

Tuesday, June 16, 2015, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

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

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

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

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

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

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

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

PRESENTATIONS – Heroic Citizens
– Delta Charter Media Internship Graduates
– Introduction of New Administrative Services Director and City Engineer

1. CONSENT CALENDAR

- A. Adopt Council Minutes – Regular meeting minutes of June 2, 2015, and special meeting minutes of June 1, 2015 and closed session minutes of June 2, 2015.
- B. Authorize Amendment of the City's Classification Plan by Approving the Revision of the Civil Engineering Series Classifications of Junior Engineer (Civil), Assistant Engineer (Civil), Associate Civil Engineer and Senior Civil Engineer in the Department of Development and Engineering, and use of Flexible Staffing
- C. Approve Reemployment of Retired Employee as Temporary Project Specialist in the Tracy Fire Department
- D. Second Reading and Adoption of Ordinance 1196 an Ordinance of the City of Tracy Amending Various Sections of Chapter 11.28 Water Management of the Tracy Municipal Code
- E. Second Reading and Adoption of Ordinance 1197 an Ordinance of the City of Tracy Amending Chapter 4.20, Regulation of Massage, of the Tracy Municipal Code, in its Entirety, by Adopting a New Chapter 4.20

2. ITEMS FROM THE AUDIENCE

- 3. PUBLIC HEARING OF THE CITY COUNCIL TO CONSIDER ADOPTION OF THE CITY OF TRACY PROPOSED FISCAL YEAR 2015/16 ANNUAL CITY BUDGET AND AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 2015/16
- 4. HOLD A PUBLIC HEARING TO APPROPRIATE \$100,000 FROM THE FY 2014-15 CITIZENS' OPTION FOR PUBLIC SAFETY "COPS" GRANT PROGRAM FUNDING FOR THE PURCHASE OF RELATED EQUIPMENT AND TECHNOLOGY FOR FRONTLINE LAW ENFORCEMENT
- 5. CONDUCT A PUBLIC HEARING TO AUTHORIZE THE ACCEPTANCE AND APPROVE THE APPROPRIATION OF \$10,717 FROM THE 2015 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR THE PURCHASE OF EQUIPMENT FOR THE TRACY POLICE DEPARTMENT'S LAW ENFORCEMENT PROGRAMS

6. APPROVE AN AGREEMENT TO EXTEND TIME TO ACCEPT A LAND DEDICATION OFFER FROM SURLAND COMMUNITIES, LLC RELATED TO THE 16-ACRE LAND DEDICATION REQUIREMENT CONTAINED IN THE DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, LLC. THE ELLIS PROJECT AND DEVELOPMENT AGREEMENT SITE IS APPROXIMATELY 321-ACRES LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND LINNE ROAD
7. ADOPT THE 2015 AMENDMENT TO THE REGIONAL TRANSPORTATION IMPACT FEE PROGRAM OPERATING AGREEMENT
8. ITEMS FROM THE AUDIENCE
9. COUNCIL ITEMS
 - A. APPOINT AN APPLICANT TO THE SAN JOAQUIN COUNTY COMMISSION ON AGING
 - B. CONSIDERATION OF LEGISLATIVE RECESS - CANCELLATION OF AUGUST 2015 CITY COUNCIL MEETINGS
10. ADJOURNMENT

June 2, 2015, 7:00 p.m.

City Council Chambers, 333 Civic Center Plaza

Web Site: www.ci.tracy.ca.us

Mayor Maciel called the City Council meeting to order at 7:02 p.m. and led the Pledge of Allegiance.

The invocation was offered by Pastor Kevin James, New Creation Bible Fellowship.

Roll call found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel present. Council Member Vargas absent.

Mayor Maciel recognized the D.A.R.E graduates from Tom Hawkins, West Valley Christian and South West Elementary schools.

Mayor Maciel presented a proclamation to Marshall Rose, President – Crime Stoppers, Inc.

1. CONSENT CALENDAR

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Young to adopt the Consent Calendar with the exception of item 1C and 1F. Roll call vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent. Motion carried: 4-0-1

- A. Adopt Council Minutes – Regular meeting minutes of May 19, 2015, and special meeting minutes of May 12, 2015 and May 19, 2015 were approved.
- B. Award a Construction Contract for the MacArthur Drive 24-Inch Water Line Project – CIP 75108 to the Lowest Responsive Bidder, Authorize an Allocation of \$525,000 from SMPA Fund 352, and Authorize the Mayor to Execute the Contract – Resolution 2015-077 awarded a construction contract.
- D. Approve a Supplemental Appropriation of \$402,000 for Engineering Plan Review in the FY 14/15 City Budget – Resolution 2015-078 approved a supplemental appropriation.
- E. Authorize the Mayor to Execute an Amendment to Cooperative Agreement C-12-045 with SJCOG for Proposition 1B PTMISEA Funds to Extend the Time of the Agreement to Allow for Reimbursement from the State of California – Resolution 2015-079 authorized an amendment to Cooperative Agreement.
- G. Approve Amendment No. 2 to the Memorandum of Understanding (MOU) Between the City of Tracy and the Grand Foundation to Discontinue the Foundation's Concession Management Responsibilities and Authorize the Mayor to Execute the Amendment – Resolution 2015-080 approved amendment No. 2 to MOU between the City and the Grand Foundation.

- H. Approve Memorandum of Understanding (MOU) with California State University Stanislaus, for use of City Facilities to Administer their Executive MBA Cohort Program in Tracy; and Authorize the Mayor to Execute the MOU – Resolution 2015-081 approved MOU with California State University Stanislaus.
- I. Approve Memorandum of Understanding (MOU) With Notre Dame De Namur University, for Use of City Facilities to Administer their Bachelor of Science in Business Administration and Masters of Business Administration Degree Programs; and Authorize the Mayor to Execute the MOU – Resolution 2015-082 approved MOU with Notre Dame De Namur.
- J. Authorize the Mayor to Execute Amendments to the Mayor's Youth Community Support Network Reconnecting Our Youth Grant Agreements with Sow A Seed Community Foundation and Counseling and More, to Increase the Not to Exceed Amount to Match Available Funding from the County of San Joaquin – Resolution 2015-083 authorized execution of amendments to agreements.
- K. Accept Travel Report from City Attorney Regarding Attendance at League of California Cities City Attorney's Conference – Report accepted
- C. Adoption of the Appropriations Limit for Fiscal Year 2015-2016 for the City of Tracy

Mayor Maciel pulled this item to inquire about the difference between fees and taxes.

Allan Borwick, Budget Officer, Administrative Services, presented the staff report.

Council comments and questions followed.

ACTION Motion was made by Mayor Maciel and seconded by Mayor Pro Tem Rickman to adopt Resolution 2015-084 appropriating limits for Fiscal Year 2015-2016 for the City of Tracy. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

- F. Approve a Sponsorship Agreement for the 2015/2016 Presenting Season Programs at the Grand Theatre Center for the Arts with Singh Dental Center Whereby Singh Dental Center will Provide \$12,600 and Authorize the Mayor to Execute the Agreement

Dr. Singh pulled the item to briefly provide a brief background of herself and her practice and expressed her enthusiasm for the opportunity to partner with the City.

ACTION Motion made by Mayor Maciel and seconded by Mayor Pro Tem Rickman to adopt Resolution 2015-085 approving a sponsorship agreement. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

2. ITEMS FROM THE AUDIENCE

Sue Miller expressed concern regarding the recent fire at the Agra Marketing Business which caused many residents in that area to get sick. Ms. Miller urged the Council to consider denying renewal of Agra's contract.

Diana Milligan expressed concern regarding the odor problems caused by Agra which has prevented the residents in that area from barbequing outside their homes. Ms. Milligan urged the Council to consider denying renewal of Agra's contract which expires in September.

Margaret Briones expressed her concern regarding the City's landscaping. Ms. Briones indicated the landscaping is not done well and the company the City is using now is as bad as the previous one. Ms. Briones commented on the high volume of garage sale signs taped on light poles creating an unpleasant appeal within the City and asked what can be done about removal of those signs. Street sweeping was another concern Ms. Briones had regarding cars not being moved for cleaning. Ms. Briones added it is a waste of money for the sweeper to be out if residents are not aware of the schedule.

3. CONDUCT A PUBLIC HEARING AND ADOPT A RESOLUTION TO VACATE RIGHT-OF-WAY FOR CHABOT COURT SOUTH OF GRANT LINE ROAD AND TO RESERVE AN EASEMENT FOR PUBLIC UTILITIES AND PUBLIC ACCESS

Kul Sharma, Utilities Director, presented the staff report.

Mayor Maciel opened the public hearing. There were no speakers; Mayor Maciel closed the public hearing.

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to adopt Resolution 2015-086 to vacate Chabot Right-of-Way south of Grant Line Road and reserve an easement for public utilities and public access. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

4. PUBLIC HEARING TO CONSIDER AN APPLICATION FOR A PRELIMINARY AND FINAL DEVELOPMENT PLAN TO CONSTRUCT A 795,732 SQUARE FOOT INDUSTRIAL DISTRIBUTION BUILDING WITH CORRESPONDING PARKING AND LANDSCAPE IMPROVEMENTS AND TO CONSIDER AN AMENDMENT TO THE I-205 CORRIDOR SPECIFIC PLAN REGARDING BUILDING HEIGHT, LOCATED AT 8450 ARBOR AVENUE - APPLICANT IS DCT INDUSTRIAL OPERATING LLC; OWNERS ARE GREGG AND ROBERT CHRISTENSEN - APPLICATION NUMBERS D14-0028 AND SPA15-0002

Victoria Lombardo, Development Services Department, presented the staff report.

Applicant David Haugen, Sr. Vice President, DCT Industrial, presented a brief report to the Council.

Council comments and questions followed.

Mayor Maciel opened the public hearing.

Margaret Briones expressed concern about the landscaping improvement of this project during a drought and suggested that the applicant consider using drought tolerant turf.

Mayor Maciel closed the public hearing.

Council discussion continued.

Applicant requested to continue this item to another meeting.

ACTION Motion was made by Council Member Young and seconded by Mayor Maciel to continue this item to a later meeting date for full Council consideration. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

Mayor Maciel called a recess at 8:44 p.m.

Mayor Maciel reconvened the meeting at 8:50 p.m.

5. PUBLIC HEARING TO CONSIDER AMENDMENTS TO TRACY MUNICIPAL CODE 11.28 WATER MANAGEMENT AND IMPLEMENTATION OF PHASE III and IV WATER RESTRICTIONS Resolution 2015-088

Kul Sharma, Utilities Director, and Stephanie Reyna-Hiestand, Water Resources Coordinator, presented the staff report.

Mayor Maciel opened the public hearing

Kevin Clark owner of Fremont Pool Supply expressed concern about the water restrictions on pool owners prohibiting them to add water or refilling swimming pools and hot tubs.

Robert Tanner referenced an article in the Tracy Press about an incident where there was running water and nothing was done about it considering the severe drought. Mr. Tanner suggested should a similar future incident arise that the police inform the property authorities to shut it off.

Terrance Langley expressed that during this drought crisis the community should come together to help each other.

Mayor Maciel closed the public hearing.

Council comments and questions followed.

Nora Pimentel, City Clerk, read title of Ordinance 1196 into the record.

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to waive reading of full text of Ordinance 1196. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to introduce Ordinance 1196. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to adopt Resolution 2015-087 authorizing the implementation of Phase III and IV water restrictions. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

6. INTRODUCE ORDINANCE AMENDING CHAPTER 4.20, REGULATION OF MASSAGE, OF THE TRACY MUNICIPAL CODE Resolution 2015-090

Jeremy Watney, Police Captain, presented the staff report.

Sharon Gibson, massage therapist, expressed support of the ordinance being adopted.

City Clerk Nora Pimentel read title of Ordinance 1197 into the record.

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to waive reading of full text of Ordinance 1197. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to introduce Ordinance 1197. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

7. Council Items

A. Appointment of City Council Subcommittee to Interview Applicants to Fill a Vacancy on the San Joaquin County Commission on Aging

Nora Pimentel, City Clerk, presented the staff report.

Council Member's Young and Mitracos volunteered to serve as the subcommittee.

ACTION Motion made by Council Member Young and seconded by Council Member Mitracos to each serve on the Council subcommittee to interview applicants to fill a vacancy on the San Joaquin County Commission on aging. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent.

Mayor Pro Tem Rickman announced the upcoming Tracy IPFES Holy Ghost Festa taking place on June 6-7, 2015 at the Portuguese Hall, 940 W. Ninth Street. The Queens of this year's festa will be presented at 9:00 p.m. on the 6th and on Sunday morning June 7, 2015 the parade will begin formation at the Portuguese Hall. The festa continues into next week with bloodless bullfights on Friday, June 12, 2015 at Campo Pequeno behind the Portuguese Hall.

Mayor Pro Tem Rickman reported reading an article that the State may block water sale between City, Farmers and requested information on potential liability that the City may face.

Troy Brown, City Manager, responded and assured Mayor Pro Tem Rickman that an email updating the Council on that specific matter was sent out to the Council.

Council Member Young announced the upcoming 150th Annual Juneteenth event taking place on June 6, 2015 from 10:00 a.m. to 5:00 p.m. at Lincoln Park and encouraged everyone to come and celebrate.

Council Member Mitracos reported attending the Small Dog Park Ribbon Cutting.

8. ADJOURNMENT

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Young, to adjourn the meeting. Voice vote found Council Member Mitracos, Young, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Member Vargas absent. Time: 9:51 p.m.

The above agenda was posted at the Tracy City Hall on May 28, 2015. The above are action minutes. A recording is available at the Office of the City Clerk.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 1, 2015, 5:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 5:00 p.m.
2. ROLL CALL – Roll call found Council Members Mitracos, Vargas, Young, Mayor Pro Tem Rickman and Mayor Maciel present.
3. ITEMS FROM THE AUDIENCE – None
4. DISCUSSION AND DIRECTION RELATED TO THE CONSTRUCTION OF LEGACY FIELDS PHASE 1

Brian McDonald, Management Analyst, Public Works, presented the staff report.

Council comments and questions followed.

Ponch Martinez, Vice President, Tracy Babe Ruth League expressed that the leagues ultimate goal is to have seven builds, four is good for the leagues use but a minimum of five builds to collaborate with Tracy Express until Tracy Express gets their builds in Phase II. Three builds is not enough.

Dave Duncan representing Tracy Express mentioned that Tracy Express is currently using Williams, in the event that they are unable to continue the relationship with the rental with Tracy Unified they will need additional options. If phase II infrastructure inclusion is not an option out of the funds allocated, Tracy Express would need to partner with Tracy Babe Ruth to have a facility for the players. Mr. Duncan noted that financially Tracy Express is not prepared to assist with construction for Babe Ruth or Tracy Little League because they need to save their funds for their future build in Phase II.

Jessie Munoz, President and Shirley Thompson, past President of Tracy Youth Soccer League mentioned that four fields will not allow the league to get off Plasencia Fields. Mr. Munoz expressed that seven or eight builds would be more accommodating to the league's needs.

Council discussion continued.

Upon consensus by the City Council, staff was directed to proceed with the design and construction of 16 sports fields within the Phase 1 area. This includes six soccer fields and seven baseball fields with playable improvements and to construct minimum subsurface improvements to one baseball field and two soccer fields. Staff was also directed to revise Memorandum of Understandings for the leagues and incorporate minimum maintenance standards.

Robert Tanner inquired about water restrictions related to support of these fields.

5. ADJOURNMENT - Mayor Pro Tem Rickman motioned to adjourn. Council Member Mitracos seconded the motion. Voice vote found all in favor; passed and so ordered.
Time: 7:14 p.m.

