subconsultants will be billed at actual cost plus 10%.

Computers are billed at \$25 per hour for specialty models and AutoCAD.

Expert witness, research, technical review, analysis, preparation and meetings billed at 150% of standard hourly rates. Expert witness testimony and depositions billed at 200% of standard hourly rates.

A Finance Charge of 1.5% per month (an Annual Rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

\*This schedule will be updated annually.

**WEST YOST ASSOCIATES, INC.**  
**2014 Billing Rate Schedule**  
**(Cont'd.)**

(Effective January 1, 2014 through December 31, 2014)\*

**SURVEYING AND EQUIPMENT CHARGES**

Position	Labor Charges (dollars per hr)
GPS, 3-Person	366
GPS, 2-Person	317
GPS, 1-Person	246
Survey Crew, 2-Person	268
Survey Crew, 1-Person	202

**EQUIPMENT CHARGES**

Equipment	Billing Rate (dollars per day)	Billing Rate (dollars per week)
DO Meter	16	81
pH Meter	5	26
Automatic Sampler	128	698
Transducer/Data Logger	40	202
Hydrant Pressure Gage	11	49
Hydrant Pressure Recorder (HPR)	—	202
Hydrant Wrench	5	32
Pitot Diffuser	29	132
Well Sounder	29	132
Ultrasonic Flow Meter	—	264
Vehicle	87	437
Velocity Meter	11	64
Water Quality Multimeter	173	946
Thickness Gage	—	70

\* This schedule will be updated annually.

RESOLUTION 2014 - \_\_\_\_\_

APPROVING VARIOUS PROFESSIONAL SERVICES AGREEMENTS (PSA's) WITH WEST YOST AND ASSOCIATES RELATED TO WATER ANALYSIS FOR CORDES RANCH AND TRACY HILLS DEVELOPMENTS AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENTS

WHEREAS, City council has adopted citywide Water Master Plans which identifies the backbone water infrastructure to serve the new developments, and

WHEREAS, The developers fund the cost of the Master Plan improvements through development fees, and

WHEREAS, the initial projects within these developments can only fund a portion of the backbone infrastructure, and

WHEREAS, the Master Plan infrastructure is completed in multiple phases as funding become available, and

WHEREAS, Alternate analyses are completed to identify various phases of construction to achieve ultimate improvements, and

WHEREAS, Cordes Ranch, Tracy Hills and Ellis developments are planning their initial phases of developments to identify water infrastructure improvements and have requested the City to enter into PSAs with West Yost and Associates for their initial development, and

WHEREAS, Since West Yost and Associates have completed the City's Master Plan and are the most familiar with the water model, and

WHEREAS, A request for proposal was posted on the City web site for design and preparation of improvement plans and construction documents for the booster pump station and three proposals were received by the City, and

WHEREAS, After careful review the proposal from West Yost and Associates was found to be the most qualified based upon their qualifications, experience and cost, and

WHEREAS, West Yost and Associates is the keeper of the City's water model and is most qualified to complete the other three PSA's as listed below, and

WHEREAS, Approval of this agenda item will have no impact to the City's General Fund and funding for PSA Number One (\$317,000) and PSA Number Two (\$20,900) will be paid by Tracy Hills and PSA Number Three (\$85,000) will be paid for by Prologis through the existing Cost Recovery Agreement and PSA Number Four (\$39,950) will be paid for by Surland Companies;

NOW, THEREFORE, BE IT RESOLVED, That City Council, by resolution, approve:

1. A PSA with West Yost and Associates for design, preparation of improvement plans and construction documents for JJWT Plant booster pump station for a not to exceed amount of \$317,900, and
2. A PSA with West Yost and Associates to complete the Tracy Hills water supply assessment for a not to exceed amount of \$20,900, and
3. A PSA with West Yost and Associates for a water system re-analysis of the Cordes Ranch project for a not to exceed amount of \$85,000,
4. A PSA with West Yost and Associates for a water system analysis of the Ellis Program area for a not to exceed amount of \$39,950, and authorizes the Mayor to execute the Agreement.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the City Council on the 4<sup>th</sup> Day of February, 2014, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 3

REQUEST

**PUBLIC HEARING TO CONSIDER AN APPLICATION TO AMEND THE GENERAL PLAN, APPROVE A VESTING TENTATIVE SUBDIVISION MAP ON A 10-ACRE PARCEL TO CREATE 59 LOTS, AND A PRELIMINARY AND FINAL DEVELOPMENT PLAN (PDP/FDP) AMENDMENT TO ALLOW FOR THE CONSTRUCTION OF 59 SINGLE-FAMILY HOMES LOCATED AT THE NORTHWEST CORNER OF CROSSROADS DRIVE AND SOLOMON LANE. THE APPLICANT AND OWNER IS WILLIAM LYON HOMES, INC.- APPLICATION NUMBERS GPA13-0003, TSM13-0003 AND PUD13-0003**

EXECUTIVE SUMMARY

This agenda item involves approval of a Vesting Tentative Subdivision Map, and amendments to an existing Preliminary and Final Development Plan for the construction of 59 single-family homes. Approval of this agenda item would enable the land to be subdivided and homes built.

DISCUSSION

Background

The subject property is located at the northwest corner of Crossroads Drive and Solomon Lane, within the existing Lyon Crossroads subdivision, north of Eleventh Street (Attachment A). This ten-acre site was formerly designated as a school site, but was deemed by the Tracy Unified School District to no longer be necessary, and now the developer has submitted applications to construct 59 single-family homes similar in size and configuration to those on the adjacent lots. The project site, along with the adjacent existing Lyon Crossroads subdivision was annexed to the City in 1994.

Since annexation in 1994 the property has been zoned Planned Unit Development (PUD), and a Concept Development Plan was established. The current General Plan designation is Public Facilities, as the site was previously intended for a school.

Site and Project Area Description

The current zoning designation is Planned Unit Development (PUD), with a General Plan designation of Public Facilities. The surrounding properties to the north, south and east are also zoned PUD, with a General Plan designation of Residential Low, allowing for 2.1 to 5.8 dwelling units per gross acre, and is developed with single-family homes. The property to the west of the project site is zoned Medium Density Residential, with the General Plan Designation of Residential Medium, with older homes on large semi-rural lots. The applicant of this project is the same developer as the existing Lyon Crossroads subdivision.

### General Plan Amendment

The site has a General Plan designation of Public Facilities because it was formerly determined to be a school site. With the school district's determination that a school here is no longer needed, a General Plan amendment to Residential Low to accommodate the developer's proposal for single-family homes on the site is required. This designation will be consistent with the surrounding neighborhood.

### PUD Amendment

Per the Tracy Municipal Code, in order to establish a Planned Unit Development (PUD) zone, the minimum and maximum standards must be established for the project in the Concept, Preliminary and Final Development Plan (Attachment B). The Concept Development Plan (CDP) is the first step, which describes the proposed uses in a very general manner, showing potential building locations, parking areas, and proposed land uses. The Preliminary Development Plan (PDP) supplies all of the detailed information, such as architectural renderings, site plans showing open space and circulation, landscape, and utility plans. The Final Development Plan (FDP) must be approved prior to any construction, and typically finalizes all of the details laid out by the Preliminary Development Plan, and any changes proposed. It is typical for the CDP to be approved upon annexation or rezoning, and then later the PDP and FDP are often reviewed concurrently, showing their conformity with the adopted CDP.

When this property was annexed to the City in 1994, a CDP was approved for the land that encompassed the 325-acre West Tracy Planning area included in the annexation. In 1998, a PDP/FDP was approved for the Lyon Crossroads subdivision. Both the CDP and the PDP/FDP indicated that the subject property would be a school site. Because of this, they must be amended to reflect the construction of houses instead of the school.

### Subdivision

The proposal is to divide the property into 59 lots in order to develop 59 detached single-family homes on approximately 10 acres (Attachment C). The proposed lot sizes range from 5,000 to 10,936 square feet, with the majority of lots close to 5,000 square feet in area. The developer proposes that the building regulations (such as setbacks and lot coverage, as shown in Attachment B) be very similar to those set forth for the surrounding Lyon Crossroads subdivision, as the lots are very similar in size and configuration. The gross density of the proposed subdivision is 5.4 units per acre, within the range allowable under the site's proposed General Plan designation of Residential Low.

The subdivision design utilizes the existing street patterns, with the main access point from the existing fully improved Crossroads Drive on the eastern property line, and Solomon Lane, bordering the southern property line. A new street (shown as "A" Court on the proposed map) will be stubbed at the northwest corner of the site to the adjacent properties on Berg Road, per the City's Roadway Master Plans. Upon redevelopment of the Berg Road area in the future, this will provide a connection to these and other surrounding houses for better accessibility and traffic flow to Byron Road to the north. The design of this project relating to the existing, proposed, and future development

through the use of existing streets and the creation of new ones to future development is a direct result of the City's discussions regarding connectivity.

### Parking

Each unit within the project will include two side-by-side parking spaces within an enclosed garage as provided within the Tracy Municipal Code. This garage space is to be no smaller than 20 feet by 20 feet of clear unobstructed space. These garages will be accessed from public streets. On-street parking has also been provided on the project site, as the street sections as designed allow on-street parking on both sides of the streets. The plotting of the houses on the lots will occur in a manner to pair driveways when possible to maximize the number of on-street parking spaces within the project.

### Building Setbacks, Development Standards

The minimum building setbacks are to be as shown in the revised Preliminary and Final Development Plan as shown in Attachment C. The minimum setbacks, lot coverage, and other requirements are appropriately sized to fit on the proposed lots. Staff worked with the applicant to create the development standards for the subdivision so the end result would be a well-planned but flexible subdivision that accounts for the needs of the future residents of the proposed houses, with regards to building and shade structure additions, pools, and the like.

### Building Height

The proposed houses are one and two stories in height. The Tracy Municipal Code provides that height limits can be established in each PUD, as appropriate. The proposed maximum building height is 35 feet, which is consistent with the zoning regulations of all of the adjacent single-family homes, which are allowed to be up to two and a half stories, or 35 feet, whichever is less.

### Architecture

Upon submittal of a vesting tentative subdivision map application as well as a PUD, the applicant is required by Tracy Municipal Code Sections 12.28.040(b)(2) and 10.08.1830 to submit architectural floor plans and elevations for review and approval by the Planning Commission and City Council. The proposed architecture for the 59 units contains a total of four floor plans, each with four different architectural elevations, including Spanish, Colonial, Ranch, and French Country, (Attachment D). In total, the combination of floor plans and elevations amounts to a total of 16 different houses, which is in compliance with the City's Design Goals and Standards for a subdivision of this size. The garages are de-emphasized within the subdivision because all four floor plans are designed with their garage facades five or more feet behind the front façade of the living space and/or front porch of each house. Some of the garages are set back even further (20 feet behind the front porch), allowing the project have some garages set back 30 feet from the street. The combination of these four floor plans and their varying architectural styles complies with the City's Design Goals and Standards and will assist in creating an interesting streetscape.

### Residential Growth Allotments (RGAs)

Should this Vesting Tentative Subdivision Map application be approved, the project will be subject to the requirements of the current (2012) Growth Management Ordinance (GMO) and its Guidelines. The project does not currently have any RGAs and will apply for RGAs in accordance with the 2012 GMO prior to the issuance of any building permits for the project. The project falls within the "Primary Area" of the GMO and is eligible to apply for RGAs in accordance with the GMO Guidelines.

### Schools

The Tracy Joint Unified School District has determined that the Lyon Crossroads project does not need to dedicate property for a school site within the subdivision. However, in order to mitigate the proposed developments' impacts on school facilities, a Memorandum of Understanding was executed with the School District, which will cause a per-unit fee to be charged for each of the 59 units constructed.

### Parks

Parks are required to be established within residential neighborhoods to serve the residents of the homes that are established in Tracy. In order to meet the need for park land, projects are either required to build their own park, or pay park in-lieu fees. Since the minimum park size within the City is typically required to be two acres, this project will pay the park in-lieu fees, as the 59 homes proposed would only constitute a need for a half-acre park. (The total population estimate for the project area is 194 residents, based on 59 dwelling units, and 3.28 people per unit.) In addition, community parks are required at a rate of 1 acre of park land per every 1,000 residents, resulting in 0.19 acres of community park area required, or mitigation fees paid.

### Environmental Document

The project is exempt from the California Environmental Quality Act per Section 15162 pertaining to projects with a certified Environmental Impact Report (EIR) where the project does not propose substantial changes that will result in a major revision of the previous EIR. On February 1, 2011, the City of Tracy adopted the General Plan. The associated EIR (SCH# 1992 122 069) was certified February 1, 2011. The project does not propose new significant changes to the environment that was not analyzed in the General Plan EIR, including the areas of traffic, air quality, and aesthetics. Therefore, no further documentation is needed.

### Planning Commission Discussion

The Planning Commission held a public hearing to discuss this project on January 8, 2014. There were comments and questions regarding traffic (stop signs and Berg Road connection) and the proposed building setbacks, and after some discussion, the Planning Commission unanimously recommended project approval.

### STRATEGIC PLAN

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

### FISCAL IMPACT

The agenda item will not require any expenditure of funds. The applicant has paid the appropriate application fees which cover the required staff time to review the proposed project. The applicant will also pay all the applicable building permit and development impact fees upon the commencement of construction and other improvements. Development of the 59 homes will enhance the City's property tax revenue base.

### RECOMMENDATIONS

Staff and the Planning Commission recommend that the City Council approve the General Plan Amendment Application Number GPA13-0003, the Lyon Crossroads Unit 9 Vesting Tentative Subdivision Map, Application Number TSM13-0003, and the amendment to the Preliminary and Final Development Plans, Application Number PUD13-0003, based on the findings and subject to the conditions contained in the City Council Resolution dated February 4, 2014.