The agenda was posted at City Hall on May 28, 2015.

ATTEST:

Mayor

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 2, 2015, 6:45 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 6:45 p.m. for the purpose of a closed session to discuss the items outlined below.
2. ROLL CALL – Roll call found Council Members Mitracos, Mayor Pro Tem Rickman and Mayor Maciel present. Council Member Young arrived at 6:47 p.m.

Council Member Vargas was absent.

3. ITEMS FROM THE AUDIENCE – None
4. CLOSED SESSION

Real Property Negotiations (Gov. Code, § 54956.8)

Intersection Improvements at Eleventh Street and Mac Arthur (west intersection)

1. Property Location: 516 E. Eleventh Street, Tracy, California
APN: 235-190-11

Negotiator for the City: Kul Sharma, Utilities Director
Negotiating Parties: Robert & Albert Bogetti, Bob Mehlhaff
Under Negotiation: Price and terms of payment for the purchase of Property (Saint Bernard Thrift Store – Tenant)

5. MOTION TO RECESS TO CLOSED SESSION – Mayor Pro Tem Rickman motioned to recess the meeting to closed session at 6:46 p.m. Council Member Mitracos seconded the motion. Voice vote found Council Member Mitracos, Mayor Pro Tem Rickman and Mayor Maciel in favor; passed and so ordered. Council Members Vargas and Young absent.
6. RECONVENE TO OPEN SESSION – Mayor Maciel reconvened the meeting into open session at 7:02 p.m.
7. REPORT OF FINAL ACTION – There was no report of final action.
8. ADJOURNMENT - Mayor Pro Tem Rickman motioned to adjourn. Council Member Mitracos seconded the motion. Voice vote found Council Members Mitracos, Young, Mayor Pro Tem Rickman and Maciel in favor; passed and so ordered. Council Member Vargas absent. Time: 7:10 p.m.

The agenda was posted at City Hall on May 28, 2015. The above are action minutes.

ATTEST:

Mayor

City Clerk

June 16, 2015

AGENDA ITEM 1.B

REQUEST

AUTHORIZE AMENDMENT OF THE CITY'S CLASSIFICATION PLAN BY APPROVING THE REVISION OF THE CIVIL ENGINEERING SERIES CLASSIFICATIONS OF JUNIOR ENGINEER (CIVIL), ASSISTANT ENGINEER (CIVIL), ASSOCIATE CIVIL ENGINEER AND SENIOR CIVIL ENGINEER IN THE DEPARTMENT OF DEVELOPMENT AND ENGINEERING, AND USE OF FLEXIBLE STAFFING

EXECUTIVE SUMMARY

This report recommends using flexible staffing within specified classification series that contain entry, journey and advanced level positions, to provide management the ability to consider job performance, business need, budgetary feasibility, and difficulty of duties when determining employee advancement, as well as offer employees a pragmatic pathway to career advancement. There is no fiscal impact associated with this request.

DISCUSSION

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

The Development Services Department requested a review of the Civil Engineering Series to determine the feasibility of revising the Junior Engineer (Civil), Assistant Engineer (Civil), Associate and Senior Civil Engineer classifications to permit flexible staffing in the Department's Engineering Division, similar to the flexibly staffed Planner series used in the Department's Planning Division. The classifications of Assistant, Associate and Senior Planner were revised and approved by the City Council in January, 2003, to allow for flexible staffing in the Planner series.

The Human Resources Division conducted a review of the Civil Engineering classifications and determined that the needs of the City, the Department's Engineering Division, as well as its employees would be better served by revising the classifications to allow for the ability to flexibly staff Civil Engineer vacancies at each level in the series.

Currently, the manner in which a department can fill vacancies in each of the underlined classifications is by conducting a structured recruitment process. While recruitments are an important part in staffing City positions, there are situations in which recruitments are protracted, heavily impact resources and hinder critical program staffing needs of the hiring department. It is more efficient, that after an entry level employee gains the necessary experience, knowledge, skills and abilities to

perform the full range of duties at the journey level, and shows himself or herself to be a high performing employee, s/he progresses to the journey level based upon criteria outlined in the job description and certification by the department manager, with department head approval. The Human Resources Division believes that the flexible staffing approach is key to quickly filling vacancies to facilitate operational efficiency in meeting service delivery priorities, while also providing a way to develop and retain high performing employees.

Therefore, the Human Services Division recommends approval of the revised flexibly staffed classifications of Junior Engineer (Civil), Assistant Engineer (Civil), Associate Civil Engineer and Senior Civil Engineer.

CLASSIFICATION STUDY RECOMMENDATION

Based on the results of the classification study, the Human Resources Division of the Administrative Services Department recommends that the City's Classification Plan be amended to incorporate the following adjustments.

Revise Class Specifications – Junior Engineer (Civil), Assistant Engineer (Civil), Associate City Engineer, Senior Civil Engineer to provide for flexible staffing in the Engineering Division of the Department of Development Services

STRATEGIC PLAN

This agenda item supports the City's Strategic Plan and specifically implements the following goals and objectives:

Governance

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

Objective 1b: Affirm organizational values.

Organizational Effectiveness

Goal 3: Ensure systems are in place to meet the City's service delivery strategies

Objective 3c: Evaluate organization structure and operational efficiencies

FISCAL IMPACT

There is no fiscal impact associated with this request.

RECOMMENDATION

That the City Council, by resolution, authorize the Administrative Services Director to amend the City's Classification Plan by approving the revision of the class specifications for Assistant Civil Engineer, Associate Civil Engineer, and Senior Civil Engineer in order to allow for the use of flexible staffing in the Civil Engineer series.

Agenda Item 1.B
June 16, 2015
Page 3

Prepared by: Arlene Roberts, Human Resources Analyst II
Midori Lichtwardt, Human Resources Division Manager

Reviewed by: Andrew Malik, Interim Assistant City Manager
Ray Durant, Interim Administrative Services Director
Kuldeep Sharma, Utilities Director

Approved by: Troy Brown, City Manager

Attachments: Exhibit A: Junior Engineer (Civil), Assistant Engineer (Civil), Associate Civil Engineer and Senior Civil Engineer

City of Tracy

JUNIOR ENGINEER (CIVIL)

Class Title: Junior Engineer (Civil) Salary Range Class Code: 50224
Department: ~~Public Works~~ Development Services (DS)/Utilities
Bargaining Group: Teamsters
Effective Date: 1990 Revision History: 11/97, 6/15

DESCRIPTION

Under the direction of the Associate Civil Engineer ~~(Civil)~~, the Junior Engineer (Civil) performs ~~trainee or entry-level professional~~ civil engineering work in support of the design, construction, and management of a variety of ~~public works~~ projects.

SUPERVISION RECEIVED AND EXERCISED

~~The Junior Engineer (Civil) receives general supervision from a Senior or Associate Engineer (Civil). The Junior Engineer (Civil) may exercise functional and technical supervision over technical staff.~~

DISTINGUISHING CHARACTERISTICS

The Civil Engineer Series is a broad flexibly staffed classification series consisting of four levels; Junior Engineer (Civil), Assistant Engineer (Civil), Associate Civil Engineer and Senior Civil Engineer. Incumbents may be assigned to any level in the series based on the needs of the City and provided that they meet the education and experience requirements and have successfully demonstrated proficiency which meets the qualifications for the level to which they are to be assigned. Position allocation at each level is dependent on factors characterizing position responsibilities over 50% of the time such as scope, difficulty, variety of assignments, consequence of error, level of decision-making and independent judgment and responsibility for supervision of other employees.

CIVIL ENGINEER SERIES CLASSIFICATION LEVELS

JUNIOR ENGINEER (CIVIL)

The Junior Engineer (Civil) is the trainee or entry level. Initially under the close supervision of an Associate Civil Engineer or higher management, the Junior Engineer (Civil) is an employee-in-training with limited related work experience, who performs more rudimentary duties in support of the division. As experience is gained, duties become more standard, and are performed with greater independence. The Junior Engineer (Civil) may exercise functional and technical supervision over technical staff.

ASSISTANT ENGINEER (CIVIL)

The Assistant Engineer (Civil) is the intermediate entry level. Initially under the close supervision of an Associate Civil Engineer or higher management, incumbents perform

the less complex work, but assume increasing levels of responsibility. As experience is gained, duties become more diversified and complex and are performed more independently. The Assistant Engineer (Civil) may exercise functional and technical supervision over technical and contract staff.

ASSOCIATE CIVIL ENGINEER

The Associate Civil Engineer is the journey level. The incumbent is fully competent to independently perform the full range of complex and technical work, characteristic of the journey level. The Associate Civil Engineer exercises technical and functional supervision over professional, technical and clerical staff.

SENIOR CIVIL ENGINEER

The Senior Civil Engineer is the advanced journey or technical specialist level, characterized by the regular and recurring assignment more than 50% of the time of the time, of the most specialized and complex work requiring a higher degree of initiative, technical proficiency and independent judgment than at the Associate Civil Engineer level. The Senior Civil Engineer provides direct supervision to professional and technical staff in assigned functional area.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES

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

Designs and prepares engineering designs, plans, drawings, specifications, and cost estimates for public works projects including street, storm drain, sewer and water, treatment plants, and distribution system, and related projects; researches project design requirements; prepares preliminary design studies; performs complex calculations and prepares estimates of time and material costs.

Assists in the review and evaluation of project proposals and engineering specifications submitted by private engineering firms; coordinates design proposals with utility companies and other agencies; prepares draft agreements between the City and developers.

Assists in surveying work needed for design and construction of public works projects; performs field checks of project sites or survey areas to verify survey results or features.

Coordinates public works engineering activities with private engineering firms, developers, vendors, and the public.

Provides information and respond to complaints and concerns from the public.

Assists in the development of revised design and construction standards for public works structures and appurtenances.

May provide technical assistance to paraprofessional engineering staff.

Prepares engineering studies and reports.

Researches publications and industry information sources.

Maintains and updates Pavement Management System including distress surveys on site.

Maintains and updates Geographic Information System (GIS) for infrastructure.

Performs and assists in traffic engineering surveys. Prepares evaluations and recommendations.

Prepares engineering sketches and drawings with computer-aided drafting (CAD) and engineering designs by soft desk tools.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of public works, traffic, and transportation engineering.

Principles and practices of Pavement Management System, Geographic Information System (GIS), and computer-aided drafting (CAD).

Understand and follow oral and written directions.

Ability to:

Prepare engineering plans and specifications.

Perform traffic engineering surveys and prepare analysis and recommendations.

Prepare cost estimates of engineering projects.

Maintain and update Pavement Management System including performing distress surveys.

Communicate clearly and concisely, both orally and in writing.

Prepare engineering designs by soft desk tools and other programs.
Prepare engineering drawings and sketches by computer-aided drafting (CAD).

Maintain and update Geographic Information System (GIS) for infrastructure.

Establish and maintain effective working relationships with those contacted in the course of work.

EDUCATION AND EXPERIENCE

Any combination of experience and ~~training~~ education that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Some responsible professional municipal civil engineering experience desirable.

Training Education:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering or a related field; or demonstrated experience equivalent to a Bachelor's degree.

LICENSES AND CERTIFICATES

Possession of, or ability to obtain ~~and maintain~~ an appropriate, valid California drivers' license.

Possession of a valid Engineer-in-Training certificate issued by the State of California.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to walk, sit and talk or hear. The employee is occasionally required to use hands to finger, handle, feel, or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to climb or balance; stoop, kneel, crouch, or crawl.

The employee must occasionally lift and/or move up to 50 pounds. Specific vision abilities required by this job include close vision, color vision, and the ability to adjust focus.

WORK EXPERIENCE:

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

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee is occasionally exposed to wet and/or humid conditions, toxic or caustic chemicals.

The noise level in the work environment is usually quiet while in the office, or moderately loud when in the field.

SELECTION GUIDELINES

~~Formal application; rating of education and experience; oral interview and reference check; job-related tests may be required.~~

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

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

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

City of Tracy

ASSISTANT ENGINEER (CIVIL)

Class Title: Assistant Engineer (Civil) ~~Salary Range~~ Class
Code: 30302
Department: ~~Public Works~~ Development Services (DS)/Utilities
Bargaining Group: Mid-~~m~~ Manager
Effective Date: 1988 Revision History: 6/98, 6/15

DESCRIPTION

~~To perform professional and technical engineering work related to the design, inspection and construction of public works, public utilities and City improvement projects.~~

Under supervision, performs professional and technical engineering work related to the design, inspection and construction of public structures, utilities and City improvement projects.

SUPERVISION RECEIVED AND EXERCISED

~~The Assistant Engineer (Civil) receives supervision from a Associate Engineer or higher management.~~

~~Exercises functional and technical supervision over technical and contract staff.~~

DISTINGUISHING CHARACTERISTICS

The Civil Engineer Series is a broad flexibly staffed classification series consisting of four levels; Junior Engineer (Civil), Assistant Engineer (Civil), Associate Civil Engineer and Senior Civil Engineer. Incumbents may be assigned to any level in the series based on the needs of the City and provided that they meet the education and experience requirements and have successfully demonstrated proficiency which meets the qualifications for the level to which they are to be assigned. Position allocation at each level is dependent on factors characterizing position responsibilities over 50% of the time such as scope, difficulty, variety of assignments, consequence of error, level of decision-making and independent judgment and responsibility for supervision of other employees.

CIVIL ENGINEER SERIES CLASSIFICATION LEVELS

JUNIOR ENGINEER (CIVIL)

The Junior Engineer (Civil) is the trainee or entry level. Initially under the close supervision of an Associate Civil Engineer or higher management, the Junior Engineer (Civil) is an employee in training with limited related work experience, who performs more rudimentary duties. As experience is gained, duties become more routine, and

are performed with greater independence. The Junior Engineer (Civil) may exercise functional and technical supervision over technical staff.

ASSISTANT ENGINEER (CIVIL)

The Assistant Engineer (Civil) is the intermediate entry level. Initially under the close supervision of an Associate Civil Engineer or higher management, incumbents perform the less complex work, but assume increasing levels of responsibility. As experience is gained, duties become more diversified and complex and are performed more independently. The Assistant Engineer (Civil) may exercise functional and technical supervision over technical and contract staff.

ASSOCIATE CIVIL ENGINEER

The Associate Civil Engineer is the journey level. The incumbent is fully competent to independently perform the full range of complex and technical work, characteristic of the journey level. The Associate Civil Engineer exercises technical and functional supervision over professional, technical and clerical staff.

SENIOR CIVIL ENGINEER

The Senior Civil Engineer is the advanced journey or technical specialist level, characterized by the regular and recurring assignment more than 50% of the time of the time, of the most specialized and complex work requiring a higher degree of initiative, technical proficiency and independent judgment than at the Associate Civil Engineer level. The Senior Civil Engineer provides direct supervision to professional and technical staff in assigned functional area.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES AT THE ASSISTANT ENGINEER (CIVIL) LEVEL

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

Participates in construction inspection and assists in construction management of major Capital Improvement Projects (CIP) such as a water distribution system, sewer collection system, streets, storm drain lines, lift stations and other facilities for conformance with contract plans, specifications and applicable codes.

Performs professional and technical engineering work related to the design, inspection and construction of public works, public utilities and City improvement projects.

Assists in preparing change orders, authorizing payments and ensuring that all construction meets City requirements.

Assists in budget preparation and administration; prepare cost estimates for budget recommendations; monitors and controls expenditures; maintains budget records for capital improvement projects.

Participates in the inspection of various structures such as streets, sidewalks, gutters and other off-site construction; checks line, grade, size, elevation and location of structures for conformance with specifications and regulations.

Assists in developing or revising design and construction standards for public works structures, ~~and~~ appurtenances, ~~and development services projects~~.

Takes samples of materials for examination or analysis by laboratories; performs tests on soils and concrete; performs routine tests.

Participates in the preparation and development of specifications.

Assists in coordinating public works construction activities with consultants, engineers, other City departments and divisions, and with outside agencies.

Participates in the plan check, review and processing of grading and site improvements plans for private developers and off-site improvements as they affect City streets, sewers, drains and related public works facilities; assures compliance with appropriate codes, ordinances, rules and regulations.

Provides lead supervision to lower level engineering staff.

Prepares progress reports on projects under consideration; maintains records of inspections.

Investigates field problems affecting property owners, contractors and maintenance operations.

Processes progress payments for contract construction inspectors.

Assists in preparing estimates and feasibility reports for new or modified services and structures.

Prepares special engineering studies and reports; performs special assignments on engineering problems as necessary.

Performs related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of engineering relating ~~to public works~~ design and construction inspection activities, ~~methods and techniques~~

Methods, materials and techniques used in the **design and** construction of **public works**-projects

~~Methods and techniques of surveying and public works inspection.~~

Principles of supervision, training, and performance evaluation.

Materials sampling, testing and estimate procedures.

Modern developments, current literature and information sources regarding engineering.

Budget procedures and techniques.

Principles of supervision and training.

Computer applications for engineering and construction management.

Ability to:

Understand and interpret engineering construction plans and specifications.

Perform technical research and provide reliable assistance on engineering problems.

Coordinate phases of major construction projects and prepare progress reports.

Conduct comprehensive engineering studies and prepare reports and recommendations.

Learn applicable laws and regulatory codes.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain effective working relationships with those contacted in the course of work.

Supervise and train assigned personnel.

EDUCATION AND EXPERIENCE

Any combination of **education and** experience **and training** that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Two years of increasingly responsible professional civil engineering experience-

Training Education:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering-

LICENSES AND CERTIFICATES

Possession of, or ability to obtain and maintain, an appropriate, valid California drivers' license

Possession of, ~~or ability to obtain,~~ an Engineer-in-Training Certificate in the State of California is desirable

~~Possession of, or ability to obtain an appropriate, valid California drivers' license.~~

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to walk, sit and talk or hear. The employee is occasionally required to use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to climb or balance; stoop, kneel, crouch, or crawl.

The employee must occasionally lift and/or move up to 50 pounds. Specific vision abilities required by this job include close vision, color vision, and the ability to adjust focus.

Must be physically capable of moving about on construction work sites and under adverse field conditions.

WORK ENVIRONMENT

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

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee is occasionally exposed to wet and/or humid conditions, toxic or caustic chemicals.

The noise level in the work environment is usually quiet while in the office, or moderately loud when in the field.

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

City of Tracy

ASSOCIATE CIVIL ENGINEER (CIVIL)

Class Title: Associate ~~Civil Engineer (Civil)~~ Salary Range ~~Class Code:~~
30303
Department: ~~Public Works~~ Development Services (DS)/Utilities
Bargaining Group: ~~Mid-m~~ Manager
Effective Date: 1988 Revision History: 6/98, 6/15

DESCRIPTION

Under the direction of the ~~Senior Engineer, City Engineer, Assistant Director of DS, Utilities Director City Engineer/Assistant Director of Public Works~~ or his designee, the Associate ~~Civil Engineer (Civil)~~ performs professional level engineering work in the area of assignment such as engineering design, land development, or construction management; provides direct supervision to professional and technical engineering staff; and provides responsible staff assistance to the ~~Senior Engineer/Assistant Director of Development Services/ City Engineer/Assistant Director of Public Works~~.

SUPERVISION RECEIVED AND EXERCISED

~~The Associate Engineer (Civil) receives direction from the City Engineer/Assistant Director of Public Works or his designee; and exercises technical and functional supervision over professional, technical, and clerical staff.~~

DISTINGUISHING CHARACTERISTICS

~~The Civil Engineer Series is a broad flexibly staffed classification series consisting of four levels; Junior Engineer (Civil), Assistant Engineer (Civil), Associate Civil Engineer and Senior Civil Engineer. Incumbents may be assigned to any level in the series based on the needs of the City and provided that they meet the education and experience requirements and have successfully demonstrated proficiency which meets the qualifications for the level to which they are to be assigned. Position allocation at each level is dependent on factors characterizing position responsibilities over 50% of the time such as scope, difficulty, variety of assignments, consequence of error, level of decision-making and independent judgment and responsibility for supervision of other employees.~~

CIVIL ENGINEER SERIES CLASSIFICATION LEVELS

JUNIOR ENGINEER (CIVIL)

~~The Junior Engineer (Civil) is the trainee or entry level. Initially under the close supervision of an Associate Civil Engineer or higher management, the Junior Engineer (Civil) is an employee in training with limited related work experience, who performs more rudimentary duties. As experience is gained, duties become more routine, and~~

are performed with greater independence. The Junior Engineer (Civil) may exercise functional and technical supervision over technical staff.

ASSISTANT ENGINEER (CIVIL)

The Assistant Engineer (Civil) is the intermediate entry level. Initially under the close supervision of an Associate Civil Engineer or higher management, incumbents perform the less complex work, but assume increasing levels of responsibility. As experience is gained, duties become more diversified and complex and are performed more independently. The Assistant Engineer (Civil) may exercise functional and technical supervision over technical and contract staff.

ASSOCIATE CIVIL ENGINEER

The Associate Civil Engineer is the journey level. The incumbent is fully competent to independently perform the full range of complex and technical work, characteristic of the journey level. The Associate Civil Engineer exercises technical and functional supervision over professional, technical and clerical staff.

SENIOR CIVIL ENGINEER

The Senior Civil Engineer is the advanced journey or technical specialist level, characterized by the regular and recurring assignment more than 50% of the time of the time, of the most specialized and complex work requiring a higher degree of initiative, technical proficiency and independent judgment than at the Associate Civil Engineer level. The Senior Civil Engineer provides direct supervision to professional and technical staff in assigned functional area.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES AT THE ASSOCIATE CIVIL ENGINEER LEVEL

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

Participates in the development and implementation of goals and objectives; implements policies and procedures related to the assigned engineering section.

Plans, organizes, evaluates, and participates in the functions and activities of the section to which assigned, including engineering design, land development, and construction management.

~~Provides direct supervision to~~May exercise technical and functional supervision over professional and technical ~~engineering-clerical~~ staff ~~within a major functional area within the assigned section~~; assigns daily work and monitors work progress; evaluates work in progress and provides training and technical assistance.

Supervises, oversees, and participates in the administration of City ~~public works~~ construction projects; acts as resident engineer/project manager; ensures that project

products comply with established specifications, City codes, local, federal, and state legislation; reviews and approves progress payments and change orders.

Supervises, oversees, and participates in the development of civil engineering designs and plans including estimates of quantities, cost estimates, and development of specifications related to the assigned project.

Participates in the reviews, plan checking, and approval of subdivisions, parcel maps, tentative maps, lot line adjustments; ensures that public improvements comply with City standards, applicable codes, local, federal, and state legislation, as well as sound engineering practices.

Directs the preparation and filing of documents and maps related to the assigned area of responsibility.

Reviews the design plans and checks results of consulting engineers for compliance with sound engineering principles and City standards and specifications.

Resolves work problems and interprets routine administrative policies to subordinates, other departments, contractors, consultants, and the public.

Coordinates section activities with those of other departments and outside agencies and organizations.

Assists in budget preparation and administration; maintains budget records and work performance records.

Prepares Requests for Proposal for design services of different projects.

Prepares legal descriptions related to City rights-of-way and easements.

Prepares comprehensive contracts related to construction projects including construction standards, specifications, project schedules, and payment plans.

Provides information to the public; responds to and resolves citizen inquires and complaints.

Performs contract administration and construction management of Capital Improvement Projects.

Supervises and oversees survey and construction inspection activities.

Performs related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of engineering applicable to the assigned engineering section (design, land development, or construction management)-

Pertinent Federal, State, and local rules, regulations, and ordinances-

Recent developments, current literature, and sources of information regarding engineering applicable to the assigned engineering section-

Basic principles and practices of project management-

Principles of supervision, training, and performance evaluation-

Methods, materials, and techniques used in the construction of public works projects-

Computer applications ~~to~~-for engineering and construction management-

Ability to:

Prepare plans and drawings neatly and accurately-

Make engineering design computations and check, design, and prepare engineering plans-

Perform design and plan checking of land development projects-

Understand and interpret subdivision map act and land use planning issues-

Understand and interpret engineering construction plans, specifications, and other contract documents-

Perform technical research and solve difficult engineering problems-

Coordinate phases of major construction projects and prepare progress reports-

Conduct comprehensive engineering studies and analyses and prepare reports with appropriate recommendations-

Ensure project compliance with State, Federal, and local rules, laws, and regulations-

Interpret and apply pertinent laws, rules, and regulations-

Provide direct supervision and training to assigned personnel-

Communicate clearly and concisely, both orally and in writing with employees, consultants, other governmental agency representatives, City officials and the general public-

Prepare development agreements, subdivision agreements, and deferred improvement agreements-

Write legible, clear, and concise reports, using correct grammar, punctuation, and spelling-

Establish and maintain cooperative working relationships with those contacted in the course of work-

Understand and operate computer software and hardware-

EDUCATION AND EXPERIENCE

Any combination of experience and ~~training~~ education that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible professional municipal civil engineering experience with at least two years at the level of Assistant Engineer (Civil) or higher.

Education:

Possession of a Bachelor's degree, or demonstrated equivalent, from an accredited college or university with major course work in civil engineering or related field.

LICENSES AND CERTIFICATES

Possession of, or ability to obtain **and maintain**, an appropriate, valid California drivers' license.

Possession of, or ability to obtain, a Certificate of Registration as a professional civil engineer in the State of California is desirable.

TOOLS AND EQUIPMENT USED

Personal computer, including word processing, spreadsheet, and database and computer-aided-design software; standard drafting tools; surveying equipment including level, theodolite and electronic distance measuring devices; motor vehicle; phone; mobile radio.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Work is performed mostly in office settings. Some outdoor work is required in the inspection of various land use developments, construction sites, or public works facilities. Hand-eye coordination is necessary to operate drafting instruments, computers and various pieces of office equipment.

While performing the duties of this job, the employee is occasionally required to stand; walk; use hands to finger, handle, feel, or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to sit; climb or balance; stoop, kneel, crouch, or crawl; talk or hear; and smell.

The employee must occasionally lift and/or move up to 25 pounds. Specific vision abilities required by this job include close vision, distance vision, color vision, peripheral vision, depth- perception, and the ability to adjust focus.

Must be physically capable of moving about on construction work sites and under adverse field conditions.

WORK ENVIRONMENT

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

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee occasionally works near moving mechanical parts and in high, precarious places and is occasionally exposed to wet and/or humid conditions, fumes or airborne particles, toxic or caustic chemicals, risk of electrical shock, and vibration. The noise level in the work environment is usually quiet to moderate.

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

City of Tracy

SENIOR CIVIL ENGINEER (CIVIL)

Class Title: Senior Civil Engineer-(Civil) Salary-RangeClass
Code: 30304
Department: ~~Public Works~~Development Services (DS)/Utilities
Bargaining Group: Mid-~~m~~Managers
Effective Date: 1994 Revision History: 6/98,
6/15

DESCRIPTION

Under the direction of the City Engineer, Assistant ~~Public Works~~Director of DS/
Utilities Director or designeeCity Engineer, the Senior Civil Engineer (Civil) ~~has is~~
responsibleity for designing, implementing, managing, and supervising ~~as needed~~all
work related to planning, design, construction and maintenance of public structures and
utilities including performing complex engineer designs, traffic engineering,
development review, project administration, and construction management. ~~, and other
duties as required.~~

SUPERVISION RECEIVED AND EXERCISED

~~The Senior Engineer (Civil) receives supervision from the Assistant Director of Public
Works/City Engineer and provides direct supervision to professional and technical
engineering staff within a major functional area within assigned section; assigns daily
work and monitors work progress; evaluates work in progress and provides training and
technical assistance.~~

DISTINGUISHING CHARACTERISTICS

The Civil Engineer Series is a broad flexibly staffed classification series consisting of
four levels; Junior Engineer (Civil), Assistant Engineer (Civil), Associate Civil Engineer
and Senior Civil Engineer. Incumbents may be assigned to any level in the series based
on the needs of the City and provided that they meet the education and experience
requirements and have successfully demonstrated proficiency which meets the
qualifications for the level to which they are to be assigned. Position allocation at each
level is dependent on factors characterizing position responsibilities over 50% of the
time such as scope, difficulty, variety of assignments, consequence of error, level of
decision-making and independent judgment and responsibility for supervision of other
employees.

CIVIL ENGINEER SERIES CLASSIFICATION LEVELS

JUNIOR ENGINEER (CIVIL)

The Junior Engineer (Civil) is the trainee or entry level. Initially under the close
supervision of an Associate Civil Engineer or higher management, the Junior Engineer

(Civil) is an employee in training with limited related work experience, who performs more rudimentary duties. As experience is gained, duties become more routine, and are performed with greater independence. The Junior Engineer (Civil) may exercise functional and technical supervision over technical staff.

ASSISTANT ENGINEER (CIVIL)

The Assistant Engineer (Civil) is the intermediate entry level. Initially under the close supervision of an Associate Civil Engineer or higher management, incumbents perform the less complex work, but assume increasing levels of responsibility. As experience is gained, duties become more diversified and complex and are performed more independently. The Assistant Engineer (Civil) may exercise functional and technical supervision over technical and contract staff.

ASSOCIATE CIVIL ENGINEER

The Associate Civil Engineer is the journey level. The incumbent is fully competent to independently perform the full range of complex and technical work, characteristic of the journey level. The Associate Civil Engineer exercises technical and functional supervision over professional, technical and clerical staff.

SENIOR CIVIL ENGINEER

The Senior Civil Engineer is the advanced journey or technical specialist level, characterized by the regular and recurring assignment more than 50% of the time of the time, of the most specialized and complex work requiring a higher degree of initiative, technical proficiency and independent judgment than at the Associate Civil Engineer level. The Senior Civil Engineer provides direct supervision to professional and technical staff in assigned functional area.

EXAMPLES OF IMPORTANT AND ESSENTIAL DUTIES AT THE SENIOR CIVIL ENGINEER LEVEL

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

Performs design of routine and complex engineer projects. Prepares calculations, plans, and specifications of various capital improvement projects.

Participates in the development and implementation of goals and objectives; implements policies and procedures related to the assigned tasks in engineering designs, construction management, and land development.

Assists the City Engineer in the preparation and monitoring of the departmental budget and capital improvement budgets.

Provides direct supervision to professional and technical staff in assigned area.

Administers development reviews for site plan approval for streets, utilities, tentative final subdivision and parcel maps.

Administers ~~public works~~ construction contracts, supervises quality and exercises control on all ~~public works~~assigned projects; supervises and performs preparation and maintenance of all required legal descriptions and documents necessary to acquire land, rights of way, and easements; processes encroachment requirements into city easements and rights of way.

Performs, supervises, oversees, and participates (as required) in the development of Civil Engineering designs and plans including the calculation of the quantity, quality, and cost of materials and the development of specifications related to the assigned.

Participates in the review and approval of subdivision development; ensures that public improvements comply with City standards, applicable codes, local, federal, and state legislation, as well as sound engineering practices.

Provides administrative and engineering assistance to developers, contractors, consultants, other agencies, and the general public to resolve complaints and problems and ensure successful project completion.