Prepared by: Victoria Lombardo, Senior Planner

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

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

### ATTACHMENTS

Attachment A— Location Map

Attachment B— Subdivision Map

Attachment C— PUD Guidelines

Attachment D— Architectural Renderings (Oversize: Copies available in Development Services Department, City Hall)

# Location Map



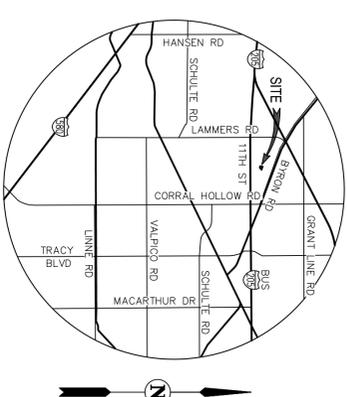


**GENERAL NOTES**

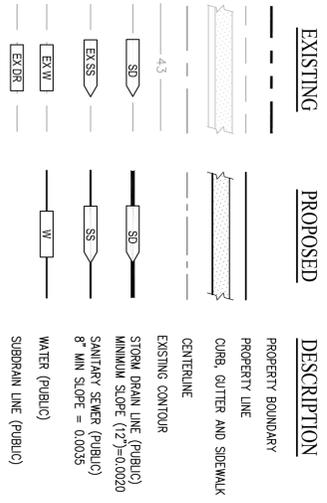
1. OWNER: WILLIAM LYON HOKES, INC.  
400 EXECUTIVE PARKWAY, SUITE 290  
SAN RAMON, CA 94583
2. DEVELOPER: WILLIAM LYON HOKES, INC.  
400 EXECUTIVE PARKWAY, SUITE 290  
SAN RAMON, CA 94583
3. CIVIL ENGINEER: CARLSON, BARBE & GIBSON, INC.  
2633 CANNON RAYMON, SUITE 350  
SAN RAMON, CA 94583  
(925) 886-0322  
STEVE LICHTNER, REC 41637
4. GEOTECHNICAL ENGINEER: ENREQ, INC.  
580 NORTH WILMA AVENUE, SUITE A  
RENO, CA 95366  
(209) 833-0910  
STEVE HARRIS
5. ASSESSORS PARCEL NO.: 238-040-07
6. PROPERTY DESCRIPTION: LOT B, TRACT 2860, LYON CROSSROADS UNIT NO. 1  
PER MAP RECORDED IN VOL. 34, PAGE 23, SAN JOAQUIN COUNTY
7. SITE AREA: 10.00± ACRES
8. EXISTING LAND USE: VACANT LAND
9. PROPOSED LAND USE: RESIDENTIAL LOW
10. EXISTING GENERAL PLAN LAND USE DESIGNATION: PUBLIC FACILITIES
11. PROPOSED GENERAL PLAN LAND USE DESIGNATION: RESIDENTIAL LOW
12. EXISTING ZONING: PUD
13. PROPOSED ZONING: PUD
14. BENCHMARK: CITY OF TRACY BENCHMARK LABELED "GPS 9" LOCATED 270 FEET NORTH OF VALPICO ROAD, 45 EAST OF CORRAL HOLLOW. TOP OF HEADWALL ELEVATION @ 101.71 FEET (NAVD 1988).
15. TOPOG: AERIAL TOPOG FLOW BY AEROMETRIC SURVEYS ON APRIL 29, 2013.
16. STREETS: ALL STREETS WITHIN THE SUBDIVISION WILL BE PUBLIC STREETS MAINTAINED BY THE CITY OF TRACY.
17. WET UTILITIES: PROPOSED WATER, SEWER, AND STORM DRAIN FACILITIES TO BE DESIGNED PER CITY STANDARDS AND MAINTAINED PER THE CITY OF TRACY.
18. FLOOD ZONE: ZONE X PER SAN JOAQUIN COUNTY INSURANCE RATE MAP (IRMA) PANEL 080770036. AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE (50-YEAR) FLOOD PLAIN.
19. GAS & ELECTRIC: POLE
20. TELEPHONE: AT&T
21. DIMENSIONS: ALL DIMENSIONS SHOWN ARE PRELIMINARY AND SUBJECT TO FINAL DESIGN AND MAPPING.
22. PHASING: SUBDIVIDER MAY FILE MULTIPLE FINAL MAPS ON THE LANDS SHOWN ON THIS MAP PURSUANT TO THE SUBDIVISION MAP ACT SECTION 66456.1.
23. LOT SETBACKS: PER PUD
24. PILE: 10' ALONG PROPOSED STREET FRONTAGE UNLESS OTHERWISE APPROVED.

**LAND USE SUMMARY**

DESCRIPTION	AREA
LOTS	7.67± ACRES
PUBLIC STREETS	2.29± ACRES
PARCEL A	0.04± ACRES
TOTAL	10.00± ACRES



**LEGEND**



**ABBREVIATIONS**

CL	CENTERLINE	LP	LOW POINT
EVA	EMERGENCY VEHICLE ACCESS	MH	MANHOLE
PL	PROPERTY LINE	PL	PROPERTY LINE
ESMT	EASEMENT	PU	PUBLIC UTILITY EASEMENT
EX	EXISTING	R	RADIUS
F.O.C.	FACE OF CURB	R.O.W.	RIGHT-OF-WAY
GB	GRADE BREAK	S	SLOPE
HP	HIGH POINT	SF	SQUARE FEET
L	LENGTH	SD	STORM DRAIN
		SS	SANITARY SEWER
		SWO	STORMWATER QUALITY CONTROL DEVICE
		TC	TOP OF CURB
		TYP	TYPICAL
		W	WATER

LOT AREA (SF)	PARCEL A1										
1	5550	11	5619	21	5000	31	5281	41	5478	51	5250
2	5290	12	5000	22	5000	32	5478	42	5383	52	5800
3	5290	13	5000	23	5000	33	5693	43	5983	53	5983
4	5290	14	5000	24	5279	34	5916	44	5919	54	5250
5	5290	15	5000	25	6331	35	6196	45	5919	55	5250
6	5290	16	5000	26	9970	36	7992	46	7289	56	5000
7	5290	17	5000	27	6442	37	8002	47	6117	57	5000
8	5290	18	5000	28	6279	38	6135	48	5250	58	5250
9	5261	19	5000	29	5134	39	5916	49	5250	59	6388
10	7320	20	5000	30	5039	40	5697	50	5250		

**CITY ENGINEER'S STATEMENT**  
I HEREBY CERTIFY THAT THIS MAP HAS BEEN REVIEWED FOR COMPLIANCE WITH THE REQUIREMENTS OF THE TRACY MUNICIPAL CODE AND THE SUBDIVISION MAP ACT AS TO FORM AND CONTENT.

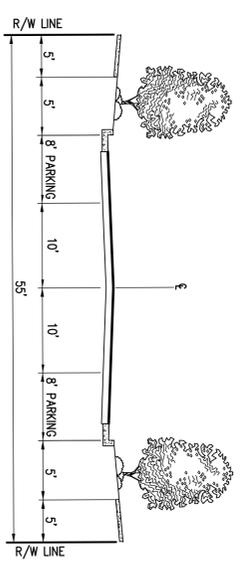
CITY ENGINEER \_\_\_\_\_ DATE \_\_\_\_\_

**CITY COUNCIL CERTIFICATE**  
I HEREBY CERTIFY THAT THE CITY COUNCIL OF TRACY HAS CONDITIONALLY APPROVED THIS TENTATIVE MAP ON \_\_\_\_\_ BY RESOLUTION NO. \_\_\_\_\_

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

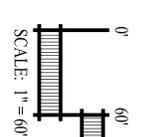
**PLANNING COMMISSION FILING CERTIFICATE**  
TENTATIVE MAP FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_ IN THE OFFICE OF THE TRACY PLANNING COMMISSION, TRACY, CALIFORNIA, ACCOMPANIED WITH APPROPRIATE FILING FEES. THIS CERTIFICATE DOES NOT DENY THIS APPLICATION COMPLETE.

**ENGINEER'S STATEMENT**  
THIS MAP WAS PREPARED BY CARLSON, BARBE & GIBSON, INC. UNDER MY DIRECTION  
J. STEVEN LICHTNER, R.C.E., 41637  
LICENSE OPERATION DATE: 12-31-13  
DATE \_\_\_\_\_



**VESTING TENTATIVE MAP**  
**LYON CROSSROADS UNIT NO. 9**  
**TRACT 3781**

CITY OF TRACY SAN JOAQUIN COUNTY CALIFORNIA



SCALE: 1" = 60'  
DATE: JANUARY, 2014

Carlson, Barbee & Gibson, Inc.  
CIVIL ENGINEERS • SURVEYORS • PLANNERS  
2633 CANNON RAYMON, SUITE 350  
SAN RAMON, CALIFORNIA 94583  
(925) 886-0322

# Lyon Crossroads A Planned Community Design Standards School Site Conversion

- I Building Height
  - A. The Maximum building height for the neighborhood shall be 2 ½ stories or 35 feet.
  
- II Building Coverage
  - A. The maximum building coverage for the neighborhood shall not exceed 45% of the net lot area.
  
- III Plan Mix
  - A. Number of House Plans Four (four models)
  - B. Number of Elevations – Sixteen (four elevations per house plan)
  - C. Each house plan is used no less than approximately 15 percent of the time and not more than 40 percent of the time.
  - D. There should be at least one single story floor plan used on approximately 20 percent of the lots.
  
- IV Building Setbacks
  - A. Front
    - No less than 10 feet from the property line to the front of the livable area of a structure and no less than 18’ from the back of the sidewalk to the front of the garage.
    - No less than five (5) feet from the property line to porches.
    - All units shall be provided with a roll up garage door.
    - Typical setbacks from the property line are as follows:  
(5,000 sq ft Lots Min.) 12’ to 15’ with an average 14’ setback.
  
  - B. Side
    - All neighborhoods shall have a minimum side yard of 5 feet from the property line to the structure with a minimum of 10 feet between structures.
    - Corner lots shall have a minimum of 10’ on the street side
  
  - C. Rear
    - All neighborhoods shall have a minimum of 10 feet from the property line to the structure with the following minimum backyard areas:  
(5,000 sq ft Lots Min.) 750 square feet.
  
- V Parking
  - A. Two parallel spaces enclosed (garage) and two parallel open spaces (driveway) shall be provided for each residential unit along with on on-street parking space.

RESOLUTION 2014-\_\_\_\_\_

APPROVING A GENERAL PLAN LAND USE DESIGNATION AMENDMENT OF A 10-ACRE SITE IN THE LYON CROSSROADS SUBDIVISION APN 238-040-07 FROM PUBLIC FACILITIES TO RESIDENTIAL LOW THE APPLICANT AND OWNER IS WILLIAM LYON HOMES INCORPORATED – APPLICATION NUMBER GPA13-0003

WHEREAS, The subject property consists of a 10-acre parcel in the Lyon Crossroads Planned Unit Development area and the 10-acre site is designated for a public school, and

WHEREAS, The subject property has a General Plan land use designation of Public Facilities, which permits uses such as public schools, civic, cultural, recreational, community, and health facilities, and

WHEREAS, A school has not been built on the subject property, and

WHEREAS, The City received a request to amend the General Plan land use designation of the subject site from Public Facilities to Residential Low, which permits uses such as single-family homes, places of worship, schools, parks and recreational facilities, fire stations, libraries, day care facilities, and community centers, and

WHEREAS, A public school is permitted under the Public Facilities and Residential Low General Plan land use designations, and

WHEREAS, Development of the site for uses other than a public school requires an amendment to the Lyon Crossroads Planned Unit Development as well as a tentative subdivision map application, and

WHEREAS, The Planning Commission conducted a public hearing to review the project on January 8, 2014, recommending approval of the proposed amendment, and

WHEREAS, The project is exempt from the California Environmental Quality Act per Section 15162 pertaining to projects with a certified Environmental Impact Report where the project does not propose substantial changes that will result in a major revision of the previous Environmental Impact Report, and the project does not propose additional environmental impacts that were not analyzed in General Plan Environmental Impact Report certified on February 1, 2011;

NOW, THEREFORE, BE IT RESOLVED, That City Council does hereby approve an amendment to the General Plan land use designation of the 10-acre site in the Lyon Crossroads subdivision from Public Facilities to Residential Low.

\* \* \* \* \*

The foregoing Resolution 2014-\_\_\_\_\_ was passed and adopted by the City of Tracy City Council on the 4th day of February, 2014 by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

RESOLUTION \_\_\_\_\_

APPROVING THE 59-LOT LYON CROSSROADS UNIT 9 VESTING TENTATIVE  
SUBDIVISION MAP AND AMENDMENT TO THE PRELIMINARY AND FINAL  
DEVELOPMENT PLANS FOR A 10-ACRE SITE LOCATED AT THE NORTHWEST  
CORNER OF CROSSROADS DRIVE AND SOLOMON LANE  
APPLICATION NUMBERS TSM13-0003 AND PUD13-0003

WHEREAS, The subject property was annexed to the City of Tracy in 1994 and is a part of the Plan C Finance Plan, and

WHEREAS, The project is a Vesting Tentative Subdivision Map to create 59 single-family dwelling units on 10 net acres, with an overall density of approximately 5.4 dwelling units per gross acre, which is consistent with the amended General Plan land use and density requirements, and

WHEREAS, The proposed map amendment is consistent with the General Plan, and Title 12, the Subdivision Ordinance, of the Tracy Municipal Code. The General Plan designation of the property is Residential Low, which provides for a density range of 2.1 to 5.8 dwelling units per acre. The General Plan identifies that the characteristic housing for the Low Density Residential categories includes single family homes, and

WHEREAS, The site is physically suitable for the type of development, as the site is virtually flat and the characteristically high clay content of Tracy's soils may require amendments and treatment for proposed landscaping, foundations, and other surface and utility work. The physical qualities of the property make it suitable for residential development in accordance with City standards, and

WHEREAS, The site is physically suitable for the proposed density of development. The 5.4 dwelling units per acre proposed is consistent with the allowable density range prescribed by the General Plan Residential Low land use designation. Traffic circulation is designed in accordance with City standards for the proposed density to ensure adequate traffic service levels are met, and

WHEREAS, The design of the subdivision or the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat. The project does not propose substantial changes that will result in a major revision of the previous Environmental Impact Report that analyzed the project site and is exempt from the California Environmental Quality Act per Section 15162. Significant fish or wildlife or their habitat have not otherwise been identified on the site and no further environmental documentation is required, and

WHEREAS, The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision, and

WHEREAS, The project complies with all other applicable ordinances, regulations and guidelines of the City, including but not limited to, the local floodplain ordinance. The subject property is not located within any floodplain and the project, with conditions, will meet all applicable City design and improvement standards, and

WHEREAS, All the public facilities necessary to serve the subdivision will be in place prior to the issuance of building permits. All the public facilities necessary to serve the subdivision or mitigate the impacts created by the subdivision will be assured through a subdivision improvement agreement prior to the approval of a final map, and

WHEREAS, The architectural renderings are in compliance with Tracy's Design Goals and Standards because they have incorporated significant variation between floor plans and elevations, located garages set back from the facades of the living space, and used architectural features on all four sides of each house, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the Vesting Tentative Subdivision Map and amendment to the Preliminary and Final Development Plan on January 8, 2014, and recommended approval of both;

NOW, THEREFORE, BE IT RESOLVED, That the City Council does hereby approve the Lyon Crossroads Unit 9 Vesting Tentative Subdivision Map and amendments to the Lyon Crossroads Preliminary and Final Development Plan, Application Numbers TSM13-0003 and PUD13-0003, subject to conditions stated in Exhibit "1", attached and made part hereof.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council on the 4<sup>th</sup> day of February, 2014, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

**Conditions of Approval for the  
Lyon Crossroads Vesting Tentative Subdivision Map, and  
Preliminary and Final Development Plan Amendment  
Application Numbers TSM13-0003, and PUD13-0003**

These Conditions of Approval shall apply to the real property described as the Lyon Crossroads Unit 9 Vesting Tentative Subdivision Map, Preliminary and Final Development Plan Amendment, Application Numbers TSM13-0003, and PUD13-0003 (hereinafter "Project"), generally located on approximately 10 acres at the northwest corner of Crossroads Drive and Solomon Lane, Assessor's Parcel Number 238-040-07.

A. The following definitions shall apply to these Conditions of Approval:

1. "Applicant" means any person, or other legal entity, defined as a "Developer".
2. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, or the Public Works Director, or the City Engineer to perform the duties set forth herein.
3. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
4. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director to perform the duties set forth herein.
5. "Conditions of Approval" shall mean the conditions of approval applicable to the Lyon Crossroads Vesting Tentative Subdivision Map, and Preliminary and Final Development Plan Amendment, Application Numbers TSM13-0003, and PUD13-0003. The Conditions of Approval shall specifically include all Development Services Department Conditions set forth herein.
6. "Project" means the real property consisting of approximately 10 acres located at the northwest corner of Crossroads Drive and Solomon Lane, Assessor's Parcel Number 238-040-07.
7. "Subdivider" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. "Subdivider" also

means the Developer. The term "Subdivider" shall include all successors in interest.

B. Planning Division Conditions of Approval:

1. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, *et seq.*), the Subdivision Map Act (Government Code sections 66410, *et seq.*), the California Environmental Quality Act (Public Resources Code sections 21000, *et seq.*, "CEQA"), and the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 15000, *et seq.*, "CEQA Guidelines").
2. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all City Regulations.
3. Unless specifically modified by these Conditions of Approval, the Developer shall comply with all mitigation measures identified in the General Plan Environmental Impact Report, approved February 1, 2011.
4. Pursuant to Government Code Section 66020, including Section 66020 (d)(1), the City HEREBY NOTIFIES the Developer that the 90-day approval period (in which the Developer may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) has begun on the date of the conditional approval of this Project. If the Developer fails to file a protest within this 90-day period, complying with all of the requirements of Government Code Section 66020, the Developer will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
5. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
6. All improvements shall be consistent with the Tracy Municipal Code, Standard Plans, and other applicable City Regulations.
7. All final maps shall be consistent with the Vesting Tentative Subdivision Map received by the Development Services Department on January 1, 2014, unless modified herein.
8. Prior to the issuance of a building permit, the developer shall document compliance with all applicable school mitigation requirements consistent with City Council standards and obtain certificate of compliance from Tracy Unified School District for each new residential building permit.