Reviews the design plans and checks results of consulting engineers for compliance with sound engineering principles and City standards and specifications.

Resolves work problems and interprets routine administrative policies to subordinates, other departments, contractors, consultants, and the public.

Coordinates section activities with those of other sections, divisions, departments, and outside agencies and organizations.

Assists in budget preparation and administration; maintains budget records and work performance records.

Prepares RFPs for design services of different projects.

Prepares legal descriptions related to City right-of-ways and easements.

Prepares comprehensive contracts related to construction projects including construction standards, specifications, project schedules, and payment plans.

Provides information to the public; responds to and resolves citizen inquiries and complaints.

Performs contract administration and construction management of Capital Improvement Projects.

Supervises and oversees survey and construction inspection activities.

Directs the preparation and filing of documents and maps related to the assigned area of responsibility.

Performs related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Thorough knowledge of the engineering principles, designs, analyses, programs, procedures, practices, forms and techniques pertinent to functions of the section supervised-

Considerable knowledge of the laws and regulations governing the formation of assessment districts and **public works-assigned construction projects-**

Working knowledge of budgeting as practiced in public agencies-

Recent developments, current literature and sources of information regarding applicable engineering area-

Basic principles and practices of project management-

Computer applications for engineering and construction management-

Principles of supervision, training, and performance evaluation-

Methods, materials, and techniques used in the construction of public works projects-

Ability to:

Perform engineering designs and analyses, and prepare plans and drawings neatly and accurately-

Make engineering design computations and check, design, and prepare engineering plans-

Prepare and present clear and concise written and verbal reports-

Deal effectively with engineers, developers, contractors, property owners and general public-

Understand and interpret engineering construction plans, specifications, and other contract documents-

Perform technical research and solve different engineering problems-

Coordinate phases of major construction projects and prepare progress reports-

Effectively coordinate with various departments, local, state, and federal agencies-

Conduct comprehensive engineering studies and analyses, and prepare reports with appropriate recommendations-

Ensure project compliance with State, Federal, and local rules, laws, and regulations-

Interpret and apply pertinent laws, rules, and regulations-

Provide direct supervision and training to assigned personnel-

Communicate clearly and concisely, both orally and in writing-

Establish and maintain cooperative working relationships with those contacted in the course of work-

EDUCATION AND EXPERIENCE

Any combination of experience and ~~training~~-education that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible professional municipal civil engineering experience-

Training~~Education~~:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering, traffic engineering, transportation engineering, or a related field.

LICENSES AND CERTIFICATES

Possession of, or ability to obtain **and maintain** an appropriate, valid California drivers' license.

Possession of, ~~or ability to obtain~~, a Certificate of Registration as a professional civil engineer in the State of California ~~is desirable~~.

TOOLS AND EQUIPMENT USED

Personal computer, including word processing, spreadsheet, and database and computer-aided-design software; standard drafting tools; surveying equipment including level, theodolite and electronic distance measuring devices; motor vehicle; phone; mobile radio.

PHYSICAL DEMANDS

The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

While performing the duties of this job, the employee is frequently required to walk, sit and talk or hear. The employee is occasionally required to use hands to finger, handle, feel or operate objects, tools, or controls; and reach with hands and arms. The employee is occasionally required to climb or balance; stoop, kneel, crouch, or crawl.

The employee must occasionally lift and/or move up to 50 pounds. Specific vision abilities required by this job include close vision, color vision, and the ability to adjust focus.

WORK ENVIRONMENT

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

While performing the duties of this job, the employee occasionally works in outside weather conditions. The employee is occasionally exposed to wet and/or humid conditions, toxic or caustic chemicals.

The noise level in the work environment is usually quiet while in the office, or moderately loud when in the field.

SELECTION GUIDELINES

~~Formal application; rating of education and experience; oral interview and reference check; job related tests may be required.~~

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

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

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

RESOLUTION _____

AUTHORIZING AMENDMENT OF THE CITY'S CLASSIFICATION PLAN
BY APPROVING THE REVISIONS OF THE CIVIL ENGINEER CLASSIFICATION
SPECIFICATION SERIES FOR JUNIOR ENGINEER (CIVIL), ASSISTANT ENGINEER (CIVIL),
ASSOCIATE CIVIL ENGINEER AND SENIOR CIVIL ENGINEER AND USE OF FLEXIBLE
STAFFING

WHEREAS, The City has Classification and Compensation Plans, and

WHEREAS, The City has completed classification reviews to amend classification
specifications and use flexible staffing;

NOW, THEREFORE, BE IT RESOLVED, that the City Council authorizes the Interim
Administrative Services Director or Designee to amend the City's Classification Plan to
reflect the revised classification specifications for Junior Engineer (Civil), Assistant Engineer
(Civil), Associate Civil Engineer, and Senior Civil Engineer.

The foregoing Resolution _____ was adopted by the Tracy City Council on the 16th day of
June, 2015, by the following votes:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.C

REQUEST

APPROVE REEMPLOYMENT OF RETIRED EMPLOYEE AS TEMPORARY PROJECT SPECIALIST IN THE TRACY FIRE DEPARTMENT

EXECUTIVE SUMMARY

The Tracy Fire Department's organizational structure includes the Fire Division Chief classification. There are three (3) Fire Division Chiefs who are responsible for Operations and Communications; Administration and Planning; Training and Community Services. This classification is critical to the efficient functioning of the department.

A vacancy has been created by the recent retirement of Fire Division Chief Steve Hanlon. Analyzing department data to meet multiple operational and mandated requirements was one of the many responsibilities of Fire Division Chief Hanlon. He has specialized technical skill and working knowledge related to data analysis in the Tracy Fire Department, and there is urgent necessity to engage him as a temporary, part-time Project Specialist to bridge the gap that has resulted from his retirement, until a suitable replacement is determined.

DISCUSSION

Steve Hanlon worked as a full-time employee in the Tracy Fire Department for the past twenty nine and one-half years, and retired effective May 1, 2015. Mr. Hanlon has critical, technical skills as well as institutional knowledge regarding the Tracy Fire Department. He also has established significant working relationships with outside entities that are in the best interest of the City to maintain. The specialized technical skills and institutional knowledge needed are not readily available among the current staff.

Mr. Hanlon is needed to perform the following tasks:

- Analysis of emergency response effectiveness to measure compliance against established performance objectives
- Compilation of data commensurate with mandated state and federal reporting requirements
- Analysis of fire service resource deployment related to future development projects
- Extracting historical data related to Public Records Act information requests within the required 10-day deadline
- Training of new personnel to assume the data analysis function within the fire department

Although efforts were made to train staff prior to Mr. Hanlon's unanticipated retirement, the technical and complex nature of data analysis requires additional time to completely train existing staff to assume these responsibilities. The temporary hire

of Mr. Hanlon would allow the department to continue uninterrupted data analysis while preparing a replacement within the fire department into the future.

Mr. Hanlon will not work in excess of 10-15 hours per week in this upcoming year. He will be paid on an hourly basis, at no more than the equivalent of the hourly rate of the base salary of the Fire Division Chief position (which is the position that performs comparable duties). Mr. Hanlon will not receive any additional benefits other than this hourly pay for actual hours worked. The City will ensure this appointment is in compliance with all statutes and regulations for annuitants under the California Public Employees Retirement System.

There is an urgent necessity for Mr. Hanlon's part-time employment to ensure continuation of fire department data analysis and mandated reporting. The California Public Employees Retirement System requires employers needing to hire recent retirees (those that are hired within less than 180 days from the date of retirement), to authorize the hire in a public meeting and to certify the nature and necessity of that employment. This appointment request is in compliance with regulations regarding the hiring of annuitants of the California Public Employees Retirement System.

STRATEGIC PLAN

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

Governance Strategy:

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

Objective 1b: Affirm organizational values.

FISCAL IMPACT

There is no fiscal impact to the general fund as savings are realized through the vacancy of the full-time Division Chief position. There are adequate funds in the adopted budget to cover the cost of this contract.

RECOMMENDATION

That the City Council, by resolution, approve the appointment of Steve Hanlon to a temporary assignment as a Project Specialist in the Tracy Fire Department.

Prepared by: David Bramell, Division Fire Chief
Arlene Roberts, Human Resources Analyst II

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

APPROVING THE APPOINTMENT OF A TEMPORARY PROJECT SPECIALIST
IN THE TRACY FIRE DEPARTMENT

WHEREAS, Steve Hanlon has worked as a full time employee in the Tracy Fire Department for the past twenty nine and one-half years, and retired effective May 1, 2015, and

WHEREAS, Steve Hanlon has specialized technical and industrial knowledge related to the analysis of emergency response effectiveness against established performance objectives, extraction and analysis of response data to meet mandated reporting requirements, resource deployment related to development projects, extraction of data in response to public records requests, training of existing personnel, and

WHEREAS, The specialized technical knowledge and skills necessary to ensure continued and uninterrupted progression on these Tracy Fire Department projects is not available from present staff nor can they be readily obtained from outside consultants before 180 days have elapsed, and

WHEREAS, The City has an urgent necessity to maintain fire department data analysis, and specialized technical skills and institutional knowledge are critically needed on an immediate part-time basis for a limited duration to ensure continuation on the progress and completion of these critically important projects, and

WHEREAS, Mr. Hanlon will not work in excess of 960 hours in this upcoming year and will only be paid hourly for actual work performed at no more than the converted hourly rate of the Fire Division Chief position (which is the position that performs comparable duties), with no other benefits provided, and

WHEREAS, The California Public Employees Retirement System requires employers needing to hire recent retirees (those that are hired within less than 180 days from the date of retirement), to authorize the hire in a public meeting and to certify the nature and necessity of that employment;

NOW, THEREFORE, BE IT RESOLVED, That the City Council finds that there is an urgent necessity to maintain Fire Department Data Analysis and approves the appointment of Steve Hanlon to a temporary assignment as a Project Specialist in the Fire Department subject to the applicable statutes and regulations under the California Public Employees Retirement System.

Resolution _____

Page 2

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 16th day of June, 2015, 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

SECOND READING AND ADOPTION OF ORDINANCE 1196 AN ORDINANCE OF THE CITY OF TRACY AMENDING VARIOUS SECTIONS OF CHAPTER 11.28 WATER MANAGEMENT OF THE TRACY MUNICIPAL CODE

EXECUTIVE SUMMARY

Ordinance 1196 was introduced at the Council meeting held on June 2, 2015. Ordinance 1196 is before Council for a second reading and adoption.

DISCUSSION

The Governor has declared a continued drought emergency and the State Water Resources Control Board (Water Board) has mandated that water suppliers implement the stage of their water shortage contingency plans that includes mandatory restrictions. Ordinance 1196 was introduced at the Council meeting held on June 2, 2015, to amend various sections of Chapter 11.28 in order to comply with the Water Board emergency drought regulations to include all the mandated restrictions. The City manages its water shortage contingency plans through Chapter 11.28 of the Tracy Municipal Code. The proposed ordinance amends various sections of the Chapter 11.28 Water Management to comply with the Governor's Order and Water Board emergency drought regulations, and also makes other clarifications and updates.

Ordinance 1196 is before Council for a second reading and adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1196 following its second reading.

Prepared by: Adrienne Richardson, Deputy City Clerk

Reviewed by: Nora Pimentel, City Clerk
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A – Ordinance 1196

ORDINANCE 1196

AN ORDINANCE OF THE CITY OF TRACY AMENDING VARIOUS SECTIONS OF CHAPTER 11.28, WATER MANAGEMENT, OF THE TRACY MUNICIPAL CODE

WHEREAS, On March 27th, 2015 the State Water Resources Control Board (Water Board) adopted supplementary emergency drought regulations due to the fourth year of continued drought throughout California, and

WHEREAS, The Governor on April 1, 2015 issued an Executive Order directing the Water Board to adopt emergency drought regulations that conserve water statewide by 25%, and

WHEREAS, On May 5, 2015 the Water Board further adopted emergency drought regulations that limit and/or prohibit certain outdoor uses of potable water that must be implemented and enforced by all water suppliers, including the City of Tracy, to meet the 25% statewide conservation Executive Order, and

WHEREAS, In order to comply with the Water Board emergency drought regulations the City must amend its existing ordinance to include all new mandates. The ordinance also includes other clarifications and updates, and

WHEREAS, A duly noticed public hearing was held on June 2, 2015.

The Tracy City Council hereby ordains as follows:

SECTION 1: Various sections of Chapter 11.28, Water Management, of the Tracy Municipal Code are amended to read as set forth in Exhibit A.

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

SECTION 3. Publication. A summary of this ordinance shall be published and a certified copy of the full text posted in the office of the City Clerk at least five days before the City Council meeting at which the proposed ordinance is to be adopted. Within 15 days after adoption, the City Clerk shall publish a summary, and shall post in her office a certified copy, of the ordinance with the names of those Council Members voting for and against the ordinance. (Government Code section 36933(c)(1).)

* * * * *

The foregoing Ordinance 1196 was introduced at a regular meeting of the Tracy City Council on the 2nd day of June, 2015, and finally adopted on the 16th day of June, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

ATTACHMENTS

Exhibit A: Various sections of Chapter 11.28, Water Management.

Exhibit A to Ordinance 1196

Section 11.28.015 is added and Sections 11.28.010, 11.28.020, 11.28.050, 11.28.060, 11.28.070, 11.28.110, 11.28.130, 11.28.160, 11.28.170, 11.28.180, 11.28.190, 11.28.200, 11.28.210, 11.28.220, 11.28.230, 11.28.240, 11.28.250, and 11.28.290 are amended to Chapter 11.28, Water Management, of the Tracy Municipal Code to read as follows:

1. Section 11.28.010, Purpose, is amended to read as follows:

“11.28.010 - Purpose.

It is the purpose of this chapter to prevent the waste and unreasonable use of water and to promote water conservation as an effective means to manage the local water supply as necessary for public health, safety, fire protection and recreational needs.”

2. A new Section 11.28.015, Application of regulations, is added to read as follows:

“11.28.015 - Application of regulations.

This chapter applies to every person both within and outside the City who draws water from the City water distribution system.”

3. Section 11.28.020, Definitions, is amended to read as follows:

“11.28.020 - Definitions.

For the purposes of this chapter, unless otherwise apparent from the context, certain words and phrases used in this chapter are defined as follows:

"Consumer unit" or "unit" means 100 cubic feet of water, or 748 gallons.

"Customer" means owner, tenant, manager, or occupant of property receiving City water service.

"Director" means the Director of Utilities or his/her designee, or any agent for the City authorized to enforce compliance with this chapter.

"Drought" means a water shortage as declared by the Governor of California which affects the local water supply, or any unusual situation or circumstance affecting the quantity or quality of the local water supply.

"Flagrant water waste" means the application of any potable water to outdoor landscapes or hardscapes in a manner that causes runoff such that water flows onto adjacent property, non-irrigated areas, private and public walkways, roadways, parking lots, or structures.

"Flow restriction device" means any device expressly used to limit water flow or pressure to a water service.

“Hardscape” means the manmade part of the grounds surrounding a building such as but not limited to: a patio, sidewalk, cement walkway, asphalt, statue, driveway, street, gutter, or balcony.

“Incidental runoff” means unintended amounts of water runoff, such as minimal over-spray from a sprinkler that escapes the area of intended use.

“Landscape” means trees, shrubs, grass, groundcover, plants or flowers. It does not include food sources such as vegetable and/or fruit plants and trees.

“Recycled water” or “Reuse water” means non-potable water, collected stormwater or treated wastewater.

“Water emergency” means an event, time or situation that requires extraordinary management or restrictions on potable water use caused as a result of natural events or as an unanticipated manmade event affecting the quantity or quality of the local water supply.”

4. Section 11.28.050, Authority, is amended to read as follows:

“11.28.050 - Authority.

The following officers and employees are authorized to enforce this chapter, including issuing an order to cease and desist and/or a notice of intention to impose a penalty: City Manager, Director of Development Services, Director of Public Works, Director of Utilities, Water Resources Coordinator, Water Resources Analyst, Environmental Control Officer, Water Patrol, Sworn Peace Officers, Firefighters, and Code Enforcement Officers.”

5. Section 11.28.060, Enforcement, is renamed and amended to read as follows:

“11.28.060 - Enforcement and Implementation.

The City Manager or his/her designee is charged with primary responsibility for the implementation and enforcement of this chapter. If there is a conflict between two phases (at Sections 11.28.170 through 11.28.210), the more restrictive phase shall apply. The Director shall prepare the forms, warnings, and similar documents as he or she deems necessary or appropriate to implement this chapter.”

6. Section 11.28.070, Fines, is renamed and amended to read as follows:

“11.28.070 – Order, Notice, Penalty and Appeal

(a) Cease and desist order. Upon a determination by the Director that a person has consumed or used water in violation of a mandatory provision of this chapter, the Director may issue an order to cease and desist from the violation, and further order that the person comply with this chapter, or otherwise take appropriate remedial or preventive action. The Director shall serve the order: (1) personally, or (2) by leaving or posting a copy at the person’s residence or place of business, or (3) by mail.

(b) Notice of intent to impose a penalty. If, after the issuance of a cease and desist order, the person continues to consume or use, or again consumes or uses, water in violation of this chapter, the Director may issue a notice of intention to impose a penalty. The notice shall:

- (1) identify the date and time of the violation,
- (2) state the amount of penalty to be imposed, and
- (3) advise the person of the appeal rights. The notice of intention shall be served in the same manner as the cease and desist order.

(c) Penalty. After the notice of intent to impose a penalty is served, a penalty shall be assessed in the amount of: \$100 for the first violation, \$200 for the second violation, and \$500 for the third and each subsequent violation. The penalty is subject to collection in the same manner as utility service charges.

(d) Appeal. A person may appeal the imposition of the penalty assessed to the utility account. The person must request an appeal within 15 calendar days from the date of service of the notice of intention to impose a penalty. The request for an appeal hearing must be addressed to the City Manager and received by the City within the 15-day period. Failure to timely appeal constitutes a waiver of the right to appeal (and the penalty will be assessed).

(e) Appeal hearing. If timely requested, the appeal hearing shall be held before the City Manager, or his or her designee, who shall make a factual finding on the existence of a violation(s). The hearing shall be held within 30 days from the date the City receives the appeal, unless continued by mutual consent. The hearing officer shall give notice by first class mail of the date and time of the appeal hearing, at least ten days before the hearing. The appellant may present witnesses and documentary evidence, and may be represented by anyone of his or her choosing. The decision of the hearing officer is final.”

7. Section 11.28.110, Termination of service, is amended to read as follows:

“11.28.110 - Termination of service.

The City shall terminate service to any customer due to excessive violations of this chapter after written notice to the customer. The notice shall be posted on the door of the customer by door hanger at least two business days or sent by mail three business days before the termination of service. For purposes of this chapter, “excessive violations” means more than four violations within a six month period.”

8. Section 11.28.130, Drought declaration, is amended to read as follows:

“11.28.130 - Drought declaration.

Enactment of the ordinance codified in this chapter shall cause the present implementation of Phase I voluntary conservation as set forth in Section 11.28.170 of Article 6. Phases II through IV are established to achieve subsequent reduction goals in potable water consumption up to 25% and more as deemed necessary due to drought conditions or other prolonged water emergencies. Phase V is established for water emergency declarations. Phase changes shall be implemented by resolution of the City

Council. A duly noticed public hearing shall be required when going from Phase I up to and inclusive of Phase V. Phase changes shall be based upon the trigger mechanisms and criteria set forth in this article. Affected customers shall be notified of phase changes by notice on the utility bill or by actual written notification mailed to the billing address on record with the City.”

9. Section 11.28.160, Implementation, is deleted.

10. Section 11.28.170, Phase I water conservation measures, is amended to read as follows:

“11.28.170 - Phase I water conservation measures.

This section applies to any person, owner or manager responsible for the day-to-day operations of a premises.

(a) No customer shall permit flagrant water waste or incidental water runoff.

(b) Any customer must properly maintain all plumbing and irrigation systems and control all leaks within 72 hours of discovery or notification,

(c) Each customer must practice prudent water conservation measures. Examples include:

(1) A hose that dispenses potable water shall be fitted with a shut-off nozzle or flow restriction device attached to it that causes it to cease dispensing water immediately when not in use,

(2) The planting of drought tolerant landscapes, the installation and maintenance of water-efficient irrigation systems such as drip and bubble irrigation with weather or soil-based controllers, and the installation of sprinkler heads with a low flow rate appropriate for the landscape to prevent overwatering and runoff,

(3) Watering in the late night or early morning hours during non-windy periods.

(4) Not irrigating during or within 48 hours of precipitation.

(d) All swimming pools, hot tubs and spas installed after May 1, 1993 must have a separation tank and water recovery system installed in the filter backwash system, with a 90% water recovery standard.

(e) Each swimming pool, hot tub and spa installed after July 15, 2015 must have a non-permeable floating cover or equivalent device that provides 90% surface coverage.

(f) Compliance with related state laws, including:

(1) Civil Code Sections 1101.1 – 1101.8 relating to installation of water conserving plumbing fixtures.

(2) All new development and re-development must comply with the Department of Water Resources Water Efficient Landscape Ordinance and

CalGreen Building Standards. (23 Cal. Code of Regs. Chapter 2.7, beginning at section 490, and TMC section 9.14.020.)”

11. Section 11.28.180, Phase II water restrictions – Ten Percent City-wide water reduction goal, is amended to read as follows:

“11.28.180 - Phase II water restrictions

Under Phase II, the Phase I water measures become mandatory. In addition, the following restrictions apply to outside potable water uses:

(a) Landscapes (including residential, commercial, industrial, municipal and other public agencies or entities) may be irrigated only as follows:

- (1) At any time provided that a person is present outdoors and remains in full control of the water usage,
- (2) Unattended between the hours of 7:00 p.m. and 9:00 a.m.
- (3) At any time provided that only drip, microspray or bubbler irrigation is used.

(b) The washing of commercial or non-commercial hardscapes or other outdoor surfaces is prohibited, except:

- (1) where the use of a high powered pressure washer is required as part of a business (painting, detailing, etc.), or
- (2) in instances where a spill of a hazardous material or other substance which creates a public nuisance occurs and where it is not feasible to clean the affected area in any other manner. The washing of commercial or non-commercial hardscapes or furniture utilizing a bucket is allowed at any time. When such uses occur, the discharge of the contaminated water must be in compliance with TMC section 11.34.050, Prohibition of illegal discharges.

(c) No customer may add water above the minimum level necessary to comply with the health or operational requirements for a public or private pool, hot tub, or jacuzzi circulation.

(d) Individual residential car washing is allowed only with a bucket and a hose that is fitted with a shut-off nozzle or flow restriction device attached to it that causes it to cease dispensing water immediately when not in use. When feasible, the vehicle should be pulled onto landscaped area to be cleaned.

(e) There are no restrictions regarding the use of recycled or reuse water for outdoor landscape use.

(f) New turf, grass, ground cover or bedding plants shall be irrigated consistent with this section. In this subsection, the term “new” means the earth was tilled for the express purpose of growing such plants, and the irrigation establishing the plants is for 30 days or less.

(g) All ornamental fountains, ponds and water features must have a recirculating system as part of its operation or must be turned off.

12. Section 11.28.190, Phase III water restrictions—Fifteen percent city-wide water reduction goal, is amended to read as follows:

“11.28.190 - Phase III water restrictions.

In addition to the restrictions of Phases I and II, the following restrictions apply:

- (a) Landscapes, including residential, commercial, industrial, municipal and other public agencies or entities, may be irrigated only as follows:
 - (1) Odd-numbered addresses may irrigate only on Mondays, Wednesdays and Saturdays between 7:00 p.m. and 9:00 a.m.
 - (2) Even-numbered addresses may irrigate only on Tuesdays, Thursdays and Sundays between 7:00 p.m. and 9:00 a.m.
- (b) Public agencies may not use potable water to irrigate ornamental turf or grass on public street medians.
- (c) No restaurant may serve water except upon customer request. Restaurants shall post at every table and in restrooms a notice of drought conditions and water restrictions. Acceptable methods of notification to patrons include notices or tables tents placed on the tables or in the menus and in restrooms.
- (d) The owner and manager of every hotel, motel, inn, guest house, and every other short-term commercial lodging shall post notice of drought conditions information in each guest room.”

13. Section 11.28.200, Phase IV water restrictions—Twenty-five percent city-wide water reduction goal, is amended to read as follows:

“11.28.200 - Phase IV water restrictions

In addition to the restrictions of Phases I, II and III, the following restrictions apply. This phase has a goal of 25% or more reduction in consumer water usage. If information is available, the City may establish a water budget for each consumer household, consistent with California Water Code section 10608.20.

- (a) Except as otherwise provided, individual residential car washing shall be allowed only with the use of a bucket.
- (b) Automobile and recreational vehicle dealerships are allowed to continue washing vehicles with a hose that is fitted with a shut-off nozzle or flow restriction device attached to it that causes it to cease dispensing water immediately when not in use, under the following conditions:
 - (1) Automobiles and recreational vehicles may be washed only on Fridays using the method outlined above.

- (2) An automobile, motorcycle, boat or motorhome may be washed the day before or the day of delivery to the purchaser using the method outlined above.
- (c) There are no restrictions on laundromats.
- (d) There are no restrictions for car wash facilities employing the use of water recirculating equipment.
- (e) The owner and manager of every facility with a public restroom shall post in every such public restroom a placard or decal with notice of drought condition information.
- (f) The owner or manager of a newly constructed home or business may only irrigate the landscaping with potable water in a manner consistent with regulations or other requirements established by the California Building Standards Commission.
- (g) No one may add water or refill a swimming pool, spa or hot tub unless it has a separation tank and water recovery system installed in the filter backwash system, with a 90% water recovery standard.”

14. Section 11.28.210 – Phase V – Water emergency declaration, is amended to read as follows:

“11.28.210 - Phase V water emergency declaration.

- (a) The City Council may declare a water emergency and direct the City Manager to implement appropriate water conservation and/or rationing requirements consistent with this chapter when one or more of the following conditions exist:
 - (1) A decrease in the ability to draw groundwater due to well contamination, well failure or other equipment or system failure, and no alternative source of water is available,
 - (2) Contamination of the water system,
 - (3) Natural disasters affecting water deliveries,
 - (4) During times of floods which would affect water quality,
 - (5) Sabotage or threats of sabotage against the water system,
 - (6) Any unusual situation or circumstance which affects the quantity or quality of the water supply.
- (b) In addition to the restrictions of Phases I, II, III and IV, the City Council may mandate specific restrictions and reductions which may include but are not limited to:
 - (1) All water uses not required for public health and safety and fire protection are prohibited.
 - (2) No outdoor potable water uses are allowed.
 - (3) No recreational water uses are allowed.”

15. Section 11.28.220, Temporary rate increases, is amended to read as follows:

“11.28.220 - Temporary rate increases.

When drought or water emergency conditions are declared by the City Council, it may become necessary to implement a temporary rate increase to cover reduced revenues as a result of conservation. Rates may be increased by resolution of the Council when it is determined that revenues are inadequate.”

16. Section 11.28.230, Excess water use surcharge, is amended to read as follows:

“11.28.230 - Excess water use surcharge.

(a) During periods of a declared drought or water emergency, the City Council may, by resolution, establish a water rate structure which provides incentives (or disincentives) to conserve water use.

(b) Any water user may seek to have the excess water use surcharge waived or forgiven through the variance process set forth in Section 11.28.240(b) of this chapter upon substantial evidence of the following:

- (1) The excess water use was beyond the user's control, and was not reasonably correctable due to special and unique circumstances, or
- (2) An incident or condition occurred where public health or safety would have been threatened by decreased water usage.”

17. Section 11.28.240, Variances on usage restrictions or usage allotments, is amended to read as follows:

“11.28.240 - Variances on usage restrictions or usage allotments.

The Director, shall document the type and character of any residential, commercial, or industrial user or public authority requesting a variance in the assigned water goal in Phase I, II, III or IV of this chapter. The Director shall maintain a separate file of each variance request and the response to that request. This file shall be available for public inspection during regular business hours.

(a) No variance request will be considered until a water use has been prohibited or an excess use fee has been assessed on the customer's bill.

(b) The Director may grant a variance for uses of water otherwise prohibited or adjust any consumer's allotment or billing, if the Director finds and determines that to fail to do so would cause an emergency condition affecting health, sanitation, or fire protection or causes undue hardship of the applicant or public.

(c) If any condition upon which the variance request approval was based cease to exist (e.g., an occupant of the home vacates), the billed user of the home is responsible for notifying the Finance Department of the change for an appropriate adjustment to the user's allotment.

(d) The City may request periodic confirmation from the billed user that all conditions upon which the variance request was approved are still in existence. Failure on the part of the user to respond to any reasonable inquiry shall be grounds for termination of the variance. Supplying false or erroneous information in such an inquiry for the purpose of obtaining or maintaining additional water allotments shall be deemed fraud.”

18. Section 11.28.250, Appeals, is amended to read as follows:

“11.28.250 - Appeals.

Any water service customer who considers an action taken by the City under this chapter to have been erroneously taken, may appeal the action and decision to the City Manager as set forth in section 1.12.010. The appellant shall continue to pay the monthly charge as billed pending the completion of the appeal process. “

19. Section 11.28.290, Construction water usage prohibited during period of water emergencies, is amended to read as follows:

“11.28.290 - Construction water usage prohibited during periods of water emergencies.

(a) The use of fresh water for construction uses during a period of drought or during water emergencies is prohibited except with the City’s written approval.

(b) The use of fresh water for dust control or other construction purposes is prohibited during a declared drought or water emergency when an alternative approved water source is available. The City's Wastewater Treatment Plant may, in a drought or water emergency, supply recycled wastewater or stormwater to water trucks for construction purposes whenever feasible.

The Director may waive this prohibition on days of extreme winds which cause a dust control problem, if he or she, finds and determines that extreme winds are prevalent which are creating a dust control nuisance which must be abated immediately.

In such instances, a one-day permit may be arranged through the Director. The permit will expire at the end of the work day, and usage of potable-quality water will be billed at the per day permit fee, plus actual water consumption, plus an administrative fee. “

AGENDA ITEM 1.E

REQUEST

SECOND READING AND ADOPTION OF ORDINANCE 1197 AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 4.20, REGULATION OF MASSAGE, OF THE TRACY MUNICIPAL CODE, IN ITS ENTIRETY, BY ADOPTING A NEW CHAPTER 4.20

EXECUTIVE SUMMARY

Ordinance 1197 was introduced at the Council meeting held on June 2, 2015. Ordinance 1197 is before Council for a second reading and adoption.

DISCUSSION

Ordinance 1197 was introduced at the Council meeting held on June 2, 2015, to amend Chapter 4.20, Regulation of Massage, of the Tracy Municipal Code (TMC) to update the ordinance, conform the ordinance to State law, and require that all massage therapists operating in the City be State certified. The proposed ordinance amends Chapter 4.20, Regulation of Massage of the TMC by adopting a new Chapter 4.20, including Section 4.20.010 through 4.20.110.