9. Prior to approval of the first Final Map, the Developer shall obtain approval of all street names from the Traffic Engineering Division. At least one street shall be named after a deceased veteran in accordance with City Council Resolution Number 87-041.
10. Prior to the recordation of the first Final Map, the Subdivider shall show public utility easements necessary to accommodate the needs of local utility providers in accordance with City standards, to the satisfaction of the City Engineer.
11. Prior to the issuance of building permits, the applicant shall pay all park in-lieu fees required for the project.
12. The floor plans and architectural elevations, except as modified herein, shall be consistent with the plans received by the Development Services Department on December 30, 2013.
13. All of the development standards for the 59 lots shall comply with the standards as listed in the "Lyon Crossroads, A Planned Community" document, received by the Development and Engineering Services Department on December 30, 2013. Any future improvements not listed in this document (such as pools, patio covers, etc.) shall be in compliance with the regulations of the Low Density Residential Zone.
14. The Developer shall comply with all applicable requirements of the San Joaquin Valley Air Pollution Control District (APCD), including District Rule 9510, Regulation VIII, and payment of all applicable fees.
15. The Developer shall comply with all applicable provisions of the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan, including Incidental Take Minimization Measures applicable at the time of permit, a pre-construction survey prior to ground disturbance, and payment of all applicable fees, to the satisfaction of San Joaquin Council of Governments.
16. Prior to issuance of a grading permit, the Developer shall provide proof of compliance with the Construction General Permit through a Waste Discharge ID number or Notice of Intent submittal; and provide proof of compliance with the City of Tracy Manual of Stormwater Quality Control Standards for New Development and Redevelopment (Manual), which includes the requirements for Site Design, Source and Treatment Control Measures, in a project Stormwater Quality Control Plan (SWQCP), to the satisfaction of the Public Works Director or his/her designee. Prior to issuance of a building permit, the Developer shall provide proof of compliance with CalGreen Building Standards for Residential Properties, to the satisfaction of the Public Works Director or his/her designee. Prior to building permit final inspection, a Storm Water Treatment Device Access

and Maintenance Agreement must be approved and notarized between the Developer and the City, to the satisfaction of the Public Works Director or his/her designee.

17. Prior to the issuance of a building permit, the Developer shall prepare a detailed landscape and irrigation plan for all landscape areas (e.g. back yards, front yards, and public right of way) consistent with City standards and shall show compliance with adopted Water Efficient Landscape Ordinance and mandatory CalGreen Building Standards for Residential Properties through submittal and approval of the required Landscape Package, which includes project information, a water efficient landscape worksheet, a soil management report and Landscape, Irrigation, Drainage and Grading Plans, to the satisfaction of the Public Works Director or his/her designee.

C. Engineering Division Conditions of Approval

Contact: Criseldo S. Mina, P. E. C#54782 (209) 831-6425 [cris.mina@ci.tracy.ca.us](mailto:cris.mina@ci.tracy.ca.us)

C.1 Tentative Subdivision Map

Prior to signature of the Tentative Subdivision Map by the City Engineer, the Subdivider shall comply with the requirements set forth in this section, to the satisfaction of the City Engineer.

- C.1.1 Revise the Tentative Subdivision Map to include a space for the signature of the Secretary of the Planning Commission and date of signature.
- C.1.2 Revise the Tentative Subdivision Map to show restricted access for Lots 26, 27, 45, 46 and 59 to Crossroads Drive, Lots 36, 37, 52, and 53 to Mamie Anderson Lane, and for Lot 10 to "A" Lane.
- C.1.3 Revise the Tentative Subdivision Map to include the name of the deceased war veteran "Daniel L. Hansen". The construction detail of the sign shall be prepared as part of the Improvement Plans.
- C.1.4 Submit one (1) reproducible copy of the approved tentative subdivision map for the Project within ten (10) days after Subdivider's receipt of a notification of approval of the Tentative Subdivision Map. The signature of the owner of the Property on the Tentative Subdivision Map means consent to the preparation of the Tentative Subdivision Map and the proposed subdivision of the Property.

C.2 Final Map

No final map within the Project boundaries will be approved by the City until the Subdivider demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.2.1 The Subdivider has completed all the requirements set forth in this section, and Condition C.1., above.
- C.2.2 The Final Map prepared in accordance with the applicable requirements of the Tracy Municipal Code, the City Design Documents, and in substantial conformance with the Tentative Subdivision Map for the Project.
- C.2.3 The Final Map shall include dedications or offers of dedication of all right(s)-of-way and/or temporary or permanent easement(s) required to construct and serve the Project described by the Improvement Plans and Final Map, in accordance with City Regulations and these Conditions of Approval.
- C.2.4 Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd order Class 1 control points establishing the "Basis of Bearing" and shown as such on the final map. The final map shall also identify surveyed ties from two of the horizontal control points to a minimum of two (2) separate points adjacent to or within the Property described by the Final Map.
- C.2.5 A construction cost estimate of subdivision improvements and for all required public facilities, prepared in accordance with City Regulations to be used for calculating engineering review fees and for bonding purposes. In determining the total construction cost, add ten percent (10%) for construction contingencies.
- C.2.6 All the required improvement agreements are executed, improvement security is submitted and documentation of insurance are provided, as required by these Conditions of Approval. The amounts of improvement security shall be approved by the City and the type and form of improvement security shall be in accordance with the Tracy Municipal Code.
- C.2.7 All infrastructure or public facilities that are required to serve the proposed development within the final map boundaries, including water distribution, sewer conveyance, and water and wastewater treatment plant including water supply have been evaluated and the City has determined that capacities are available for this Project.
- C.2.8 Payment of final map checking fees and all other fees required by these Conditions of Approval and City Regulations are received.
- C.2.9 Copy of the Updated Subdivision Map Guarantee or Guarantee of Title that is valid up to the time of recording the Final Map and issued by a competent title company, as required in sub-section 12.20.060(i) of the Tracy Municipal Code.

- C.2.10 Copy of the Tax Certification issued by the San Joaquin County Assessor and Tax Collector's office stating that all taxes and assessments due have been paid, as required in sub-section 12.20.060(d) of the Tracy Municipal Code.

C.3 Grading and Encroachment Permit

No applications for grading permit and encroachment permit within the Project boundaries will be accepted by the City as complete until the Subdivider provides all documents required by City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.3.1 The Tentative Subdivision Map has been approved by the City Council, and the Subdivider has completed all requirements set forth in this section and Conditions C.1 and C.2, above.
- C.3.2 The Subdivider has obtained the approval of all other public agencies with jurisdiction over the required public facilities.
- C.3.3 The Subdivider has executed all the agreements, posted all improvement security, and provided documentation of insurance, as required by these Conditions of Approval.
- C.3.4 The Improvement Plans including the Grading and Drainage Plans prepared in accordance with the Subdivision Ordinance and the City Design Documents. The improvement plans for all improvements (in-tract and off-site) required to serve the Project in accordance with the City Design Documents, and these Conditions of Approval. The improvement plans shall be prepared to specifically include, but not be limited to, the following items:
  - C.3.4.1 All existing and proposed utilities including the size and location of the pipes.
  - C.3.4.2 All supporting engineering calculations, technical or materials specifications, cost estimate, and technical reports related to the design of streets and utilities improvements.
  - C.3.4.3 The Project's permanent storm drainage connection(s) to the City's storm drainage system as approved by the City Engineer. Improvement Plans to be submitted with the hydrology and storm drainage calculations for the sizing of the on-site storm drainage system and the permanent storm drainage connection(s).

- C.3.4.4 Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (mylar) with the City Engineer and Fire Safety Officer approval and signature blocks. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.
- C.3.5 Joint Trench Plans and Composite Utility Plans, prepared on a 24" x 36" size mylar, and signed and stamped by a Registered Civil Engineer, for the installation of dry utilities such as electric, gas, TV cable, telephone, and others that will be located within the 10 feet wide Public Utility Easement or to be installed to serve the residential lots or the Project, as required Condition C.5, below.
- C.3.6 Three (3) copies of the Project's Geo-technical /Engineering Soils Report, prepared or signed and stamped by a Geo-technical Engineer and copy of recorded slope easements (if applicable), as required in Condition C.6.2, below.
- C.3.7 Three (3) sets of the Project's Storm Water Pollution Prevention Plan (SWPPP), Best Management Practices (BMPs) and a copy of the Notice of Intent (NOI) with the State-issued Wastewater Discharge Identification number (WDID#), as required in Conditions C.6.1, and C.6.4, below.
- C.3.8 Payment of all applicable fees required by these Conditions of Approval and City Regulations, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees.
- C.3.9 Tracy's Fire Marshall's signature on the Improvement Plans indicating their approval of the location and construction detail of the Project's fire service connection(s), and the location and spacing of street fire hydrants, as required in Condition C.9.5, below.
- C.3.10 Signed and notarized Inspection Improvement Agreement or Subdivision Improvement Agreement with the fully executed improvement security documents for faithful performance, labor and materials, and warranty, to guarantee construction of subdivision improvements including the Project's domestic, irrigation and fire service connections, storm drainage connection, and the permanent sanitary sewer connection, and asphalt concrete overlay work on Solomon Lane and Crossroads Drive as required in Conditions C.8, C.9, and C.10, below.

- C.3.11 All streets and utilities improvements within City right-of-way or streets that are to be dedicated to the City shall be designed and constructed in accordance with City Regulations, and City's Design documents including the City's Facilities Master Plan for storm drainage, roadway, wastewater, and water adopted by the City, or as otherwise specifically approved by the City Engineer.
- C.3.12 All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Subdivider shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection. The Subdivider shall submit a copy of written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), prior to the issuance of the Grading Permit.

C.4 Building Permit

No building permit within the Project boundaries will be approved by the City until the Subdivider demonstrates, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

- C.4.1 The Subdivider has completed all requirements set forth in Condition C.1, C.2, and C.3, above.
- C.4.2 The Property is within Category C Pay Zone B area and is classified as Agricultural Habitat Land/ Open Spaces per the San Joaquin County of Governments (SJCOG) Compensation Plan Map and is subject to applicable habitat mitigation fees ("SJMSCP Development Fees") per the adopted San Joaquin County Multi-Species Habitat Conservation and Open Space Plan ("SJMSCP").

In accordance with the amended SJMSCP that was approved by the City Council on October 18, 2011, pursuant to Resolution 2011-196, the Project is subject to a fee rate of \$12,711 per acre. The update to the SJMSCP Development Fees that was approved by the City Council on October 15, 2013, per Resolution 2013-164 will become effective January 1, 2014. The new SJMSCP Development Fee applicable to the Project for the pay zone identified above is \$13,295 per acre.

The estimated SJMSCP Development Fees that are due at the time of issuance of the building permit is \$132,950, assuming that the Subdivider will grade the entire Project site at one time.

- C.4.3 The Project is within the Plan C development area and is subject to Plan C Development Impact Fees. Prior Subdivider is required to pay

Plan C Development Impact Fees required by these Conditions of Approval and City Regulations that are in effect at the time of issuance of the building permit.

- C.4.4 Due to high groundwater level within the Project and adjacent developments to the west (the Huntington Park and Westgate Subdivision), additional sub-surface flow (groundwater) is discharged to the City's storm drain system. The Project is subject to an incremental increase in storm drain impact fees due to the additional flows. The amount of increase in storm drainage impact fees has been determined by a storm drainage impact fee study performed by City's consultant and approved by the City Council on September 21, 1999, pursuant to Resolution No. 99-363. Prior to issuance of each building permit, the Subdivider shall pay the City the sub-surface drainage impact fees in the amount of \$281 per Single Family Dwelling Unit (SFDU) as established by City Council resolution.

C.5 Undergrounding of Overhead Utilities

The Subdivider shall prepare improvement plans, and design and construct the subdivision improvements in accordance with the following requirements.

- C.5.1 All private utility services to serve Project such as electric, telephone and cable TV to the building must be installed underground, and to be installed at the location approved by the respective owner(s) of the utilities. The Subdivider shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are to be installed on the existing 10 feet wide Public Utility Easement within the Property and along Solomon Lane and Crossroads Drive.
- C.5.2 Pavement cuts or utility trench(s) on existing street(s) for the installation of electric, gas, cable TV, and telephone will require the application of 2" asphalt concrete overlay and replacement of pavement striping and marking. The limits of asphalt concrete overlay shall be 25 feet from the trench and a travel lane width or up to the street centerline. If the utility trench extends beyond the street centerline, the asphalt concrete overlay shall be applied over the entire width of the street (to the lip of gutter).

C.6 Site Grading

The Subdivider shall prepare improvement plans, and design and construct the required improvements in accordance with the City Regulations, these Conditions of Approval, and the following requirements.

- C.6.1 All grading work (on-site and off-site) shall require a Grading Permit. Erosion control measures shall be implemented in accordance with Grading Plans approved by the City Engineer for all grading work not

- completed before October 15. Improvement Plans shall specify all erosion control methods to be employed and materials to be used.
- C.6.2 Submit a Grading and Drainage Plan prepared by a Registered Civil Engineer and accompanied by the Project's Geo-technical /Soils Engineering report. The report shall provide recommendations regarding adequacy of the site relative to the stability of soils such as soil types and classification, percolation rate, soil bearing capacity, highest observed ground water elevation, and others.
- C.6.3 Reinforced or engineered masonry block retaining wall is the preferred method of retaining soil at property lines when the grade differential between the project site and adjacent property(s) exceeds 12 inches. The Subdivider is required to submit improvement plans, construction details and structural calculations of the retaining wall or masonry wall. Slope easements may be accepted subject to approval by the City Engineer and if permission is granted from owner(s) of the adjacent and affected property(s). Slope easements is an acceptable option as a substitute to engineered wall, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) feet, subject to approval by the City Engineer. Slope easements shall be recorded, prior to the issuance of the Grading Permit. The Subdivider shall be responsible to obtain and record slope easement(s) on private properties, where it is needed to protect private improvements constructed within and outside the Project, and a copy of the recorded easement document must be provided to the City, prior to the issuance of the Grading Permit.
- C.6.4 Prior to the issuance of the Grading Permit, the Subdivider shall submit three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) identical to the reports submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Subdivider is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Subdivider. The Subdivider shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008 and any subsequent amendment(s).
- C.6.5 The Subdivider shall abandon or remove all existing irrigation structures, channels and pipes, if any, as directed by the City after

coordination with the irrigation district, if the facilities are no longer required for irrigation purposes. If irrigation facilities including tile drains, if any, are required to remain to serve existing adjacent agricultural uses, the Subdivider will design, coordinate and construct required modifications to the facilities to the satisfaction of the affected agency and the City. Written permission from irrigation district or affected owner(s) will be required to be submitted to the City prior to the issuance of the Grading Permit. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Subdivider.

C.7 Storm Drainage

The Subdivider shall prepare improvement plans, and design and construct the required improvements in accordance with the City Regulations, these Conditions of Approval, and the following requirements.

C.7.1 Storm drainage release point is a location at the boundary of the Project adjacent a City right-of-way or public street where storm water leaves the Property, in the event of a storm event and when the Property's on-site storm drainage system fails to function or it is clogged. Site grading shall be designed such that the Project's storm drainage overland release point will be directly to a public street with a functional storm drainage system and the storm drainage line on the street has adequate capacity to drain storm water from the Property. The storm drainage release point is recommended to be at least 0.70 foot lower than the building finish floor elevation and shall be improved to the satisfaction of the City Engineer.

C.7.2 The Project's permanent storm drainage connection(s) shall be designed and constructed meet City Regulations. The design of the permanent storm drainage connection shall be shown on the Grading and Storm Drainage Plans and shall be submitted with the required calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2008 and any subsequent amendments.