Ordinance 1197 is before Council for a second reading and adoption.

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

None.

RECOMMENDATION

That Council adopt Ordinance 1197 following its second reading.

Prepared by: Adrienne Richardson, Deputy City Clerk

Reviewed by: Nora Pimentel, City Clerk
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A – Ordinance 1197

ORDINANCE 1197

AN ORDINANCE OF THE CITY OF TRACY AMENDING CHAPTER 4.20, REGULATION OF MASSAGE, OF THE TRACY MUNICIPAL CODE, IN ITS ENTIRETY, BY ADOPTING A NEW CHAPTER 4.20

WHEREAS, the City adopted massage regulations in 2005, and amended them in 2009 and 2011; and

WHEREAS, State regulations authorizing the State certification of massage therapists and the local regulation of massage establishments were first adopted in 2009 (the California Massage Therapy Act), and were amended in 2011, 2012 and 2014; and

WHEREAS, the City wishes to amend its ordinance to: (1) update the ordinance; (2) conform its ordinance to State law; and (3) require that all massage therapists operating in the City be State-certified.

The Tracy City Council hereby ordains as follows:

SECTION 1: Chapter 4.20 of the Tracy Municipal Code, Regulation of Massage, is amended in its entirety to read as set forth in Exhibit A, attached.

SECTION 2: The City will not issue any new massage practitioner or massage technician permits after the effective date of this ordinance. However, the City wishes to give existing practitioners and technicians one year to obtain State-certification. Although this ordinance takes effect in 30 days after its adoption, any massage therapist with a current City massage practitioner or massage technician permit may continue to practice massage in the City for up to one year from the effective date of this ordinance, as long as he or she renews that permit on a timely basis. The Police Department may extend this one-year period by an additional six months for a massage therapist who has submitted a complete application to CAMTC within the one-year period, while the therapist is waiting for final approval.

SECTION 3: This Ordinance shall take effect 30 days after its adoption.

SECTION 4: This Ordinance shall be published once in the Tri-Valley Times, a newspaper of general circulation, within 15 days after its adoption.

* * * * *

The foregoing Ordinance 1197 was introduced at a regular meeting of the Tracy City Council on the 2nd day of June, 2015, and finally adopted on the 16th day of June, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

Exhibit A to Ordinance 1197
Chapter 4.20
MASSAGE ESTABLISHMENTS AND THERAPISTS

Sections:

- 4.20.010 Purpose – Authority.
- 4.20.020 Definitions.
- 4.20.030 Requirements.
- 4.20.040 City registration.
- 4.20.050 Posting and record keeping.
- 4.20.060 Facility requirements.
- 4.20.070 Inspections.
- 4.20.080 Hours of operation.
- 4.20.090 Department coordination with CAMTC.
- 4.20.100 Appeals.
- 4.20.110 Property owner responsibility.

4.20.010 Purpose – Authority.

It is the purpose and intent of this chapter to provide for the orderly regulation of massage therapists and massage establishments, in the interest of the public health, safety and welfare. The city wishes both to recognize the practice of massage as a valid professional field and to discourage prostitution and other unlawful activity which otherwise may become associated with some massage establishments.

This chapter relies upon the state certification process of the California Massage Therapy Council under the Massage Therapy Act (California Business and Professions Code sections 4600 through 4620). In addition, this chapter provides certain minimum standards for the operation of massage establishments, their managing employees, and massage therapists.

This chapter is adopted under the authority of Government Code sections 51030 through 51034, Government Code section 37101, Business and Professions Code section 16000, and California Constitution Article XI, Section 7.

4.20.020 Definitions.

In this chapter:

- A. *California Massage Therapy Council* or *CAMTC* means the California Massage Therapy Council established under Business and Professions Code section 4500.5(a).
- B. *Certified massage therapist* or *therapist* means a person who is currently certified as a massage therapist by the CAMTC, and who administers massage for compensation. A certified massage therapist who is an independent contractor is one who works at a massage establishment (or has an outcall massage service), but is not a salaried employee and does not share a percentage of therapy proceeds with the establishment. (Included within this definition through December 31, 2016 is a certified massage practitioner, a person who is currently certified as a massage practitioner by the CAMTC.)
- C. *Chief* means the chief of police or his/her designee. The chief's designees may include the City's code enforcement officers.

D. *Massage or bodywork* means the application of various techniques to the muscular structure and soft tissues of the human body. Application of massage and bodywork techniques may include, but is not limited to, stroking, kneading, tapping, compression, vibration, rocking, friction, pressure and similar techniques. Examples of massage include Swedish massage, sports massage, shiatsu, polarity therapy, rolfing, reiki, hellerwork and reflexology. Massage and bodywork have the same meaning.

Massage specifically excludes: diagnosis, prescription, intentional manipulation or adjustments of the skeletal structure, or any other service, procedure or therapy which requires a license to practice (chiropractic, osteopathy, orthopedics, physical therapy, podiatry, or medicine), hypnosis, naturopathic, colonic irrigation, acupuncture, vacuum cupping, nutritional or dietary counseling, detoxification programs, yoga, exercise, spiritual healing, or procedures which penetrate body cavities, either manually or with any other method of intrusion. Massage also excludes: an athletic team trainer who administers massage in the course of training duties; a state-licensed barber, beautician, cosmetologist, esthetician or manicurist who administers massage in the normal course of duties; individuals administering massage to participants in road races, track meets and similar single-occurrence events if approved by the event sponsors and provided only at the site of the event.

E. *Massage establishment* means a fixed location where (only) state-certified therapists practice massage for compensation. The following are not considered massage establishments under this chapter: a hospital, nursing home, sanitarium, physiotherapy establishment, office of a licensed medical professional, or other state-licensed physical or mental health facility; nor a personal fitness training center, gymnasium, athletic facility or health club, when the giving of massage is an incidental function of the business, constituting 10% or less of the business.

F. *Outcall massage service* means a business that provides massage at a location designated by the client or the massage therapist, other than at a massage establishment.

4.20.030 Requirements.

A. Massage establishment. No person may own or operate a massage establishment (or outcall massage service) in the city unless:

1. Each person administering massage for compensation (whether as an employee or independent contractor) is a certified massage therapist; and
2. The owner or operator has a current registration on file at the police department. (See Section 4.20.040.)

B. Massage therapist. No person may practice massage in the city who is not a certified massage therapist. A certified massage therapist working in the city must either:

1. work at a city-permitted massage establishment; or
2. as an independent contractor not affiliated with a massage establishment, provide outcall massage services only if he or she first registers with the city as a massage establishment, and indicates on the registration form that he or she does outcall massage services.

C. Other city permits. Establishments are advised that they must also obtain a city business license.

4.20.040 City registration.

A massage establishment must register with the city police department annually, and shall post evidence of city registration wherever massage is practiced. There is no charge for the registration. The establishment shall notify the department within 30 days of any change in the information provided. The registration is not transferrable to another owner or manager; any such change requires re-registration.

The registration application shall include:

1. name, address and telephone of the establishment, and the hours of operation;
2. name, address and telephone of the owner(s) and manager(s). (If the applicant is a corporation, the name of the corporation shall be set forth as shown in its articles of incorporation or charter, together with the State and date of incorporation and the name, residence address, and telephone number of each of the officers and directors of the corporation. If the applicant is a partnership, the name, residence address, and telephone number of each of the partners. If the applicant is a limited partnership or limited liability company, it shall furnish a copy of its certificate of limited partnership or limited liability company as filed with the Secretary of State.);
3. contact information for the primary person in charge; and
4. name, address, state certification number and expiration date of each employee or independent contractor who will offer massage at (or through) the establishment. The massage establishment shall provide a copy of the state certification of any therapist upon request.

4.20.050 Posting and record keeping.

A. The operator of a massage establishment shall:

1. post in a conspicuous place within the massage establishment the photograph and a copy of the state certification of each massage therapist working at or through the establishment; and
2. maintain a daily register of each client, the assigned room (or location of outcall massage service), the massage therapist who treated the client, a description of service(s) performed and the time of the appointment. The daily register shall be completed by the close of business every day, and shall be available for inspection by the city during regular business hours. The register shall be considered confidential, not for public review, and may be inspected by the city only as part of a criminal investigation or during proceedings to investigate compliance with this chapter. These records shall be retained for at least one year.

B. An independent contractor massage therapist (including a therapist providing outcall massage services) is responsible for compliance with subsection A.2 of this section.

4.20.060 Facility requirements.

The operator of a massage establishment shall maintain and operate the establishment in a safe and sanitary manner, and shall:

- A. Comply with all applicable building, fire, safety, health, electrical, plumbing, mechanical, heating and ventilating, sanitation, and other laws applicable to the premises;
- B. Maintain all equipment used to perform massage services in a safe and sanitary condition, including the regular application of cleansers and bacterial cleaning agents, and launder all materials furnished for the personal use of the client, such as towels and linens, before each use;
- C. Maintain all bathroom and plumbing fixtures in a sanitary condition, provide hot and cold running water, and comply with sanitation requirements of the county health department;
- D. Provide either a separate room or dressing and locker facilities for each client. Dressing and undressing may occur in the same room as massage therapy if the client is alone in the room with the door(s) closed and opaque coverings are present on any windows while undressing or dressing. The massage therapist or other clients may not be present in the same room when the client is undressing;
- E. For a massage establishment in which the therapist is an employee, all massage services shall be paid for in the reception area, and all tips, if any, shall be paid in the reception area. For a massage establishment at which a therapist is an independent contractor, all massage services and all tips, if any, may be paid in the same room where the massage occurred, provided the door to the room is fully open. A massage establishment located in a home is exempt from this subsection.

4.20.070 Inspections.

The chief may inspect the premises at the time of registering a massage establishment, and may make periodic, reasonable inspections of the establishment during normal business hours to assure compliance with CAMTC requirements, this chapter (including record-keeping as required by Section 4.20.050) and applicable fire, health and safety requirements. (Health & Saf. Code § 4612(c)(1).) If any violations are found, the chief shall notify the establishment in writing. The chief may give the establishment 10 days to correct the violation(s), or, if the violation(s) presents a danger to public health or safety, close the establishment until the violation(s) is corrected.

4.20.080 Hours of operation.

No massage establishment and no massage therapist may provide massage service between the hours of 10:00 p.m. and 6:00 a.m. Clients and visitors shall be excluded from a massage establishment during those hours.

4.20.090 Department coordination with CAMTC.

The chief shall designate a person in the police department or code enforcement division to coordinate with CAMTC, including maintaining a list of certified therapists practicing in the city, maintaining a list of massage establishments operating in the city, receiving notices and information from CAMTC, and notifying CAMTC of any arrest or conviction of Penal Code section 647 or other act punishable as a sexually related crime. (Health & Saf. Code §§ 4602(c), 4602.5.)

4.20.100 Appeals.

A person may appeal a decision of the chief in accordance with TMC Section 1.12.010. The decision of the city manager or designee is final and may not be appealed to the city council.

4.20.110 Property owner responsibility.

Any place where lewdness, assignation or prostitution occurs is a public nuisance which may be abated and permanently enjoined, and for which the city may recover damages from the property owner, as well as from the person conducting or maintaining the nuisance. (Penal Code §§ 11225 and 11226.)"

AGENDA ITEM 3

REQUEST

PUBLIC HEARING OF THE CITY COUNCIL TO CONSIDER ADOPTION OF THE CITY OF TRACY PROPOSED FISCAL YEAR 2015/16 ANNUAL CITY BUDGET AND AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 2015/16

EXECUTIVE SUMMARY

On May 19, 2015, a budget workshop was held to discuss the Proposed FY 2015/16 City Budget. A public hearing has been scheduled to allow for additional community input prior to Council consideration of the proposed City Budget for FY 2015/16. Upon conclusion of the hearing, the Council will discuss the budget and appropriations resolution and consider whether to adopt the Proposed FY 2015/16 City Budget.

DISCUSSION

The Proposed FY 2015/16 City Budget is \$189,144,420. The City Budget is comprised of 3 parts: the Operating Budget, Capital Budget, and Debt Service Budget. The sections below reflect the proposed operating, capital and debt service budgets and reflect changes directed by Council at the May 19, 2015 Budget Workshop. Also included is an overview of the FY 2015/16 Budget Resolution, which must be authorized by the Council as part of the budget adoption process.

Operating Budget: The proposed FY 2015/16 Operating Budget was presented to City Council at a Budget Workshop on May 19, 2015. The operating budget to be adopted is identical to that presented at the workshop as City Council did not request any changes to the proposed budget. The proposed City operating budget for FY 2015/16 for all funds is \$127,477,420 including the General Fund.

The focus of the operating budget is the General Fund. As presented at the budget workshop, the proposed General Fund expenditure budget was \$48,720,830. Also, the General Fund will transfer out \$1,222,000 for debt service and \$1,377,330 for the Community Development Fund.

Revenues are sufficient to cover expenses, and excess revenue of \$2,668,650 is anticipated.

Capital Budget: The proposed FY 2015/16 Capital Budget was presented to the City Council at the April 7, 2017 CIP Workshop and May 19, 2015 Budget Workshop. The proposed capital budget is now \$35,189,140.

Debt Service Budget: The proposed FY 2015/16 City Debt Service Budget for all funds is \$26,477,860.

Interfund Transfers: Interfund transfers for FY 2015/16 are \$3,086,230. These include, but are not limited to: transfers from the General Fund to pay debt service and operational support of the Community Development Funds.

Modifications: The following modifications have been made to the proposed budget since it was presented to the City Council on May 19th.

1. The proposed General Fund appropriations for the Development Services Department were increased by \$678,200 to provide for the Code Enforcement Division and the Director's Office share of General Fund overhead.
2. The proposed appropriations for the same costs were deleted from the Community Development Fund. Also, the proposed transfer from the General Fund to the Community Development Fund was reduced by the same amount.
3. A budget savings figure of \$1,000,000 has been estimated for the General Fund. This will reduce the General Fund operating budget appropriations for FY15/16 by \$1,000,000 and increase its projected ending fund balance by that amount.
4. A projected Community Benefit payment of \$1,250,000 from the Cordes Ranch project has been included. This will increase the projected General Fund ending fund balance by that amount.

STRATEGIC PLAN

The proposed budget will allow for funding of substantial efforts to meet all of the Council's strategic plans.

FISCAL IMPACT

The annual City budget to be adopted for FY 2015/16 will be as follows:

| | <u>General Fund</u> | <u>Other Funds</u> | <u>All Funds</u> |
|--------------------|---------------------|----------------------|----------------------|
| Operating Budget | \$48,399,030 | \$78,078,390 | \$126,477,420 |
| Operations Support | 699,130 | (699,130) | 0 |
| Capital Budget | 0 | 35,189,140 | 35,189,140 |
| Debt Service | 1,222,020 | 25,255,840 | 26,477,860 |
| TOTAL | \$50,320,180 | \$137,824,240 | \$188,144,420 |

As projected, there will be sufficient resources to cover all proposed expenditures. Most funds have sufficient reserves and/or revenues to cover their expenditures. In a few cases, loans will be required for some funds.

RECOMMENDATION

Upon concluding the Public Hearing, staff recommends that the City Council adopt the attached City of Tracy Budget and Appropriations Resolution for Fiscal Year FY 2015/16.