C.8 Sanitary Sewer

The Subdivider shall prepare improvement plans, and design and construct the required improvements in accordance with the City Regulations, these Conditions of Approval, and the following requirements.

C.8.1 It is the Subdivider's responsibility to design and construct the Project's permanent sanitary sewer connection(s) to Crossroads Drive in accordance with City Regulations. The Subdivider shall submit improvement plans that include the design of the sanitary sewer line from the Property to the point of connection. The

Subdivider is responsible for the cost of installing the Project's permanent sanitary sewer connection(s) including but not limited to, replacing asphalt concrete pavement, application of 2" thick asphalt concrete overlay where required, reconstructing curb, gutter and sidewalk, restoring pavement marking and striping, and other streets and utilities improvements that are disturbed as a result of installing the Project's permanent sanitary sewer connection(s) and sanitary sewer lateral for each residential lots.

Prior to starting the work described in this section, the Subdivider shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic during the installation of the sanitary sewer main on Dominique Drive. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

- C.8.2 The Subdivider is hereby notified that the City will not provide maintenance of the sewer lateral within the public right-of-way unless the sewer cleanout is located and constructed in conformance with Standard Plan No. 203. The City's responsibility to maintain on the sewer lateral is from the wye fitting to the point of connection with the sewer main.

C.9 Water System

The Subdivider shall prepare improvement plans, and design and construct the required improvements in accordance with City Regulations, these Conditions of Approval, and the following requirements.

- C.9.1 The Project's permanent water connection points will be at Crossroads Drive and Solomon Lane. Three (3) gate valves will be required at the new connection point on Crossroads Drive. All water connections that are bigger than 2 inches in diameter shall be Ductile Iron Pipe (DIP).
- C.9.2 Domestic water service with a remote read (radio-read) water meter shall be installed in accordance with City Regulations and at the location approved by the City Engineer. City's responsibility to maintain water lines shall be from the water main on the street to the back of the water meter (inclusive) only. Repair and maintenance of all on-site water lines, laterals, valves, and fittings shall be the responsibility of the Subdivider or the individual lot owner(s).
- C.9.3 All costs associated with the installation of the Project's permanent water connection(s) and domestic water and fire service for each individual lot including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street that may be

disturbed with the installation of the permanent water connection(s), domestic water service for each lot, and other improvements shall be paid by the Subdivider.

- C.9.4 If a water main shut down is necessary, the City will allow a maximum of 4 hours water supply shutdown. The Subdivider shall be responsible for notifying residents or property owner(s), regarding the water main shutdown. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or property owner(s) at least 72 hours before the planned water main shutdown. Prior to starting the work described in this section, the Subdivider shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic during the installation of the water main. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.
- C.9.5 The Subdivider shall design and install fire hydrants at the locations approved by the City's Building Division and Fire Department. Location and construction details of the fire service line shall be approved by the Chief Building Official and Fire Safety Officer. Prior to the approval of the Improvement Plans by the City Engineer, the Subdivider shall obtain written approval from the Chief Building Official and Fire Safety Officer, for the design, location and construction details of the individual lot fire service, and for the location and spacing of fire hydrants that are to be installed to serve the Project.

C.10 Street Improvements

The Subdivider shall prepare improvement plans, and design and construct the required improvements in accordance with City Regulations, these Conditions of Approval, and the following requirements.

- C.10.1 The Subdivider shall design and construct street and utilities improvements on streets that are to be dedicated to the City in accordance with City Regulations. The street and utilities improvements include but not limited to, concrete curb, gutter, and sidewalk, residential driveway, water main, domestic and fire sprinkler service, sanitary sewer main, sewer lateral and cleanout, storm drain line, catch basin, storm drainage drop inlet, street tree, pavement marking and striping, and traffic sign, and other improvements that are required to serve the Project.
- C.10.2 Installation of sanitary sewer laterals and domestic and fire sprinkler services for Lots 53 through 59 on Solomon Lane and the Project's permanent water main connection on Crossroads Drive will require street or pavement cut and the construction of utility trenches that

extends beyond the centerline of these streets. In order to hide pavement excavation or trench marks, the application of 2 inches thick asphalt concrete overlay will be required over the entire width of these streets within the limits described below. The City Engineer may extend the limits of the asphalt concrete overlay, if determined to be necessary.

C.10.2.1 Solomon Lane Drive from the crosswalk on Solomon Lane to the crosswalk at the intersection of Solomon Lane / Mamie Anderson Lane

C.10.2.2 Between the curb returns on Crossroads Drive

Grinding the existing asphalt concrete pavement 2 inches deep (uniform thickness) is required in order to maintain existing pavement grades, and cross and longitudinal slopes.

The Subdivider shall replace all existing improvements including but not limited to, concrete curb, gutter, and sidewalk, pavement marking and striping that are disturbed as result of the installation of the Project's water main connections, domestic and fire sprinkler services, permanent sewer connections, and sewer laterals as part of the asphalt concrete overlay work. The work described under this section must be completed, prior to City's acceptance of the subdivision improvements or performing the final building inspection, all at the Subdivider's sole cost and expense, with no reimbursement from the City.

C.10.3 All work to be performed and improvements to be constructed within City's right-of-way including the installation of the Project's water main, storm drainage, and sanitary sewer main on Crossroads Drive will require an Encroachment Permit from the City, prior to starting the work. The Subdivider or its authorized representative shall submit all documents that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan that is prepared by and signed and stamped by a Civil Engineer or Traffic Engineer registered to practice in the State of California, payment of engineering review fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance naming the City of Tracy as additional insured or as a certificate holder.

C.11 Agreements, Improvement Security, and Insurance

C.11.1. Inspection Improvement Agreement - Prior to City approval of a final map, the Subdivider may request to proceed with construction of the public facilities required to serve the real property described by the

final map only if the Subdivider satisfies all of the following requirements to the satisfaction of the City Engineer:

- C.11.1.1 The Subdivider has submitted all required improvement plans in accordance with the requirements of City Regulations and these Conditions of Approval, and the improvement plans have been approved by the City Engineer.
  - C.11.1.2 The Subdivider has submitted a complete application for a final map which is served by the required public improvements, and the final map is in the process of being reviewed by the City.
  - C.11.1.3 The Subdivider has paid all required processing fees including plan check and inspection fees.
  - C.11.1.4 The Subdivider executes an Inspection Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all required improvements, and the Subdivider agrees to assume the risk that the proposed final map may not be approved by the City.
  - C.11.1.5 The Subdivider posts all required improvement security and provides required evidence of insurance.
- C.11.2. Subdivision Improvement Agreement - Concurrently with the City's processing of a final map, and prior to the City's approval of the final map, the Subdivider shall execute a Subdivision Improvement Agreement (for the public facilities required to serve the real property described by the final map), which includes the Subdivider's responsibility to complete all of the following requirements to the satisfaction of the City Engineer:
- C.11.2.1 The Subdivider has submitted all required improvement plans in accordance with the requirements of City Regulations and these Conditions of Approval, and the improvement plans have been approved by the City Engineer.
  - C.11.2.2 The Subdivider has submitted a complete application for a final map which is served by the required public improvements, and the final map has been approved by the City Engineer.

- C.11.2.3 The Subdivider has paid all required processing fees including plan check and inspection fees.
- C.11.2.4 The Subdivider executes a Subdivision Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all required improvements.
- C.11.2.5 The Subdivider posts all required improvement security and evidence of insurance.
- C.11.3. Deferred Improvement Agreement - Prior to the City's approval of the first final map within the Project, the Subdivider shall execute a Deferred Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all remaining public facilities (to the extent the public facilities are not included in the Subdivision Improvement Agreement) which are required by these Conditions of Approval. The Deferred Improvement Agreement shall identify timing requirements for construction of all remaining public facilities, in conformance with the phasing plan submitted by the Subdivider and approved by the City Engineer.
- C.11.4. Improvement Security - The Subdivider shall provide improvement security for all public facilities, as required by an Inspection Improvement Agreement or a Subdivision Improvement Agreement. The form of the improvement security may be a bond, or other form in accordance with City Regulations. The amount of the improvement security shall be in accordance with City Regulations, generally, as follows:
  - C.11.4.1 Faithful Performance (100% of the approved estimates of the construction costs of public facilities),
  - C.11.4.2 Labor & Material (100% of the approved estimates of the construction costs of public facilities), and
  - C.11.4.3 Warranty (10% of the approved estimates of the construction costs of public facilities)
- C.11.5 Insurance - For each Inspection Improvement Agreement and Subdivision Improvement Agreement, the Subdivider shall provide the City with evidence of insurance, as follows:
  - C.11.5.1 General. The Subdivider shall, throughout the duration of the Agreement, maintain insurance to cover Subdivider, its

agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under the Agreement at the minimum levels set forth below.

- C.11.5.2 Commercial General Liability (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$3,000,000 general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.
- C.11.5.3 Automobile Liability (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto”) coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- C.11.5.4 Workers’ Compensation coverage shall be maintained as required by the State of California.
- C.11.5.5 Endorsements Subdivider shall obtain endorsements to the automobile and commercial general liability with the following provisions:
  - C.11.5.5.1 The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
  - C.11.5.5.2 For any claims related to this Agreement, Subdivider’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Subdivider’s insurance and shall not contribute with it.
- C.11.5.6 Notice of Cancellation Subdivider shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be cancelled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- C.11.5.7 Authorized Insurers All insurance companies providing coverage to Subdivider shall be insurance organizations authorized by the Insurance Commissioner of the State of

California to transact the business of insurance in the State of California.

- C.11.5.8 Insurance Certificate Subdivider shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City.
- C.11.5.9 Substitute Certificates No later than thirty (30) days prior to the policy expiration date of any insurance policy required by the Agreement, Subdivider shall provide a substitute certificate of insurance.
- C.11.5.10 Subdivider's Obligation Maintenance of insurance by the Subdivider as specified in the Agreement shall in no way be interpreted as relieving the Subdivider of any responsibility whatsoever (including indemnity obligations under the Agreement), and the Subdivider may carry, at its own expense, such additional insurance as it deems necessary.
- C.11.6. Release of Improvement Security – Release of improvement security shall be in accordance with the requirements of the Tracy Municipal Code. The City shall not release any improvement security until after the Subdivider provides as-built plans, to the satisfaction of the City Engineer. Within twenty (20) days after the City's approval of the final map, the City shall provide the Subdivider one (1) set of reproducible duplicates on polyester film of all approved Improvement Plans. Upon completion of the construction by the Subdivider, the City shall temporarily release the originals to the Subdivider so that the Subdivider will be able to document revisions to show the "As Built" configuration of all improvements. The Subdivider shall submit these As-Built Plans (or Record Drawings) to the City Engineer within 30 days after City Council acceptance of the public improvements.

C.12 Final Building Inspection

No Final building inspection will be performed by the City until after the Subdivider provides documentation which demonstrates, to the satisfaction of the City Engineer, that:

- C.12.1 The Subdivider has completed all requirements set forth in this section, and Conditions C.1, C.2, C.3, C.4, C.5, C.6, C.7, C.8, C.9, and C.10, above.
- C.12.2 The Subdivider has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested. Unless specifically provided in these Conditions of

Approval, or some other City Regulation, the Subdivider shall take all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.13 Special Conditions

C.13.1. Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the final subdivision map, improvement agreement, and improvement plans, prior to the City Engineer's signature on the final subdivision map and improvement plans, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Subdivider shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

AGENDA ITEM 4

REQUEST

**PUBLIC HEARING TO CONSIDER A REZONE APPLICATION FROM LIGHT INDUSTRIAL (M-1) TO MEDIUM DENSITY RESIDENTIAL (MDR) FOR A SITE COMPRISED OF TWO PARCELS ON SOUTH C STREET BETWEEN THIRD AND FOURTH STREETS, ASSESSOR'S PARCEL NUMBERS 235-070-64 & 66. THE APPLICANT IS ANDRE STAMBUK AND THE PROPERTY OWNERS ARE JAVIER AND JUANA DIAZ – APPLICATION NUMBER R13-0001**

EXECUTIVE SUMMARY

This agenda item relates to rezoning two parcels from Light Industrial to Medium Density Residential in conformance with the General Plan land use designation of Residential Medium.

DISCUSSION

Background and Site Description

The site is located on the east side of South C Street, north of Third Street and south of Fourth Street (Attachment A) adjacent to Tracy's downtown area. The site is comprised of two parcels totaling approximately 0.726 acres. Both parcels have access to King Alley, which runs east-west on the rear of the parcels. The site is surrounded by existing residences.

The site is zoned Light Industrial (M-1), and is designated Residential Medium in the General Plan. The site's zoning of M-1 is currently not in compliance with the General Plan designation of Medium Residential.

The parcel on Third Street was formerly occupied by the Mi Ranchito Tortilla Factory (addressed 27 W. Third Street). In the 1980s, the tortillaria received City approval to rezone both parcels from high and medium density residential to light industrial and approval for the expansion of their facility and a parking lot improvements; however, the expansion was never constructed. The original tortillaria building remains on the southern parcel today but has been out of operation for years. There are also two single-family residences on the site that are unoccupied and dilapidated. The parcel on Fourth Street was never developed and remains undeveloped today.

Rezone Analysis

The City does not have records of any light industrial uses at the site since the closure of the tortilla factory. During the General Plan update process, the City determined that due to the site's proximity to existing residential neighborhoods and the Downtown, and because there has not been an interest for light industrial uses at the site in recent years, the site would be better suited for residential uses to match properties in the vicinity and redesignated the site from Industrial to Residential Medium. Rezoning the site to MDR would bring the site's zoning into conformity with the General Plan and allow

for development of residential uses in the range of 5.9 to 12 units per gross acre in accordance with the General Plan.

The property owner intends to develop single-family and two-family dwellings on the site. The property owner has proposed preliminary development plans for the parcel on Third Street (Attachment B) and is working with staff to ensure the final development plan would comply with MDR standards, subject to City Council approval of the rezone request.

#### Planning Commission's Recommendation

Planning Commission held a public hearing on January 8, 2014, to review and consider the proposal and unanimously voted in favor of recommending City Council rezone the site as proposed.

#### Environmental Document

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

### STRATEGIC PLAN

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

### FISCAL IMPACT

The agenda item will not require any expenditure of funds. The applicant has paid City Council adopted application fees, which covers the required staff time to review and process the proposed rezone.

### RECOMMENDATION

Staff and the Planning Commission recommend that the City Council introduce an Ordinance rezoning Assessor's Parcel Numbers 235-070-64 & 66 from Light Industrial (M-1) to Medium Density Residential (MDR).

Prepared by: Kimberly Matlock, Assistant Planner

Reviewed by: Bill Dean, Assistant Director of Development Services  
Andrew Malik, Director of Development Services  
Maria A. Hurtado, Assistant City Manager

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

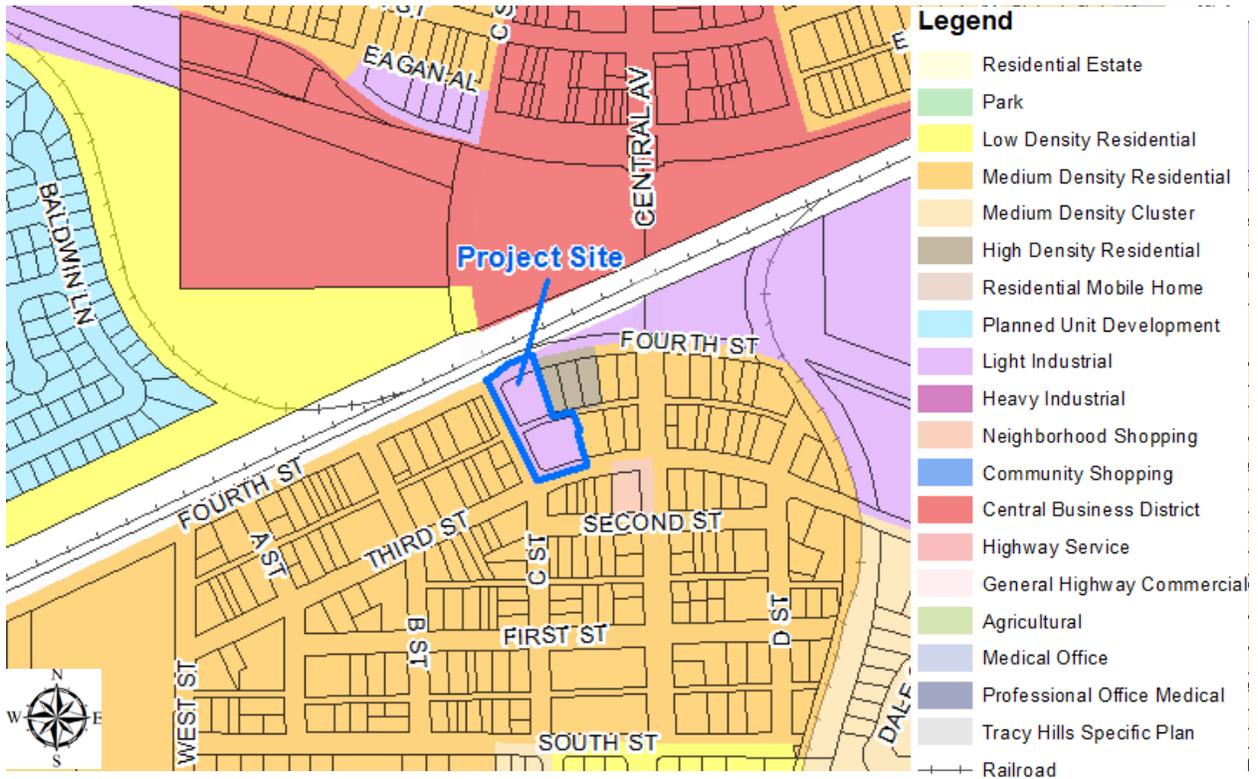
Agenda Item 4  
February 4, 2014  
Page 3

ATTACHMENTS

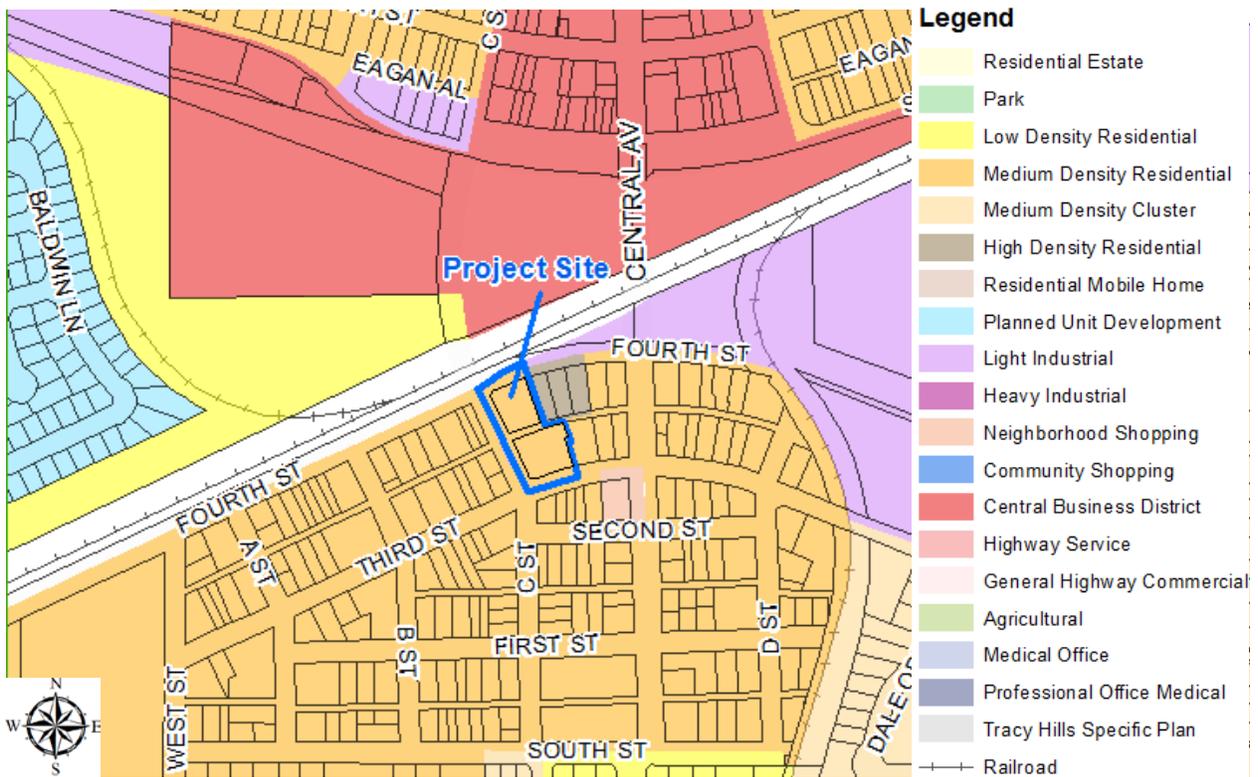
Attachment A – Project Location Map showing current and proposed zoning

Attachment B – Exhibit showing a potential development plan (Oversize: Copies available in  
Development Services Department, City Hall)

CURRENT ZONING



PROPOSED ZONING



ORDINANCE \_\_\_\_\_

AN ORDINANCE OF THE CITY OF TRACY REZONING ASSESSOR'S PARCEL NUMBERS 235-070-64 & 66 FROM LIGHT INDUSTRIAL (M-1) TO MEDIUM DENSITY RESIDENTIAL (MDR). THE APPLICANT IS ANDRE STAMBUK AND THE PROPERTY OWNERS ARE JAVIER AND JUANA DIAZ. APPLICATION NUMBER R13-0001

WHEREAS, The subject properties have a General Plan designation of Residential Medium, is zoned Light Industrial, and is surrounded by properties zoned Medium Density Residential, and

WHEREAS, On December 4, 2013, Andres Stambuk, on behalf of the property owners, submitted an application to rezone the properties to Medium Density Residential, and

WHEREAS, Rezoning the properties to Medium Density Residential would allow for residential development in conformance with the General Plan, and

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

WHEREAS, The Planning Commission held a public meeting to review and consider the rezone application on January 8, 2014, and recommended approval of the rezone, and

WHEREAS, The City Council held a public meeting to review and consider the rezone application on February 4, 2014;

NOW, THEREFORE, The City Council of the City of Tracy hereby ordains as follows:

SECTION 1: The zoning map of the City of Tracy is hereby amended to change the zoning on the following parcels from Light Industrial (M-1) to Medium Density Residential (MDR):

Approximately 0.299 acres located on the east side of South C Street, between Fourth Street and King Alley (Assessor's Parcel Number 235-070-64) and approximately 0.427 acres located on the east side of South C Street between Third Street and King Alley (Assessor's Parcel Number 235-070-66).

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

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

\* \* \* \* \*

The foregoing Ordinance \_\_\_\_\_ was introduced at a regular meeting of the Tracy City Council on the 4<sup>th</sup> day of February, 2014, and finally adopted on the 18<sup>th</sup> day of February, 2014, by the following vote:

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

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 5

REQUEST

**ADOPT A RESOLUTION APPROVING LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS (CFDs) AND PROVIDE DIRECTION REGARDING THE REQUIREMENT OF A FISCAL IMPACT ANALYSIS (FIA) TO ASSESS PUBLIC SERVICES COSTS AS A RESULT OF NEW DEVELOPMENT**

EXECUTIVE SUMMARY

The Mello-Roos Community Facilities Act of 1982 ("Mello-Roos Act") requires a city to adopt local goals and policies to meet specified criteria before it can initiate the formation of a Community Facilities District ("CFD"). The previous City CFD policy was repealed in 2012 because it was no longer in compliance with the requirements of the Mello-Roos Act. The attached policy has been updated by Jones Hall, the City's bond counsel, who developed the original CFD policy. The updated policy establishes the CFD's local goals and policies, which must be adopted by Council prior to the formation of a CFD. In particular, the updated policy: (1) prioritizes the financing of public services; (2) clarifies developers fee obligations that advance certain city identified public policies; (3) explains the City's expectations of developer disclosure requirements and developer process for applying for financing; and (4) clarifies the use of Mello-Roos by residential and non-residential developers as it relates to special tax levels and annual escalation of maximum special taxes. Additionally, Council direction is needed regarding the requirement of a Fiscal Impact Analysis (FIA) to assess ongoing public service costs as a result of new development. Pursuant to Mello-Roos law, a CFD may pay for various public services.

DISCUSSION

To be in compliance with the Mello-Roos Act staff recommends that the City Council adopt a new CFD policy. The updated policy (Attachment 1, Exhibit A) establishes local goals and policies for CFDs and provides guidance and conditions for the conduct by the City of proceeding for, and the issuance of bonds secured by special taxes levied in, a CFD established under the Mello-Roos Act.

The City's previous CFD policy was adopted in 1998 (Resolution 98-020) and repealed in 2012 (Resolution 2012-221). Since the adoption of the City's original CFD policy, the Mello-Roos Act has been subsequently amended resulting in new changes and requirements. The updated policy reflects these new changes, including the prioritization of the financing of public services and if applicable, services to be provided by other public agencies. It also reflects experiences by public finance professionals, including bond counsel and bond underwriters, with Mello-Roos Act financings over the past 15 years. For example, the Mello-Roos Act is sometimes used to finance developers' fee obligations and/or privately-owned facilities that advance a city-identified public policy. These types of changes were instrumental in avoiding payment defaults on bonds issued under the Mello-Roos Act during the most recent recession.

Other policy changes state more clearly the City's expectation of private developers that apply for financing under the Mello-Roos Act. For example, the proposed amendments clarify the nature of property owners' ongoing disclosure (both to successor property owners and bond investors) and process for applying for financing under the Mello-Roos Act.

Last, the updated policy reflects amendments that provide additional detail about the differences between use of the Mello-Roos Act by non-residential developers and residential developers, with respect to special tax levels and annual escalation of maximum special taxes.

### **Fiscal Impact Analyses**

Historically, the City of Tracy has required developers to prepare Finance and Implementation Plans (FIP) to demonstrate that public facilities required to serve a project will be funded and constructed in a timely manner. To date, the City has had no such requirement related to public services. In addition to the FIP, many other cities require that developers prepare a Fiscal Impact Analysis (FIA) that compares ongoing revenues (i.e., property tax, sales tax) generated by the project to ongoing costs incurred by the city from provision of public safety services, park and street maintenance, and other city services. The FIA estimates the fiscal surplus or deficit that will result from development of a project and determines whether a new funding mechanism is needed to mitigate project impacts. Given the constraints of municipal budgets, requiring an analysis of fiscal impacts, and implementing of fiscal mitigation measures is becoming more common among cities and counties.

Preparation of an FIA is generally required in order for a proposed development to demonstrate compliance with city or county general plan goals and policies. Because compliance with the General Plan is a requirement for general plan amendments, specific plan approvals, rezonings, and other legislative acts, a project can be conditioned to provide a fiscal analysis to demonstrate such compliance. In fact, numerous public agencies in California require an FIA as part of the planning and entitlement process, which is often included in master plan and specific plan guidelines. The earlier an FIA is prepared in the planning process, the easier it is to make adjustments or reevaluate service standards if it is determined that the proposed project cannot possibly pay its own way.

Attachment 2 provides a sample list of cities and counties in northern California that require fiscal studies, as well as the associated goals and policies in their general plans that support requirement of such an analysis.

### **Community Facilities Districts (CFDs) and Public Services**

For a residential or mixed-use project, it is not unusual that an FIA will determine that a fiscal deficit will result from development of the project, either in the early phases, at buildout, or both. Unless the project contemplates high-end residential units, generally the property tax, sales tax, and other revenues generated from residential units will be insufficient to cover the costs associated with providing services to the new residents.

As a result, more and more public agencies are requiring that mechanisms be put in place to fund public services and mitigate projected fiscal deficits.

Due to the flexibility inherent in the Mello-Roos Community Facilities District (CFD) Act, and the fact that there is no finding of special benefit required for special taxes levied within a CFD, Mello-Roos is generally the preferred mechanism for funding public services. A CFD can be formed over a designated geographic area with either a registered-voter election if there are 12 or more registered voters in the CFD, or a landowner vote if there are less than 12 registered voters when the CFD is formed. Formation of a CFD requires a two-thirds vote, which, in the case of a landowner election, is based on acreage owned within the CFD. Pursuant to the Mello-Roos law, a CFD may pay for the following public services to the extent that the services are in addition to those provided in the area before the CFD was formed:

- Road maintenance
- Police protection
- Fire protection
- Recreation program services
- Library services
- Park and open space maintenance
- Flood and storm protection services
- Removal or cleanup of hazardous substances
- Sandstorm protection
- Seismic retrofitting
- Maintenance and operation of any real property or facility with an estimated useful life of five years or more
- School facilities maintenance

Many public agencies have relied on CFDs to fund public services, and in the post-recession era, even more are considering it for the first time. Some of these CFDs are project-specific, funding only the services demanded by the project or mitigating a projected fiscal deficit for the project. Other CFDs are being formed to generate funding from all new development within a city or county, with the initial CFD boundary including a limited number of parcels and other parcels annexing into the CFD when development is proposed. Either way, CFDs are serving as an important mechanism to close the gap between service costs incurred by a public agency and revenues that are available to pay for those services. Following is sample list of cities and counties in northern California that have formed or are forming CFDs to pay for public services:

City of Lathrop	City of Lodi	City of Modesto
City of Roseville	City of Sacramento	City of Oakdale
City of San Francisco	City of Rancho Cordova	City of Los Banos
City of Dixon	City of Elk Grove	City of Hayward
City of Gilroy	City of Merced	City of Atwater
City of Pittsburg	City of Vallejo	City of Folsom
County of Sacramento	County of Contra Costa	County of Placer

Many of the General Plan goals and policies set forth in Attachment 2 support establishing a new funding mechanism, which in most cases would be a CFD, if there is

a finding that revenues generated from a project will be insufficient to pay for public services that will be provided to the project. In fact, it is not unusual for a city or county to include map conditions that require a CFD or alternative funding solution be established before a final map is recorded to ensure that there will be adequate funding for public services.

Should Council choose to require a FIP for public services for residential and/or non-residential developments, staff will present a recommendation for implementation (e.g. via a development agreement) at a future meeting.

#### STRATEGIC PLAN

This item is not directly related to any of the Council's Strategic Plans.

#### FISCAL IMPACT

Adopting the updated CFD policy will not result in a fiscal impact to the General Fund, or any other City Fund. Likewise, requiring a FIA for new development will not impact the General Fund as the cost of the analysis is borne by the development community. The FIA is a valuable financial planning tool for the City as it will help establish a baseline for future revenue and expenses, including, but not limited to: public safety, road and park maintenance, and recreation.

#### RECOMMENDATION

It is recommended that Council adopt a resolution approving local goals and policies for CFDs and provide staff direction regarding the requirement of FIAs as a result of new development.