Agenda Item 3
June 16, 2015
Page 3

Prepared by: Allan J. Borwick, Budget Officer

Reviewed by: Ray Durant, Management Partners Inc.
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION_____

ADOPTING THE ANNUAL BUDGET AND APPROPRIATIONS FOR THE CITY OF TRACY FOR FISCAL YEAR 2015-2016

WHEREAS, The proposed operating, capital, and debt budgets for the City of Tracy for Fiscal Year 2015-2016 were submitted to the City Council on May 12, 2015, and

WHEREAS, A public workshop and a public hearing were held by the City Council to review, consider, and deliberate upon the proposed budgets, as well as to hear any public comments upon the budgets, and

WHEREAS, The proposed budgets presented to the City Council and any subsequent modifications made have been incorporated into budget;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy approves as follows:

1. The FY 2015 /16 budget is approved .
2. Funds totaling \$50,320,180 for the general fund.
3. \$137,824,240 for all other funds are appropriated.
4. Funds totaling \$188,144,420 are appropriated for FY 2015 / 16

* * * * *

The foregoing Resolution 2015-_____ was adopted by the Tracy City Council on the 16th day of June 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 4

REQUEST

HOLD A PUBLIC HEARING TO APPROPRIATE \$100,000 FROM THE FY 2014-15 CITIZENS' OPTION FOR PUBLIC SAFETY "COPS" GRANT PROGRAM FUNDING FOR THE PURCHASE OF RELATED EQUIPMENT AND TECHNOLOGY FOR FRONTLINE LAW ENFORCEMENT

EXECUTIVE SUMMARY

The Police Department annually receives grant funding from the Supplemental Law Enforcement Services Funds (SLESF) and Citizens' Option for Public Safety (COPS). Staff recommends the City Council authorize the appropriation of the Supplemental Law Enforcement Services Funds to purchase predictive policing software, subpoena software, one computer and monitor, and miscellaneous police officer safety equipment/supplies.

DISCUSSION

The Citizens' Option for Public Safety (COPS) grant program is awarded to cities and counties that provide law enforcement services on a per capita basis which is allocated to county Supplemental Law Enforcement Services Funds (SLESF). Government Code 30061 specifies "In order to utilize these funds, under California Government Code Section 30061(c)(2), ...the City Council shall appropriate existing and anticipated moneys exclusively to fund frontline municipal police services, in accordance with the written requests submitted by the Chief of Police..." These written requests shall be acted upon by the City Council at a public hearing.

The Police Chief, in consultation with Police Department command staff, has determined a need for the equipment listed herein to enhance first line law enforcement services:

| | |
|--|------------------|
| Predictive Policing Software and accessories. | \$50,000 |
| Subpoena software. | \$10,000 |
| Ballistic Panels for patrol cars. | \$15,000 |
| Kinetic Energy Devices | \$10,000 |
| Gas Masks | \$8,500 |
| Monitor and Computer for Watch Commanders CAD and AVL. | \$2,500 |
| Distraction Devices and breaching tools for SWAT. | \$4,000 |
| Total | \$100,000 |

Predictive Policing and Subpoena Software will use technology to increase efficiency in the management of resources. Predictive policing software, supported by prior crime and environmental data, will enable the department to anticipate risks of crime and forecast accurate probabilities of where and when crime will occur. Officers using these predictions can disrupt crime leading to a reduction in crime over time. There are several benefits of integrating predictive policing software into a crime reduction strategy by providing the Crime Analyst with technology to develop crime trend and event mapping and identification of probable locations for crime. It also enables first line supervisors (patrol sergeants) to strategically deploy limited resources. Cities using Predictive Policing have experienced significant crime reduction. The City of Tracy experienced an increase in property crimes in 2014 and one of the goals of the Predictive Policing software will be to achieve a reduction in these crimes. Subpoena software will use technology to provide officers and supervisors with real time data to more efficiently manage their scheduled court time and reduce overtime costs of officers appearing for court cases that have been cancelled through electronic notifications.

Ballistic Panels for patrol cars are after-market additions to the patrol vehicles that add an additional layer of protection for police officers. Purely defensive in nature, the panels add the ability to more safely approach high-risk areas and use the patrol car as a rescue vehicle, when necessary, benefitting both the officers and citizens that would be rescued.

The addition of a computer work station within a dedicated space visible of the jail area will enable Sergeant assigned to patrol to complete supervisory functions while monitoring person's in-custody within the jail. The listed miscellaneous equipment enables police officers to safely and efficiently perform their first line law enforcement services. Much of the equipment/supplies replaces existing outdated and/or non-serviceable equipment/supplies.

Staff is recommending the funding be used to procure equipment and technology to assist the frontline officers in providing public safety services to the community.

STRATEGIC PLAN

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

FISCAL IMPACT

The City of Tracy has received \$100,000 for FY 2014-15 from the State COPS Grant. Staff is required to hold a public hearing and seek approval of the appropriation.

There is no fiscal impact to the Fiscal Year 2015-16 General Fund.

RECOMMENDATION

That the City Council holds the required public hearing and by resolution, approves the request to appropriate and expend the State COPS program funds for the aforementioned purchases.

Prepared by: Lani Smith, Support Operations Manager

Reviewed by: Gary R. Hampton, Police Chief
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

APPROPRIATING \$100,000 FROM THE FISCAL YEAR 2014-15 CITIZENS' OPTION FOR PUBLIC SAFETY "COPS" GRANT PROGRAM FUNDING FOR THE PURCHASE OF RELATED EQUIPMENT AND TECHNOLOGY FOR FRONTLINE LAW ENFORCEMENT

WHEREAS, The Police Department annually receives grant funding from the Supplemental Law Enforcement Services Funds (SLESF) and Citizens' Option for Public Safety (COPS), and

WHEREAS, The City of Tracy has received \$100,000 for FY 2014-15 from the State COPS Grant, and

WHEREAS, The Tracy Police Department will use predictive policing and subpoena software, one computer and monitor, and miscellaneous police officer safety equipment/supplies, and

WHEREAS, Staff is recommending the funding be used to procure equipment, personnel and technology to assist the frontline officers in providing public safety services to the community, and

WHEREAS, Council has held the public hearing required by the grant funding criteria.

NOW THEREFORE BE IT RESOLVED, that \$100,000 be appropriated from the Fiscal Year 2014-15 Citizens' Option for Public Safety "COPS" Grant program funding for the purchase of related equipment and personnel for frontline law enforcement.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 16th day of June, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 5

REQUEST

CONDUCT A PUBLIC HEARING TO AUTHORIZE THE ACCEPTANCE AND APPROVE THE APPROPRIATION OF \$10,717 FROM THE 2015 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR THE PURCHASE OF EQUIPMENT FOR THE TRACY POLICE DEPARTMENT'S LAW ENFORCEMENT PROGRAMS

EXECUTIVE SUMMARY

The City of Tracy has been awarded \$10,717 from Federal Justice Assistance Grant (JAG) Program for the purchase of equipment to enhance frontline law enforcement. The City of Tracy may accept the grant and authorize an appropriation of \$10,717 to the Police Department budget for FY 15-16.

DISCUSSION

The Edward Byrne Justice Grant (JAG) Program (42 U.S.C. 3751(a)) is the primary provider of Federal criminal justice funding to State and local jurisdictions. JAG funds support all components of the criminal justice system by improving the effectiveness and efficiency of criminal justice systems, processes and procedures.

Agencies are allowed to use this grant to support a broad range of activities to prevent and control crime based upon their local needs and conditions. The Tracy Police Department has determined the most appropriate use of this grant is to purchase Safety and Protective gear and technology equipment for the officers to enhance the safety of citizens.

The Tracy Police Department intends to purchase the following equipment:
(2) Mobile Armored Shields, (1) LIDAR Unit device and traffic safety reflective vests for patrol officers:

| Proposed JAG Grant Expenses | |
|--|----------|
| Equipment | Cost |
| Mobile Armored Shields | \$8,932 |
| LIDAR Unit (Light Detection and Radar) | \$1,545 |
| Traffic Safety Reflective Vests | \$240 |
| Total | \$10,717 |

STRATEGIC PLAN

This agenda item does not relate to the Council's four strategic plans.

FISCAL IMPACT

The City of Tracy will receive \$10,717 from the 2015 Federal JAG Program. There is no negative impact to the current fiscal budget as no City match is required. Accepting this grant funding requires the funds to be appropriated from the Federal JAG Program and \$10,717 added to the Police Department's Operating Budget.

RECOMMENDATION

That City Council conduct a public hearing, and by resolution, authorize the acceptance of the grant and approve the appropriation of \$10,717 from the 2015 Edward Byrne Memorial Justice Assistance Grant (JAG) Program for the purchase of equipment for the Tracy Police Department's Law Enforcement Programs

Prepared by: Lani Smith, Support Operations Division Manager

Reviewed by: Gary R. Hampton, Chief of Police
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING THE ACCEPTANCE AND APPROVE THE APPROPRIATION OF \$10,717 FROM THE 2015 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM FOR THE PURCHASE OF EQUIPMENT FOR THE TRACY POLICE DEPARTMENT’S LAW ENFORCEMENT PROGRAMS

WHEREAS, The United States Department of Justice, Office of Justice Programs, Bureau of Justice Assistance coordinates the annual Edward Byrne Justice Assistance Grant (JAG) Program that makes available federal public safety funds to local jurisdictions, and

WHEREAS, The City of Tracy is eligible to receive \$10,717 for calendar year 2015 under a pre-designated grant formula, and

WHEREAS, The Tracy Police Department intends to use the appropriation of \$10,717 to purchase (2) mobile armored shields, (1) LIDAR Unit for the Traffic Unit and traffic safety reflective vests for patrol officers in the field, and

WHEREAS, City Council held the required public hearing, during a regularly scheduled meeting on this date, as required, and provided the public an opportunity to comment, and

NOW THEREFORE BE IT RESOLVED, That City Council hereby authorizes the appropriation of \$10,717 from the 2015 Edward Byrne Memorial Justice Grant (JAG) Program for the purchase of (2) mobile armored shields, (1) LIDAR Unit and traffic safety vests for patrol officers to improve and enhance the Tracy Police Department’s Law Enforcement Programs.

* * * * *

The foregoing Resolution _____ was passed and adopted by the Tracy City Council on the 16th day of June, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 6

REQUEST

APPROVE AN AGREEMENT TO EXTEND TIME TO ACCEPT A LAND DEDICATION OFFER FROM SURLAND COMMUNITIES, LLC RELATED TO THE 16-ACRE LAND DEDICATION REQUIREMENT CONTAINED IN THE DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, LLC. THE ELLIS PROJECT AND DEVELOPMENT AGREEMENT SITE IS APPROXIMATELY 321-ACRES LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND LINNE ROAD

EXECUTIVE SUMMARY

This agenda item involves City Council approval to extend by one year the time period the City has to accept a land dedication offer by Surland Communities, LLC (Surland) identified in the Development Agreement (DA) between the City and Surland.

DISCUSSION

On April 18, 2013, the City and Surland entered into a DA for the Ellis project on Corral Hollow Road. The DA was subsequently amended on July 3, 2014.

Section 1.01(b) of the DA requires Surland to offer to dedicate to the City “approximately sixteen (16) acres of land as described generally in the City’s Ellis Specific Plan (“Specific Plan”) and the Specific Plan’s Revised Environmental Impact Report. Surland is required to offer to dedicate this area (“Ellis Swim Center Site” or “Site”) no later than September 15, 2014. The DA further requires the City to accept the offer by September 15, 2015, or be deemed to have rejected the offer and the offer shall expire.

On September 15, 2014, Surland submitted an Offer to Dedicate Land to the City (the “Offer”). The City determined that the Offer substantially conformed to the requirements of the DA and recorded that Offer in the official records of San Joaquin County on October 1, 2014. Under the terms of the DA, the City has until September 15, 2015, to accept the Offer or be deemed to have rejected it.

After recording the Offer, the City determined that the dedication included a strip of commercially-zoned property along its northern edge that the City believed was intended by Surland to be part of its proposed development project. When the City notified Surland of the inclusion of the commercial property in its Offer, Surland confirmed that it had not intended to include that commercial property in the Offer, and wished to retain that property. To accommodate Surland’s desire to retain that commercial property, the City offered to exchange the original Offer for a modified offer of dedication that would preserve Surland’s ownership of the commercial property.

On February 27, 2015, Surland proposed a modified offer of dedication as an alternative to the recorded Offer. Unfortunately, however, the land area described in the modified offer does not conform to the location of the Ellis Swim Center Site as described generally in the Specific Plan and consequently does not satisfy the requirements of the

DA. The City notified Surland of this on April 14, 2015, by letter, which is attached as Attachment A.

On May 21, 2015, the City received a letter from Surland requesting a time extension for the land dedication to allow time to process a proposed modified location of the swim center (Attachment B is the request letter from Surland).

As it relates to Surland's request, during 2013 and 2014, City Council directed staff to collaborate with a third party swim center operator (Wild Rivers) to evaluate their interest and potential feasibility of developing and operating a swim center at the Ellis site. Last year, discussions with Wild Rivers concluded, as was reported to City Council on November 5, 2014. However, through the process of evaluating a swim center at the Ellis site, discussions with Wild Rivers yielded helpful insights by a professional swim center operator into site planning techniques that may make for improved access and land use adjacency between the commercial, residential, and swim center locations. For example, such insights suggest that a relocated swim center site with a dedicated swim center entrance and parking off Middlefield Road as opposed to Ellis drive, which is the primary residential entry, could improve overall circulation and swim center access in the area, and would enable vehicle parking to be consolidated on the southern portion of the site, as compared to the previous concept where parking surrounded the planned amenities on three sides.

Surland's request for a time extension would be done for the purpose of using this information in refining the location of the swim center. As identified in Surland's request letter, the swim center site would be partially relocated farther to the south, abutting the planned Middlefield Road, which may need minor adjustments to its planned alignment to achieve a contiguous 16-acre parcel and potential swim facilities out of the limited use areas identified in the Specific Plan. Such relocation would require amendments to the General Plan, Ellis Specific Plan, and review by the San Joaquin County Airport Land Use Commission prior to the City being able to accept a revised offer of dedication by Surland. This is due to the fact that the land dedication offer must conform to the Specific Plan. Attachment C includes a conceptual illustrative identifying the proposed swim center site along Middlefield Road adjacent to a reconfigured commercial site that would be the subject of the amendments to the planning documents.

These potential amendments would take longer to process than the time currently permitted to accept the land dedication (September 15, 2015). Accordingly, an extension of time to accept a revised land dedication offer would be necessary. Should City Council desire to consider an alternative to the current swim center site, staff recommends a one year time extension in order to process a General Plan Amendment, Specific Plan Amendment, including any necessary environmental review. If not, then City staff would bring an agenda item at a later time in order for the City Council to consider accepting the existing land dedication offer currently recorded on the property.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact to the General Fund associated with this agenda item. Surland Communities, LLC has entered into a Cost Recovery Agreement with the City to cover all staff and consultant costs. Should the time extension be approved by City Council, and Surland submits applications to amend the General Plan and Specific Plan, then an amendment to the Cost Recovery Agreement currently in place would be processed to account for such applications.

RECOMMENDATION

Staff recommends that the City Council approve an agreement to extend the time to accept a land dedication offer from Surland Communities, LLC, related to the swim center site within the Ellis project.

Prepared by: Bill Dean, Interim Development Services Director

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

Attachment A: April 14, 2015 letter to Surland

Attachment B: May 21, 2015 letter from Surland requesting an extension of time for City acceptance of the land dedication offer

Attachment C: Conceptual New Swim Center Site

Attachment D: Proposed Agreement to Extend Time to Accept Land Dedication Offer

City of Tracy
333 Civic Center Plaza
Tracy, CA 95376



CITY MANAGER'S OFFICE

MAIN 209.831.6000
FAX 209.831.6120
www.ci.tracy.ca.us

April 14, 2015

Mr. Les Serpa
Mr. Chris Long
Surland Communities LLC
1024 Central Avenue
Tracy, CA 95376

RECEIVED

APR 15 2015

CITY OF TRACY

RE: Notice of Intent to Accept Offer to Dedicate Land

Dear Les & Chris:

As you know, Surland Communities LLC ("Surland") is a party to that certain Development Agreement by and between Surland and the City of Tracy ("City"), executed on April 18, 2013 and amended on July 3, 2014 (the "Development Agreement"). The purpose of this letter is to (i) notify Surland of the City's intent to accept Surland's Offer to Dedicate Land dated September 15, 2014 unless extensions are requested; (ii) provide the background and context for the City's decision; and (iii) suggest potential alternatives should Surland's desire to submit a modified offer of dedication.