Prepared by: Jenny Haruyama, Administrative Services Director  
Reviewed by: Andrew Malik, Development Services Director  
                  Maria A. Hurtado, Assistant City Manager  
Approved by: R. Leon Churchill, Jr., City Manager

#### ATTACHMENTS

Attachment 1: Resolution Approving Local Goals and Policies for Community  
Facilities Districts (CFDs)  
Exhibit A: Proposed Council Policy A-4: Local Goals and Policies for Community  
Facilities Districts (CFDs)  
Attachment 2: General Plan Goals, Policies and Implementation Measures Associated  
with Public Services and Fiscal Impacts

RESOLUTION \_\_\_\_\_

ADOPTING LOCAL GOALS AND POLICIES FOR COMMUNITY FACILITIES DISTRICTS

WHEREAS, This Council is intending to consider the conduct of proceedings under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5, commencing with Section 53311 of Part 1, Division 2, Title 5 of the California Government Code) (the "Act"), and

WHEREAS, Under the Act, local agencies may initiate proceedings to establish a community facilities district under the Act (a "CFD") only if it has first considered and adopted local goals and policies, and

WHEREAS, The City's previous CFD policy was adopted in 1998 (Resolution No. 98-020) and repealed in 2012 (Resolution 2012-221), and

WHEREAS, Since 1998, however, the Act has been amended to require local agencies to address additional subject matters in its local goals and policies and the City wishes to establish new local goals and policies, and

WHEREAS, A form of the Local Goals and Policies for Community Facilities Districts (the "Goals and Policies") is on file with the City Clerk;

NOW THEREFORE BE IT RESOLVED, That the City Council adopts the Goals and Policies as reflected in Exhibit A for purposes of compliance with the Act.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by the Tracy City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

**CITY OF TRACY  
COUNCIL POLICY B-9 AMENDED**

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SUBJECT: Council Policy A-4: Amended Local Goals and Policies for Community Facilities Districts (CFDs)

AUTHORIZATION: Resolution No. \_\_\_\_

EFFECTIVE DATE: January 7, 2014

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**I. GENERAL.**

Section 53312.7(a) of the California Government Code requires that the City of Tracy (the "City") consider and adopt local goals and policies concerning the use of the Mello-Roos Community Facilities Act of 1982 (the "Act") prior to the initiation of proceedings on or after January 1, 1994 to establish a new community facilities district ("CFD") under the Act.

These Amended and Restated Local Goals and Policies for Community Facilities Districts (the "Policies") amend and restate the City's Council Policy B-9, adopted by the City Council on January 20, 1998, and provide guidance and conditions for the conduct by the City of proceedings for, and the issuance of bonds secured by special taxes levied in, a community facilities district ("CFD") established under the Act. The Policies are intended to be general in nature; specific details will depend on the nature of each particular financing. The Policies are applicable to financings under the Act and are intended to comply with Section 53312.7 (a) of the Act. These Policies shall not apply to any assessment financing or any certificate of participation or similar financings involving leases of or security in public property. The Policies are subject to amendment by the City Council at any time.

**II. FINANCING PRIORITIES.**

Eligible Facilities. Except as otherwise permitted by the Act, the improvements eligible to be financed by a CFD must be owned by a public agency or public utility and must have a useful life of at least five years, except that up to 10% of the proceeds of an issue may be used for facilities owned and operated by a privately-owned public utility. The development proposed within a CFD must be consistent with the City's general plan and must have received any required legislative approvals such as zoning or specific plan approvals. A CFD shall not vest any rights to future land use on any properties, including those that are responsible for paying special taxes.

The eligible public facilities include, but are not limited to, those listed in the Act.

It is acknowledged that the Act permits the financing of fee obligations imposed by governmental agencies the proceeds of which fees are to be used to fund public capital improvements of the nature listed above. The City will consider an application to finance fee obligations on a case-by-case basis. The City will prioritize financing fees to be paid to the City because of the administrative burden associated with financing fees payable to other local agencies.

The funding of public facilities to be owned and operated by public agencies other than the City shall be considered on a case-by-case basis. If the proposed financing is consistent with a public

facilities financing plan approved by the City, or the proposed facilities are otherwise consistent with approved land use plans for the property, the City shall consider entering into a joint financing agreement or joint powers authority in order to finance these facilities. A joint agreement with the public agency that will own and operate any such facility must be entered into at the time specified in the Act.

A CFD may also be formed for the purpose of refinancing any fixed special assessment or other governmental lien on property, to the extent permitted under the Act, as applicable.

Priority Facilities. Priority for CFD financing of public facilities shall be given to public facilities that: (a) are necessary for development to proceed in an orderly fashion, or (b) are otherwise coordinated to correspond to the phasing of the related private development project. If appropriate, the City shall prepare a public facilities financing plan as a part of the specific plan or other land use document that identifies the public facilities required to serve a project, and the type of financing to be utilized for each facility.

Eligible Services; Priority Services. The services eligible to be financed by a CFD (the "Services") are those identified in the Act. Subject to the conditions set forth in the Act, priority for public services to be financed by a CFD shall be given to services that (a) are necessary for the public health, safety and welfare and (b) would otherwise be paid from the City's general fund. The City may finance services to be provided by another local agency if it determines the public convenience and necessity require it to do so, although the City prioritizes financing services to be provided by the City. If appropriate, the City shall prepare a public services financing plan as a part of the specific plan or other land use document that identifies the public services required to serve a project, the source of funding for each such service and the incremental services to be financed by property owner(s).

Eligible Private Facilities. Financed improvements may be privately owned in the specific circumstances, and subject to the conditions, set forth in the Act.

### **III. BOND FINANCINGS; CREDIT QUALITY.**

Value-to-Public Lien Ratio. All CFD bond issues should have at least a three to one property value to public lien ratio after calculating the value of the financed public improvements to be installed, unless otherwise specifically approved by the City Council as provided in Section 53345.8(b) or (c) of the Act. Property value may be based on either an appraisal (as described in VI below) or on assessed values as indicated on the county assessor's tax roll. The public lien amount shall include the bond issue currently being sold plus any public indebtedness secured by a lien on the properties to be taxed.

Entitlement Status. Except as otherwise approved by the City Council, the City will require all major land use approvals and governmental permits necessary for development of land in the CFD to be substantially in place before bonds may be issued.

Reserve Fund. Where appropriate, the City will require a reasonable debt service reserve fund, which will typically be funded with proceeds of bonds issued for the CFD.

Failure to Meet Credit Criteria. Less than a three to one property value to public lien ratio, excessive tax delinquencies, or projects of uncertain economic viability may cause the City to disallow the sale of bonds or require credit enhancement prior to bond sale. The City may consider exceptions to the above policies for bond issues that do not represent an unusual credit risk, either due to credit enhancement or other reasons specified by the City, and/or which otherwise provide extraordinary public benefits, to the extent permitted by and subject to any applicable requirements of the Act.

If the City requires letters of credit or other security, the credit enhancement shall be issued by an institution, in a form and upon terms and conditions satisfactory to the City. Any security required to be provided by the applicant may be discharged by the City upon satisfaction of the applicable credit criteria specified by the City.

As an alternative to providing other security, and subject to federal tax law, the applicant may request that a portion of the bond proceeds be placed in escrow with a trustee or fiscal agent in an amount sufficient to assure the financing will meet the applicable credit criteria, including, but not limited to, meeting a value-to-lien ratio of at least three to one on the outstanding proceeds. The escrowed proceeds shall be released at such times and in such amounts as may be necessary to assure the applicable credit criteria has been met.

The City will work with its legal counsel, financial advisors and bond underwriters to ensure that bond financings are structured so that bonds are purchased and owned by suitable investors.

#### **IV. DISCLOSURES**

Purchasers of Property. As a minimum, any disclosures mandated by applicable state law to inform prospective purchasers of their obligations under the CFD shall apply to each CFD. In addition, there may be additional requirements mandated by the City for particular kinds of financings on a case-by-case basis. The City may prescribe specific forms to be used to disclose the existence and extent of obligations imposed by CFD.

Disclosure Requirements for the Resale of Lots. The City shall provide a notice of special taxes to sellers of property (other than developers) which will enable them to comply with their notice requirements under Section 1102.6 of the Civil Act. This notice shall be provided by the City within five working days of receiving a written request for the notice. A reasonable fee may be charged for providing the notice, not to exceed any maximum fee specified in the Act.

Continuing Bond Disclosure. Landowners in a CFD that are responsible for 10% or more of the annual special taxes must agree to provide: (i) initial disclosure at the time of issuance of any bonds; and (ii) annual disclosure as required under Rule 15c2-12 of the Securities Exchange Commission until the special tax obligation of the property owned by such owner drops below 10%.

#### **V. EQUITY OF SPECIAL TAX FORMULAS AND MAXIMUM SPECIAL TAXES**

Minimum Special Tax Levels. Special tax formulas shall provide for minimum special tax levels which satisfy the following payment obligations of a CFD: (a) 110% gross debt service coverage for all CFD bonded indebtedness, (b) the administrative expenses of the CFD (which may be covered in the 10% debt service coverage described in clause (a)), and (c) amounts equal to the differences between expected earnings on any escrow fund and the interest payments due on related bonds of the CFD.

In addition, the special tax formula may provide for the following to be included in the special tax levels: (a) any amounts required to establish or replenish any reserve fund established in association with the indebtedness of the CFD, (b) the accumulation of funds reasonably required for future debt service, (c) amounts equal to projected delinquencies of special tax payments, (d) the costs of remarketing, credit enhancement and liquidity facility fees, (e) the cost of acquisition, construction, furnishing or equipping of authorized Facilities, (f) lease payments for existing or future facilities, (g) costs associated with the release of funds from an escrow account, (h) the costs of Services, and (i) any other costs or payments permitted by law.

Equity of Special Tax Allocation Formula. The special tax formula shall be reasonable in allocating the CFD's payment obligations to parcels within the CFD. Exemptions from the special tax may be given to parcels which are publicly owned, are held by a property owners' association, are used for a public purpose such as open space or wetlands, are affected by public utility easements making impractical their utilization for other than the purposes set forth in the easements, or have insufficient value to support bonded indebtedness.

Aggregate Tax Burden. The total projected non-residential property tax levels for any CFD (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding property owners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) must be reasonable. The annual increase, if any, in the maximum special tax for any non-residential parcel shall not exceed any maximum specified in the Act.

The total projected residential property tax levels (including ad valorem taxes, any maintenance, landscaping or other impositions on the land in the CFD and other similar annual government charges levied on parcels in the CFD, but excluding homeowners' association annual levies and as to any special tax levies, based on the expected special tax rates and not any "back-up" special taxes) for any CFD (or, if a CFD has multiple improvement areas, for each improvement area and not the entire CFD) shall not exceed the lesser of (i) 2.0% of the estimated sales prices of the respective homes to be constructed in the CFD (with such prices to be determined by reference to an absorption study or appraisal prepared for the CFD or such other information as the City shall determine), or (ii) any maximum specified in the Act. The annual increase, if any, in the maximum special tax for any parcel shall not exceed any maximum specified in the Act. The increase in the special tax levied on any residential parcel as a consequence of delinquency or default by the owner of any other parcel shall not exceed any maximum specified in the Act.

Levy on Entire Parcels. Special taxes will only be levied on an entire county assessor's parcel, and any allocation of special tax liability of a county assessor's parcel to leasehold or possessory interest in the fee ownership of such county assessor's parcel shall be the responsibility of the fee owner of such parcel and the City shall have no responsibility therefor and has no interest therein. Failure of the owner of any county assessor's parcel to pay or cause to be paid any special taxes in full when due, shall subject the entire parcel to foreclosure in accordance with the Act.

Feasibility Analysis. The City may retain a special tax consultant to prepare a report which: (a) recommends a special tax for the proposed CFD, and (b) evaluates the special tax proposed to determine its ability to adequately fund identified public facilities, City administrative costs, services (if applicable) and other related expenditures. Such analysis shall also address the resulting aggregate tax burden of all proposed special taxes plus existing special taxes, ad valorem taxes and assessments on the properties within the CFD.

## **VI. APPRAISALS**

The definitions, standards and assumptions to be used for appraisals shall be determined by City staff on a case-by-case basis, with input from City consultants and CFD applicants, and by reference to relevant materials and information promulgated by the State of California (including, but not limited to, the California Debt Investment and Advisory Commission). The appraiser shall be selected by or otherwise acceptable to the City, and the appraisal shall be coordinated by and under the direction of, or otherwise as acceptable to, the City.

The appraisal must be dated within three months of the date the bonds are priced, unless the City Council determines a longer time is appropriate.

All costs associated with the preparation of the appraisal report shall be paid by the entity requesting the establishment of the CFD, if applicable, through the advance deposit mechanism described below.

## **VII. CITY PROCEEDINGS.**

Petition. For new development projects, a petition meeting the requirements of the applicable authorizing law will be required. The applicant is urged to obtain unanimous waivers of the election waiting period. In applying to the City for formation of a CFD, the applicant must specify any reasonably expected impediments to obtaining petitions, including from co-owners and/or lenders of record (where required). Waiver of the petition shall be made only upon showing of extraordinary hardship. For existing development, petitions are preferred, but may be waived, depending on the nature of the project and degree of public importance.

Deposits and Reimbursements. All City staff and consultant costs incurred in the evaluation of CFD applications and the establishment of the CFD will be paid by the entity, if any, requesting the establishment of the CFD by advance deposit increments. The City shall not incur any expenses for processing and administering a CFD that are not paid by the applicant or from CFD bond proceeds. In general, expenses not chargeable to the CFD shall be directly borne by the proponents of the CFD.

Any petition for formation of a CFD shall be accompanied by an initial deposit in the amount determined by the City to fund initial staff and consultant costs associated with CFD review and implementation. If additional funds are needed to off-set costs and expenses incurred by the City, the City shall make written demand upon the applicant for such funds. If the applicant fails to make any deposit of additional funds for the proceedings, the City may suspend all proceedings until receipt of such additional deposit.

The City shall not accrue or pay any interest on any portion of the deposit refunded to any applicant or the costs and expenses reimbursed to an applicant. Neither the City nor the CFD shall be required to reimburse any applicant or property owner from any funds other than the proceeds of bonds issued by the CFD or special taxes levied in the CFD.

Representatives. The applicant shall each designate a representative for each financing district proceeding. The representative shall be responsible for coordinating the activities of the applicant and shall be the spokesperson for each the applicant. The purpose of this requirement is to avoid duplication of effort and misunderstandings from failure to communicate effectively.

Time Schedule. The final schedule of events for any proceeding shall be determined by the City, in consultation with its financing team and the applicant. Any changes will require approval by the appropriate City official. Time schedules will (unless specific exceptions are allowed) observe established City Council meeting schedules and agenda deadlines. To the extent possible, financings will be scheduled to allow debt service to be placed on the tax rolls with a minimum of capitalized interest.

## **VIII. FINANCING TERMS**

All terms and conditions of any CFD bonds shall be established by the City. The City will control, manage and invest all CFD issued bond proceeds. Each bond issue shall be structured to adequately protect bond owners and to not negatively impact the bonding capacity or credit rating of the City through the special taxes, credit enhancements, foreclosure covenant, and reserve funds.

All statements and material related to the sale of bonds shall emphasize and state that neither the faith, credit nor the taxing power of the City is pledged to security or repayment of the Bonds. The sole source of pledged revenues to repay CFD bonds are special taxes, bond proceeds and reserve funds held under the bond document, and the proceeds of foreclosure proceedings and additional security instruments provided at the time of bond issuance.

The City shall select all consultants necessary for the formation of the CFD and the issuance of bonds, including the underwriter(s), bond counsel, disclosure counsel, financial advisors, appraiser, market absorption/pricing consultant and the special tax consultant. Prior consent of the applicant shall not be required in the determination by the City of the consulting and financing team.

## **IX. EXCEPTIONS TO THESE POLICIES**

The City may find in limited and exceptional instances that a waiver to any of the above stated policies is reasonable given identified special benefits to be derived from such waiver. Such waivers only will be granted by action of the City Council.

**Attachment 2**

<b>General Plan Goals, Policies &amp; Implementation Measures Associated with Public Services and Fiscal Impacts</b>	
<b>City/County</b>	<b>General Plan Goals, Policies and Implementation Measures</b>
County of San Joaquin	<p><b><u>Chapter IV, Policy 17:</u></b></p> <ul style="list-style-type: none"> <li>a) Funding Program. The County shall determine costs of development and establish a comprehensive program to fund infrastructure and services.</li> <li>b) Fiscal Impact Assessment. Assessments of all projects shall include an analysis of the project’s impact on public facilities, its fiscal impact, and measures to mitigate impacts.</li> <li>c) Impact Fees. The County shall adopt development impact fees for infrastructure and services.</li> </ul>
County of Placer	<p><b><u>Goal 4.A:</u></b> To ensure the timely development of public facilities and the maintenance of specified service levels for these facilities.</p> <p><b><u>Goal 4.B:</u></b> To ensure that adopted facility and service standards are achieved and maintained through the use of equitable funding methods.</p> <p><b><u>Policy 4.B.3:</u></b> The County shall require, to the extent legally possible, that new development pay the cost of providing public services that are needed to serve the new development; exceptions may be made when new development generates significant public benefits (e.g., low income housing, needed health facilities) and when alternative sources of funding can be identified to offset foregone revenues.</p> <p><b><u>Policy 4.B.6.</u></b> The County shall require the preparation of a fiscal impact analysis for all major land development projects. The analysis will examine the fiscal impacts on the County and other service providers which result from large-scale development. A major project is a residential project with 100 or more dwelling units or mixed use projects, including specific plans with 100 or more dwelling units and 10 acre or more of non-residential land uses (exclusive of open space/greenbelt).</p> <p><b><u>Policy 4.B.7:</u></b> The County may require the preparation of an economic, market or fiscal impact analysis for commercial, professional office or industrial development on 10 or more acres of land. The determination to prepare an analysis will be based upon the potential for a project to impact County facilities and services or cause an economic impact in the community in which the land use is to be established.</p>
City of Modesto	<p><b><u>Chapter VII, Section T, 1.d.(2):</u></b> Evaluate the fiscal impact and timing of needed capital improvements to minimize the burden on operations and maintenance budgets.</p>
City of Oakdale	<p><b><u>Goal EV-1:</u></b> Sustainable fiscal management practices that strengthen the City’s ability to support essential public services and a high quality of life.</p> <p><b><u>Policy EV-1.2 Revenues and Services:</u></b> Balance projected revenues with sustainable levels of public services, including adequate reserves and replacement funds.</p> <p><b><u>Policy EV-1.4 Financial Strategy:</u></b> Utilize a range of financing approaches and mechanisms to develop, maintain and operate public infrastructure and services.</p>

## Attachment 2

	<p><b>Policy EV-1.6 Fee and Funding Programs:</b> Structure the City’s fees, special assessments and taxes, utility rates, and user charges to ensure that new development pays its fair share of the costs of constructing, maintaining and rehabilitating City facilities and infrastructure.</p> <p><b>EV-1.9 Fiscal Impacts:</b> Evaluate the fiscal impacts of new specific plans and other large-scale developments, including impacts by phase when appropriate. Ensure that such projects generate the revenue necessary to fully fund required public services and avoid a decline in City service levels over time.</p>
City of Stockton	<p><b>Policy PFS-1.2:</b> The City shall not expand the Urban Service Area without ensuring adequate funding for services and facilities for newly expanding areas.</p> <p><b>Implementation Measure #24:</b> The City shall conduct an assessment of proposed expansion areas, including Village areas, to determine where fees need to be levied for new and expanded public service and utility infrastructure including, but not limited to, fire stations and equipment, police stations and equipment, utility infrastructure, recreation facilities and parks, and library facilities. Fees should be based on initial facility and equipment costs as well as operations and long-term maintenance and replacement.</p>
City of Lathrop	<p><b>Part VII:</b> The City provides services to the people, and regulates certain activities for the common good. Therefore, the most important decisions the City will make will be those that determine which services will be provided and which level or standard of service will prevail. The framework for the systematic provision of needed public services is the Financial Plan. From the vantage point of the citizen, the Financial Plan provides an understanding of the fiscal requirements for meeting the needs for and maintaining public services and capital improvements. Utilized to its full potential, the Plan will permit gradual achievement of community goals while avoiding an atmosphere of crisis which can arise when revenues and spending are projected only on an annual basis. From the vantage point of the City Council and City Manager, the Financial Plan becomes an essential device for policy decision and the effective and efficient management of City affairs. It provides a consistent means to examine needs, to evaluate their relative importance in relation to policies of the General Plan, and to determine which needs can be met within the limitations of financial resources and the ability and willingness of the community to pay for them.</p>
City of Folsom	<p><b>Goal 40:</b> To set targets for the ultimate build-out of the City, to plan for the provision of public facilities and services to meet this level of development and to phase development according to the capacity of public facilities and services to meet those targets.</p> <p><b>Policy 40.2:</b> The City shall require the preparation of a facilities plan for an identified area when: (1) Development of an area necessitates the provision extension and/ or expansion of municipal services and facilities which are not customarily constructed by a developer; or (2) there is a need for services or facilities not otherwise funded by regular City fees; or (3) the construction of the necessary services and facilities cannot be logically or economically provided by one landowner/developer in the normal sequence of orderly development.</p>

February 4, 2014

## AGENDA ITEM 6

### REQUEST

#### **RECEIVE AND DISCUSS THE GRAND THEATRE CENTER FOR THE ARTS ANNUAL REPORT AND ACCEPT THE GRAND FOUNDATION'S FISCAL YEAR 2013-2014 ANNUAL UNDERWRITING SUPPORT AND APPROVE SUPPLEMENTAL APPROPRIATION OF PROCEEDS FOR PROGRAMMING AND TECHNICAL SUPPORT AT THE GRAND THEATRE CENTER FOR THE ARTS**

### EXECUTIVE SUMMARY

Staff is presenting an overview of the sixth year of operations and the upcoming seventh year operations of the Grand Theatre Center for the Arts. In addition, staff is requesting that Council accepts and approves a supplemental appropriation of funding from the Grand Foundation for programming and technical support expenditures for Fiscal Year 2013-2014.

### DISCUSSION

The Grand Theatre Center for the Arts is entering its seventh year of programming and operations. September 2013, kicked off a new season of programming and presentations. Over the past six months the Grand Theatre Center for the Arts has increased performance attendance and visibility in Tracy and surrounding communities. The Grand Foundation has played a significant role in bringing in new guests to the Theatre through their newly launched Membership Program that began in August, 2013.

There have been significant changes in staff reorganization, increased and diversified marketing efforts and an increased and strengthened collaboration with the Grand Foundation, which has resulted in greater efficiencies, streamlining processes and increased revenue for the Theatre Presentations and Rentals.

Attachment A is a summary of 2012-2013 fundraising and operations of the Grand Foundation that will be presented by the Grand Foundation at the conclusion of staff's report.

### **2012/2013 PRESENTING SEASON**

The Grand Theatre Center for the Arts' sixth Presenting Season featured a diverse set of offerings from September through May in the Eleni Tsakopoulos-Kounalakis (ETK) Theatre and the Studio Theatre. The Season's top headliner, the Willie Nelson Family Band sold 992 tickets over its two day concert performance. Other notable performances included; the Frank D'Ambrosio's Holiday Show, the Sun Kings, Broadway by Jeri (Sager), and Anthony Rapp's Without You that brought in together, another 539 patrons.

Additional presenting season entertainment consisted of Friday Night Jazz and Coffee Lounges, a Vaudeville Festival, Annual Haunted House, several Tribute Bands and a Cinematic Treasure Series (Movies) which rounded out the total Presenting Season

attendance to a total of 5,356 patrons for 2012/2013. There was \$151,573 in gross revenue generated for Fiscal Year 2012/2013.

### **2012/2013 COMMUNITY AND COMMERCIAL RENTALS**

The Grand Theatre Center for the Arts' community and commercial rentals totaled 53 in its sixth year. Attendance for Community and Commercial presentations totaled 10,570 with the largest attendance being the Annual Nutcracker performances in December.

Rentals have continued to decline since FY 2010/2011. The lower number could be attributed to the increased number of presenting season offerings or the number of community groups that utilize rehearsal space for their community performances. Gross revenue for Community and Commercial rentals totaled \$115,434.

### **2012/2013 GRAND GALLERIES**

The Exhibitions Program (EP) presented five feature exhibitions in the Souza and GWF Energy Galleries collaborating with 98 artists and lenders. In addition, the EP managed Art Co-Opted, a curated sales cooperative, in the Matthews Gallery working with over 40 artists. Gallery attendance grew to 7,598 visitors (averaging 53 daily and 276 weekly), an increase of 932 visitors from the 2011-12 Exhibition Season. EP revenues exceed projections of \$6,000 with \$7,624 in sales, an increase of 27% and \$31,591 in Creative Work Fund Grant support. In addition, the Program received \$2,500 in underwriting support from the Grand Foundation.

The 2012-13 Exhibition Season featured two high profile group exhibitions, opening with *Contemporary Fiber Works by California Fiber Artists* and *Animals in Clay* curated by *Evan Hobart* early 2013. Both of these dynamic exhibits included interactive gallery talks and drew visitors from across the state of California into our community.

In 2012 the EP, working artist Anné Klint, received a prestigious grant in media arts from The Creative Work Fund, a program of the Walter and Elise Haas Fund supported by the generous grants from ArtPlace, The William and Flora Hewlett Foundation, and the James Irvine Foundation. The award totaled \$31,591 designating the Grand Theatre Center for the Arts as the first organization in San Joaquin County to receive CWF support. Ms. Klint was Artist-In-Residence in October working on a community-based media project entitled *Inhabit Your City: Voices of Tracy*.

In March of 2013, the EP continued its successful collaboration with the Tracy Art League to present the 4<sup>th</sup> annual *Expressions! Selections* exhibit curated by staff.

In June and July, the *Voices of Tracy* project culminated with a documentary screening, feature exhibition, time-based video project on Central Avenue, and interactive gallery talk and panel discussion. Nearly 100 community members contributed to the project including those impacted by the historic home foreclosures, real estate agents, community leaders, musicians, poets, and visual artists. The project received critical acclaim throughout the region and from as far away as New York University. In addition,

a limited edition project archive was accessioned into the library collection of the San Joaquin Historical Society and Museum.

### **2012/2013 ARTS EDUCATION**

In 2012-13, the Arts Education Program (AEP) served 1,723 students through classes, workshops, camps, and special events to participants of all ages in Dance, Drama, Music, and Visual Arts. The AEP generated \$109,992 in revenues in comparison to FY 2012-2011 which was \$127,784 and was budgeted to generate \$148,000 for 2012-2013. The AEP also received \$18,000 of underwriting support from the Grand Foundation.

Dance, Music, and Drama offerings declined, largely due to the departure of instructors, and the lingering effects of the economic recession. Meanwhile the numbers of Workshops and Camps held increased. In Visual Arts, ceramics offerings and enrollments were boosted through the recruitment of new instructors, strategic underwriting of classes with the generous support of the Grand Foundation, and energetic promotion of new classes to families in Tracy. In October 2012, the AEP in collaboration with the South Side Community Association created the first-ever programming at the Grand to commemorate the Day of the Dead, a traditional Mexican and Mexican-American holiday coinciding with Halloween. Programming consisted of several free hands-on workshops for children and adults, as well as an altar dedicated to the Latino railroad workers and their families who laid the foundations of Tracy's modern life, and a community altar open to any Tracy resident's participation.

In March 2013, the Grand Foundation's Arts Education Advisory Committee provided valuable feedback to the program in its consideration of new classes and other activities proposed by new and continuing instructors. In 2012-13 the AEP inaugurated a monthly e-newsletter and re-configured its online resources to include additional information about the program, news and events, current instructors, and easier access to detailed class information.

### **CURRENT FISCAL YEAR 2013/2014 PROGRAMMING**

The Presenting Season kicked off on September 13, 2013, with stand-up comedian, actor and producer, Drew Carey. The season continued with 5 Grammy Award Winner and rock blues icon Robert Cray, which was close to a sell-out on Tuesday, September 24, with 503 tickets sold. The success continued with solo country artist, Uncle Kracker and NBC's "The Voice" semifinalists, the Swon Brothers.

Community Co-presents included Mariachi Sol De Mexico on October 19, presented by the City of Tracy and the Tracy Chamber of Commerce was a complete sell-out at 545 tickets. Happy Diwali, Festival of Lights October 26, was also a highly attended performance that celebrated cultural and traditional Indian music and dance, with a touch of Bollywood.

Jazz Nights, presented with Main Street Music which are held the 4<sup>th</sup> Friday of each month in the Lobby of the Grand Theatre have become so increasingly popular, patrons are sometimes left with standing room only as an option to attend the event.

Holidays at the Grand in December rounded out the first four months of the 2013/2014 Presenting Season with Cirque Du Noel, December 8, and the Nutcracker Ballet presented by The Children's Dance Theatre of Tracy and the City of Tracy on December 21 and 22, 2013.

January 11, 2014, kicked off the new year with Blues and Brews Night featuring Chris Cain and the Daniel Castro Band. The first four months of the 2013/2014 Presenting Season, mid-September - mid January resulted in 3,736 tickets being sold and \$140,865 in gross revenue generated, which currently meets the projected revenue for the entire 2013/2014 fiscal year. Staff projects we will exceed all revenue projections for the Presenting Season.

The remaining season consists of the following: Cabaret Night, Sun Kings- Tribute to the Beatles, Trailer Park Troubadours, The Freedom Riders (Celebrating Black History Month), Brubeck Institute and Jazz Reach Concert, Charlotte's Web, Alice in Wonderland and the Mad Hatter's Tea Party, Under the Tuscan Sun (The Movie) together with Wine and Food Tastings, the Grand Foundation's Fundraising Event "Dancing With Your Stars" and a Spring performance to be announced soon.

Community Rentals are steady with currently \$53,758 being generated to date and \$65,000 being projected for the 2013/2014 fiscal year. The majority of rentals take place in the spring months. Staff expects to exceed revenue projections for the current fiscal year.

In the fall 2013 the AEP initiated and co-organized South Indian dance workshops cross-collaborating with the Presenting Program featuring the Diwali Festival of Lights. In October, the AEP offered a second year of free Day of the Dead programming with increased participation from visual arts workshops, Mexican folkloric dance performances in the Studio Theatre and Lobbies, and a community altar. In early 2014, the AEP will collaborate again with the Presenting Program to offer master classes and educational support to the Brubeck Institute Jazz Reach, Pacific Coast Horns, and Freedom Riders. The AEP will join with the Exhibitions Programs in support of spring and summer workshop and residency events.

The AEP is working to expand enrollments by increasing the number of culturally relevant offerings including bilingual classes and workshops. In 2014, the AEP will increase the number of Spring Break and Summer Camp offerings for children and youth, perennially popular offerings.

The 2013-14 Exhibition season presents five feature exhibitions in the Souza and GWF Energy Galleries and continues on-going operations of Art Co-Opted in the Mathews Gallery. The season opened in September with a unique retrospective of calligraphy /western United States including California, Oregon, Washington, Colorado, and Nevada

traveled to experience the life's work of, and to reconnect with, Emeritus Professor Lewis. As part of the annual Holidays at the Grand programming, over 40 artists participated in Co-Op exhibition in November and December with 90 works selling across four weeks.

In February the EP presents a body of collage-based works by local favorite Angela Johal of Livermore. Ms. Johal will offer a series of special events including hands-on workshops for children/families and artists. March brings the 5<sup>th</sup> offering of *Expressions! Selections* with the Tracy Art League, and the summer of 2014 will feature the return of the artists-in-residence programming with Bay Area and Central Valley artists working in our community to create educational and fun experiences.

### STRATEGIC PLAN

1. This agenda items supports the Quality of Life Strategy, specifically:

**Goal 1:** Improve current recreation and entertainment programming & services to reflect the community and match trending demands.

Objective 3: Align recreation and cultural arts services & programs to match demographics, evaluation feedback and trends.

2. This agenda item also supports the Economic Development Strategy, specifically:

**Goal 2:** Attract retail and entertainment uses that offer resident's quality dining, shopping and entertainment experiences.

Objective 2: Increase the entertainment and recreational opportunities and events that draw people into Tracy.

### FISCAL IMPACT

Acceptance of programming and technical underwriting support from the Grand Foundation to the Cultural Arts Division, for the 2013/2014 Fiscal Year will result in an appropriation of \$25,450 to the Cultural Arts Division.

### RECOMMENDATION

Staff recommends that Council accepts the Grand Theatre Center for the Arts Annual Report and accepts the Grand Foundation's Fiscal Year 2013-2014 Annual Underwriting support and approves supplemental appropriation of proceeds for programming and technical support at the Grand Theatre Center for the Arts.

Agenda Item 6  
February 4, 2014  
Page 6

Prepared by: Kim Scarlata, Recreation Services Program Manager

Reviewed by: Jenny Haruyama, Administrative Services Director  
Maria A. Hurtado, Assistant City Manager

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

ATTACHMENTS

Attachment A – Summary of 2012-2013 fundraising and operations

**Grand Foundation**

**FY 2012-2013 Annual Report to the City of Tracy**

Each calendar year the Grand Foundation will provide an annual written report to the City of Tracy that summarizes the prior fiscal year activities of fundraising and operations. The following is the Grand Foundation's Annual Report for fiscal year 2012 through 2013:

**Role**

The primary purpose of the Grand Foundation is to enrich community life in the City of Tracy by promoting, preserving, and perpetuating the arts.

**Goal**

To work as a partner with the City of Tracy on our joint vision to make the Grand Theatre Center for the Arts a leading regional center for the arts.

**Activities**

Undertake responsibility for the following committees:

**Programming & Community Relations**

Committee consists of five members including chair. Committee has conducted community outreach surveys at various times throughout the year to include the Vaudeville Festival, Bean Festival and various presenting season events held at the Grand.

The Committee also meets semi-annually with the Grand staff to collaborate on presenting season selections, arts education class offerings, and gallery exhibitions.

**Fundraising & Membership (Resource Development)**

Committee consists of six members including chair. This committee created the membership program and is currently working on a spring fundraiser.

**Board Development**

The Committee continues to identify potential new board members to grow a diverse representation of the board to further the missions of the Foundation and the Grand.

**Volunteer Management**

The Volunteer management remains under the direction of the Grand Theatre staff.

**Foundation Employee**

Due to the growth of the Foundation a part time employee has been hired to coordinate executive board meetings, general board meetings, committee meetings and activities/events, oversee membership program, and concession management for the Foundation.

**Activities continued:**

Conduct Membership Campaign

The membership campaign was launched August 9, 2013 with a membership event at the Grand. The membership program consists of five levels of membership ranging from a \$50.00, Friend of the Grand, to a \$1,000, Grand Seat Patron, membership. All members of the Grand Foundation board currently participate in the membership program and the program continues to grow every month with membership from the community.

Fundraising

A fundraising event is scheduled for April 12, 2014 at the Grand with a fundraising goal of \$50,000.

A seat campaign will follow in the summer/fall of 2014.

**Finances**

Endowment

The Foundation has established an endowment through the Community Foundation of San Joaquin with an initial investment of \$5,000. In the 2013/2014 fiscal year, the endowment investment will be \$20,000.

Underwriting

The City Staff annually presents an estimated and prioritized set of funding requests for the Foundation's review for underwriting support. Following is the 2013/2014 list of items to be underwritten by the Grand Foundation.

Performing Arts Program:

Freedom Riders Performance—February 20, 2014	\$ 1,200
Blues & Brews Concert—January 11, 2014	\$ 2,500
Spring Concert—TBD	\$ 5,000

Arts Education Program (AEP):

Supplemental Marketing of AEP offerings	\$ 750
Pacific Coast Horns Wind Quintet	\$ 2,000
Renovation of AEP Drama Instruction	\$ 1,000
AEP Media Library Support	\$ 500
AEP classes in Dance	\$ 3,000
Artist teaching Artist Dance workshop	\$ 500
AEP classes in Drama	\$ 3,000
AEP classes in Music	\$ 3,000
AEP classes in Visual Arts	\$ 3,000

**Total underwriting donation by the Grand Foundation: \$25,450**

RESOLUTION \_\_\_\_\_

RECEIVING THE GRAND THEATRE CENTER FOR THE ARTS ANNUAL REPORT AND  
ACCEPTING THE GRAND FOUNDATION'S FISCAL YEAR 2013-2014 ANNUAL  
UNDERWRITING SUPPORT AND APPROVING A SUPPLEMENTAL APPROPRIATION OF  
PROCEEDS FOR PROGRAMMING AND TECHNICAL SUPPORT AT THE GRAND THEATRE  
CENTER FOR THE ARTS

WHEREAS, Staff is presenting an overview of the sixth year of operations and the  
upcoming seventh year operations of the Grand Theatre Center for the Arts, and

WHEREAS, Over the past six months the Grand Theatre Center for the Arts has  
increased performance attendance and visibility in Tracy and surrounding communities, and

WHEREAS, Staff is requesting that Council accepts and approves a supplemental  
appropriation of funding of \$25,450 from the Grand Foundation for programming and technical  
support expenditures for Fiscal Year 2013-2014;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby accepts the  
Grand Foundation's Fiscal Year 2013-2014 Annual Underwriting Support and approves  
supplemental appropriation of proceeds for programming and technical support at the Grand  
Theatre Center for the Arts.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was passed and adopted by the Tracy City Council  
on the 4th day of February, 2014, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 7

REQUEST

**ADOPT A RESOLUTION AUTHORIZING THE CITY MANAGER TO TERMINATE THE FUEL SALES AND FUEL FACILITY LEASE AGREEMENT BETWEEN THE CITY OF TRACY AND TURLOCK AIR CENTER, LLC**

EXECUTIVE SUMMARY

On October 18, 2011, the City entered into an agreement with Turlock Air Center, LLC doing business as Tracy Air Center, ("TAC") to serve as a Fuel Sales Operator and assume full responsibility for the operations of the fuel facility. TAC is currently not in compliance with the terms of the agreement and has defaulted on several contractual items. Per the provisions of the contract, staff recommends that Council authorize the City Manager to terminate the agreement.

DISCUSSION

On October 18, 2011, the City entered into a Fuel Sales Operator and Fuel Facility Lease Agreement ("Original Agreement") with TAC to oversee the airport fuel service operation. The Original Agreement was amended on June 18, 2013, ("Amendment"). The Original Agreement along with the City Council Amendment are referred to here as the "Agreement".

Since the Agreement was entered into, TAC has been in default of numerous of its requirements. Staff has on a number of occasions provided TAC written notice of its failure to comply with the terms of the Agreement. Most recently, TAC was hand delivered a notice of default on October 31, 2013, outlining requirements of the Agreement that TAC has failed to comply with (see Attachment A). Since that time, these deficiencies have not been cured by TAC.

Therefore, staff is recommending that the City Council adopt a resolution authorizing the City Manager to send a Notice of Termination to TAC pursuant to section 24 of the Agreement.

If the Agreement is terminated, City staff would assume full responsibility for the operations of the fuel facility and assess other options for managing the facility. Staff would then return to the City Council at a later date with a recommended long term Airport Fuel Facility Management Plan.

It should also be noted that staff understands that the status of TAC as a limited liability company has been suspended by the State and was at the time it entered into the Amendment. Therefore, TAC did not have the legal authority to enter into the Amendment, and, at the City Council's discretion, it could be voided. However, TAC's current suspended status is not relevant to staff's recommendation that the City terminate the entire Agreement for noncompliance, including the Amendment.

### STRATEGIC PLAN

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

### FISCAL IMPACT

Under the terms of the agreement, TAC is required to make an annual payment of \$50,000, due by April 1. To date, the City has not received payment, for the current fiscal year, which would normally be counted as revenue to the Airport Fund. If funds are not received, the Airport Fund will not realize its anticipated revenue for FY13/14. Further, should the Council direct staff to manage the Airport Fuel Facility, the City would incur additional operational costs that cannot be absorbed by the Airport Fund. These costs would be identified and brought back to Council for consideration at a future Council meeting.

### RECOMMENDATION

That City Council adopt a resolution authorizing the City Manager to send a notice of Termination to TAC, LLC.

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: David Ferguson, Public Works Director  
Dan Sodergren, City Attorney  
Maria A. Hurtado, Assistant City Manager

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

### ATTACHMENTS

Attachment A – Defaulted Provisions of the Agreement

## ATTACHMENT A

### DEFAULTED PROVISIONS OF THE AGREEMENT

1. Section 12 of the Agreement provides that “[t]he maintenance and operation of facilities on the Fuel Facility shall at all times during the term of this Agreement be under the direct supervision of Lessee or a competent representative of the Lessee, who shall be subject at all times to the direction and control of the Lessee.”

This requirement is also set forth in section 29.19: “Lessee shall also provide a responsible person at the Fuel Facility to supervise the operations during all business hours.” Although the requirement for fuel trucks was removed in the recent Amendment to the Agreement, the above language is still in effect.

The fuel facility is not currently, and has not been, under direct supervision.

2. Section 21.4.3 of the Agreement provides that “[m]echanical or other problems preventing customers from obtaining Fuel Services (either AvGas or Jet Fuel) must be fixed or repaired within twenty-four hours.

Section 24.1.7 of the Agreement provides that TAC’s “failure to repair mechanical or other problems preventing customers from obtaining Fuel Services (either AvGas or Jet Fuel) in accordance with the terms of this Agreement” is a default of the Agreement.

Pump No. 1 is and has been out of service.

3. Section 21.2.1.6 of the Agreement provides that TAC shall prepare and maintain a written Spill Prevention Contingency and Control Plan, and the approved Plan shall be kept current and a copy of the most current version shall be submitted to the Airport Manager to be kept on file.

The Plan TAC submitted is not certified by a professional engineer. The required Spill Prevention Contingency and Control Plan is not a supplement to the City’s existing plan and must be certified by a professional engineer.

4. Section 21.4.5 of the Agreement provides that TAC shall establish and complete “a safety and maintenance inspection program for the Fuel Facility including but not limited to emergency equipment including a first aid kit and fire extinguishers, and electrical, water, and septic systems.”

TAC has not established or completed the referenced program.

5. Section 21.4.6 of the Agreement requires TAC to have established and completed “the inspection program incorporated in the written Spill Prevention Contingency and Control Plan.”

TAC has not established and completed said inspection program.

6. Section 29.14 of the Agreement requires TAC to “[p]ost or otherwise make known, telephone number(s) or other contact information sufficient to permit an emergency call to Lessee and its designees. Lessee shall designate responsible persons available twenty-four hours a day for the coordination and communication of all requests from customers for assistance with problems they may be experiencing with the Fuel Facility. Lessee shall provide the Airport Manager with the names and telephone numbers of both the primary and secondary contacts.

To date, no signage or other method to make known the required contact information for customers has been installed.

7. Section 23.2.8 of the Agreement provides, in part relevant here, that TAC “shall furnish the Airport Manager with certificate(s) of insurance and original endorsements evidencing coverage required by this clause. By sending the requisite documents, the agent is certifying Lessee maintains the appropriate coverage. The documents are to be signed by a person authorized by that insurer to bind coverage and endorse policies on its behalf.”

The copy of the insurance certificate TAC submitted to City staff on September 24, 2013 did not satisfy this requirement as it did not contain original endorsements evidencing the required coverage.

8. Section 13 of the Agreement provides that TAC “shall, at all times, maintain a current list of all Aircraft positioned past Midnight on the defined Fuel Service and Short Term Aircraft Parking Areas, containing for each Aircraft, the Aircraft type (make, model), the Aircraft registration number, and contact information for the pilot and/or owner of the Aircraft if known. Lessee shall provide the Airport Manager and if requested by the Airport Manager, any SASO operating on the Airport, with a copy of such a list.”

TAC has not provided this list to the Airport Manager on a regular basis.

9. Section 19.2 of the Agreement provides that TAC “shall also provide, on a monthly basis, a report of LESSEE’s fuel flowage during the preceding month, which shall include a copy of all BOE sales tax reports filed with the State of California during the preceding month, and a copy of each delivery receipt or bill of lading from LESSEE’s fuel distributor, showing the gravity-corrected and recalibrated net quantity delivered during the preceding month.”

TAC has not provided the City with the required BOE sales tax reports or a copy of each fuel delivery receipt or bill of lading.

10. Section 21.1.4 of the Agreement provides that TAC “will maintain...annual testing and/or certification of fire extinguishers.”

Fire extinguishers located at the fuel facility do not have current certifications.

RESOLUTION \_\_\_\_\_

AUTHORIZING THE CITY MANAGER TO TERMINATE THE FUEL SALES AND FUEL FACILITY LEASE AGREEMENT BETWEEN THE CITY OF TRACY AND TURLOCK AIR CENTER, LLC

WHEREAS, On October 31, 2011, the City entered into a Fuel Sales Operator and Fuel Facility Lease Agreement ("Original Agreement") with Turlock Air Center, LLC doing business as Tracy Air Center ("TAC") to oversee the fuel service operation, maximize revenue to the City and provide a quality and cost efficient serve for airport users, and

WHEREAS, The Original Agreement was amended on July 2, 2013, ("Amendment"). The Original Agreement along with the Amendment are referred to here as the "Agreement", and

WHEREAS, Since the Agreement was entered into, TAC has been in default of numerous of its requirements. Staff has on a number of occasions provided TAC written notice of its failure to comply with the terms of the Agreement. Most recently, TAC was hand delivered a notice of default on October 31, 2013, outlining requirements of the Agreement that TAC has failed to comply with. Since then, TAC has failed to cure these deficiencies, and

WHEREAS, City Council wishes to terminate the Agreement;

NOW, THEREFORE, The Council authorizes the City Manager to send TAC a Notice of Termination under the Agreement.

\* \* \* \* \*

The foregoing Resolution \_\_\_\_\_ was adopted by City Council on the 4th day of February, 2014, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

\_\_\_\_\_  
MAYOR

ATTEST:

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

AGENDA ITEM 10.A

REQUEST

**APPOINTMENT OF CITY COUNCIL SUBCOMMITTEE TO INTERVIEW APPLICANTS FOR VACANCIES ON THE MEASURE E RESIDENTS' OVERSIGHT COMMITTEE**

EXECUTIVE SUMMARY

Request appointment of subcommittee to interview applicants to fill upcoming vacancies on the Measure E Residents' Oversight Committee.

DISCUSSION

The Measure E Residents' Oversight Committee was created on March 1, 2011, to serve in an advisory capacity to City Council and to oversee the revenues and expenses pertaining to the portion of the sales tax generated by Measure E. The City of Tracy began collection of the sales tax generated by Measure E on April 1, 2011. The authority to levy the tax imposed will expire on April 1, 2016. On March 1, 2014, terms will expire for three of the Measure E Residents' Oversight Committee members. Although the three year term for the appointed committee members will end on March 1, 2017, a year after the expiration of the collection of the sales tax, as stated in the Measure E Residents' Oversight Committee by-laws adopted by Resolution 2011-019, appointments shall be until the reporting period for the last one-half cent sales tax collected pursuant to Measure E.

The upcoming vacancies have been advertised and the recruitment closed on January 27, 2014. As of January 27, 2014, no applications have been received by the City Clerk's office. As stated in Resolution 2004-152, in the event there are not two or more applicants than vacancies, the filing deadline will be extended. The recruitment has been extended and will close on February 11, 2014. An eligibility list was established during the previous recruitment, but has since expired.

In accordance with Resolution 2004-152, a two-member subcommittee needs to be appointed to interview the applicants and make a recommendation to the full Council.

STRATEGIC PLAN

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

FISCAL IMPACT

None.

RECOMMENDATION

That Council appoint a two-member subcommittee to interview applicants for vacancies on the Measure E Residents' Oversight Committee.

Prepared by: Adrienne Richardson, Deputy City Clerk

Reviewed by: Sandra Edwards, City Clerk  
Maria A. Hurtado, Assistant City Manager

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