A. Background

Section 1.01(b) of the Development Agreement requires Surland to offer to dedicate to the City "approximately sixteen (16) acres of land as described generally" in the City's Ellis Specific Plan ("Specific Plan") and the Specific Plan's Revised Environmental Impact Report. Surland is required to offer to dedicate this area (the "Ellis Swim Center Site" or "Site") no later than September 15, 2014. The Development Agreement further requires the City to accept the offer by September 15, 2015, or be deemed to have rejected the offer and the offer shall expire. The City has no intention of rejecting the offer of land dedication and is amenable to extending the time limits set forth in the Development Agreement should Surland desire an extension.

As indicated above, on September 15, 2014, Surland submitted an Offer to Dedicate Land to the City (the "Offer"). The City determined that the Offer substantially conformed to the requirements of the Development Agreement and recorded that Offer in the official records of San Joaquin County on October 1, 2014. Under the terms of the Development Agreement, the City has until September 15, 2015 to accept the Offer or be deemed to have rejected it.

After recording the Offer, the City determined that it included a strip of commercially-zoned property along its northern edge that the City believed was intended by Surland to be part of its proposed development project. When the City notified Surland of the inclusion of the commercial property in its Offer, Surland confirmed that it had not intended to include that commercial property in the Offer, and that it wished to retain that property. To accommodate Surland's desire to retain that commercial property, the City offered to exchange the original Offer for a modified offer of dedication that would preserve Surland's ownership of the commercially property.

On February 27, 2015, Surland proposed a modified offer of dedication as an alternative to the recorded Offer. Unfortunately, however, the land area described in the modified offer does not conform to the location of the Ellis Swim Center Site as described generally in the Specific Plan and, consequently, does not satisfy the requirements of the Development Agreement.

Under these circumstances, and as explained above, the City must accept Surland's original Offer by September 15, 2015, or be deemed to have rejected the Offer and the Offer will expire. Because the opportunity to acquire a site for a community swim center was a material part of the consideration to the City for entering into the Development Agreement, the City does not intend to allow the Offer to expire. Thus, if the City does not receive another offer that conforms to the requirements of the Development Agreement prior to the September 15, 2015 deadline, the City will have no choice but to accept Surland's original Offer.

The City remains willing; however, to consider options that would accommodate Surland's desire to retain the commercial property that was inadvertently included in its original Offer. To that end, the City is prepared to consider either (i) a different modified offer that substantially conforms to the requirements of the Specific Plan and Development Agreement, or (ii) an application for a Specific Plan amendment and Development Agreement amendment that modifies the Ellis Swim Center Site to conform to a new offer for dedication and relaxes the timeline for Surland's submittal (and the City's acceptance) of such new offer.

B. Alternatives to City's Acceptance of September 15, 2014 Offer

1. Modified Offer

Prior to sending this notice, the City provided Surland with a rough drawing of a land dedication offer that the City believes would address both parties' concerns. Specifically, it would: (i) substantially conform to the Specific Plan's described location for the Ellis Swim Center Site, thereby satisfying the requirements of the Development Agreement; (ii) return to Surland the valuable commercial property that it inadvertently included in its original Offer; and (iii) fully respect the boundaries of Surland's recently-

April 14, 2015

Page 3 of 3

approved Tentative Map. The City remains willing to exchange the recorded Offer for such a modified offer, if timely made. Any such offer must be made sufficiently in advance of the Development Agreement's September 15 deadline to allow the City to confirm the accuracy of the land description and its compliance with the Development Agreement, and to complete the process of properly bringing the modified offer before the City Council for acceptance.

We also discussed this offer of land dedication in my office on April 13, 2015 where it was noted that both Surland and City are in agreement that there solutions that can be presented. The outcome from our meeting was that Surland intends to go back and work with their team to develop some potential options on layouts of the land dedication that could be presented to the City at a future date for consideration, and the cost impacts associated with development of additional options.

2. Specific Plan and Development Agreement Amendments

Surland may also apply to the City to: (i) amend the Specific Plan to relocate the Ellis Swim Center Site to conform to the area described in its most recent, modified offer (or to a different area), and (ii) amend the Development Agreement to extend the time periods for Surland to submit the new land dedication offer and for the City to accept it, thereby giving the parties time to complete the Specific Plan amendment process.

C. Conclusion

If Surland desires to pursue either of the alternatives described above, please contact me as soon as possible. In such event, the City would work cooperatively with Surland to take the necessary steps to allow it to retain the dedicated commercial property. Of course, should Surland fail to submit a modified offer that conforms to the requirements of the Specific Plan and Development Agreement (or that conforms to requirements of an amended Specific Plan and Development Agreement), the City would have no choice but to accept the existing, recorded Offer not later than September 15, 2015.

Sincerely,



Troy Brown
City Manager

cc: Daniel Sodergren, City Attorney
Wilson Wendt

THE SURLAND COMPANIES

May 21, 2015

VIA HAND DELIVERY

Troy Brown
 City Manager
 City of Tracy
 City Hall
 333 Civic Center Plaza
 Tracy, CA 95376



Re: Surland Communities LLC Offer to Dedicate Swim Center Site

Dear Mr. Brown:

This letter responds to your letter of April 14, 2015 in which you made three points. First, you notified Surland Communities LLC ("Surland") of the City's intent to accept our Offer to Dedicate Land dated September 15, 2014 "unless extensions are requested". Second, you provided the background and context for the City's decision. Third, you suggested alternatives if Surland wishes to submit a modified Offer of Dedication. Surland definitely wishes to submit a modified Offer of Dedication in a form that will be acceptable to the City and to modify the Ellis Specific Plan to reflect the location of the proposed modified Swim Center Site.

Your April 14 letter indicates that amendment to the Ellis Development Agreement ("Development Agreement") would be required since it currently obligates the City to accept the Land Dedication Offer by September 15, 2014. Actually, subsection 1.01(b)(1) of the Development Agreement, as set out in the First Amendment, provides that "City shall have until September 15, 2015 to accept the Land Dedication Offer ("Dedication Acceptance Period"), subject to such extensions as may be mutually agreed by the parties." Thus, the Development Agreement without any modification allows the parties to agree to extensions of the Dedication Acceptance Period. Our attorneys have discussed this with the City Attorney and I believe he concurs.

We suggest that the parties enter into a written agreement referencing this section of the Development Agreement in providing that both agree to an extension to a mutually acceptable time of the Dedication Acceptance Period. We understand that a dedication of the land for a Swim Center Site was a major consideration in the City entering into the Development Agreement and that the City fully intends to accept an Offer of Dedication

Residential

Commercial

1024 CENTRAL AVE.

TRACY

CALIFORNIA

95376

TELEPHONE

(209)832-7000

FACSIMILE

(209)833-9700

WEBSITE

www.surlandcompanies.com

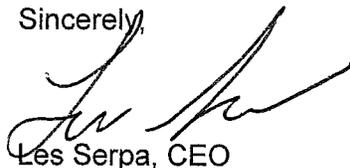


consistent with the Specific Plan. We are enclosing with this letter a copy of such an agreement.

With the extension of the Dedication Acceptance Period agreed to, the City and Surland can move forward with an application to amend the Specific Plan to designate a slightly modified location for the Swim Center Site. This modification is required because the City Council previously directed Staff to work with a third party private operator, Wild Rivers, and Surland on the proposed Swim Center at Ellis. Working together during that process, it became apparent that the proposed site within Ellis was better served by locating the Swim Center and its entrance at the corner of Corral Hollow Road and Middlefield Road. In this way, the Swim Center could have its own entrance separated from the main neighborhood entrance and could have a better marketing window and better visibility at the one hundred percent corner.

In order to allow the City to consider this alternative location, we have attached a draft agreement to extend the Dedication Acceptance Period while we process an application for Specific Plan amendment to relocate the proposed Swim Center Site to a slightly modified location. The implementation of the above would be through a Cost Recovery Agreement as contemplated in the Ellis approval documents.

Sincerely,



Les Serpa, CEO
Surland Companies

cc: Daniel Sodergren, City Attorney
Wilson Wendt

AGREEMENT TO EXTEND DEDICATION ACCEPTANCE PERIOD

This Agreement to Extend Dedication Acceptance Period (the "Agreement") is made and entered into this _____ day of _____, 2015, by and between SURLAND COMMUNITIES LLC, a California limited liability company ("Owner") and the CITY OF TRACY, a municipal corporation ("City").

RECITALS

A. The parties hereto entered into that certain Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities LLC dated April 13, 2013, and amended by that certain First Amendment dated July 3, 2014 (as amended, the "Development Agreement"). A part of the consideration for the City entering into the Development Agreement was the agreement of the Owner to dedicate a Swim Center site pursuant to the provisions of section 1.01 of the Development Agreement.

B. Pursuant to subsection 1.01(b)(1) of the Development Agreement, the City shall have until September 15, 2015 to accept the Land Dedication Offer (the "Dedication Acceptance Period") subject to such extensions as may be mutually agreed to by the parties. The parties wish to mutually agree to extend the Dedication Acceptance Period and by execution of this Agreement intend to accomplish such extension.

NOW, THEREFORE, it is agreed by the parties hereto as follows:

The Dedication Acceptance Period in which the City is allowed the discretion of accepting the Land Dedication Offer, as more particularly described in subsection 1.01(b)(1), is hereby extended to and including _____, 20__.

This Agreement is executed as of the Effective Date.

City:

CITY OF TRACY, a municipal corporation

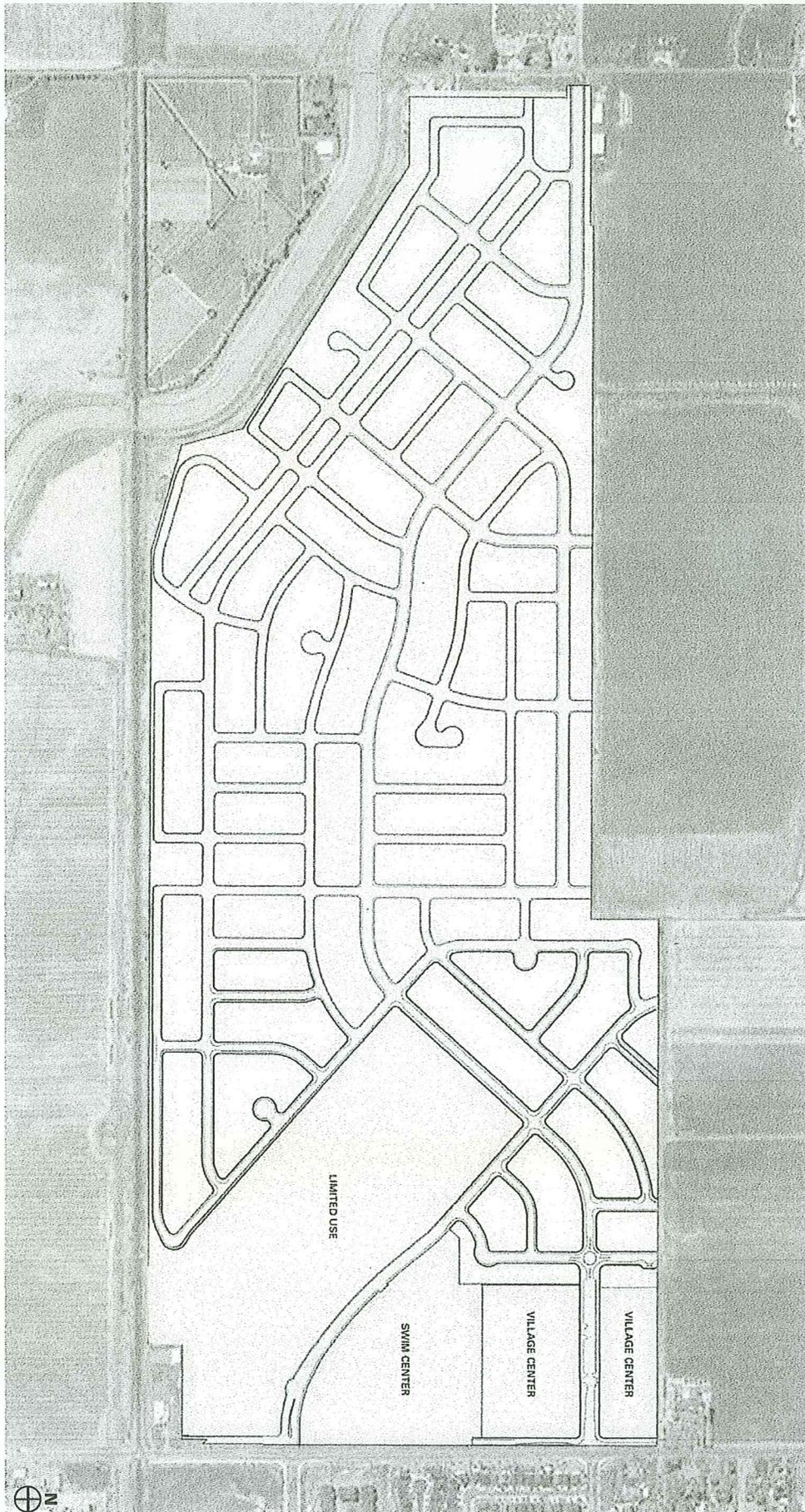
Owner:

SURLAND COMMUNITIES LLC, a California limited liability company

By: _____
Its: _____

By: _____
Its: _____

Eliz Neighborhood | Tracy, CA



RECEIVED

JUN 03 2015

CITY OF TRACY

**RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:**

**CITY OF TRACY
333 CIVIC CENTER PLAZA
TRACY, CA 95376
ATTENTION: CITY MANAGER**

AGREEMENT TO EXTEND TIME TO ACCEPT LAND DEDICATION OFFER

This Agreement to Extend Time to Accept Land Dedication Offer (“Extension Agreement”) is made as of this _____ day of June, 2015 (the “Effective Date”) by and between SURLAND COMMUNITIES, LLC, a California limited liability company (“Surland”), STANDARD PACIFIC CORP., a Delaware Corporation (“Standard Pacific”), and the CITY OF TRACY, a municipal corporation (the “City”) pursuant to the following:

RECITALS

A. Surland, Standard Pacific, and the City are parties to that certain Amended and Restated Development Agreement By And Between The City of Tracy and Surland Communities, LLC that was recorded in San Joaquin County as Document No. 2013-119548 and was later amended by that certain First Amendment that was recorded in San Joaquin County as Document No. 2014-064062 (collectively, the “Development Agreement”). The Development Agreement, which is incorporated herein by this reference, applies to the Property as described therein. Defined terms used herein are defined by this Extension Agreement or in the Development Agreement.

B. Pursuant to Section 1.01(b) of the Development Agreement, on September 15, 2014, Surland offered to dedicate to the City approximately sixteen (16) acres of land within the Ellis Specific Plan by that certain Offer to Dedicate Land recorded in the official records of San Joaquin County as Document No. 2014-09-7799 (“Land Dedication Offer”). Surland has conveyed property subject to the Land Dedication Offer to Standard Pacific, subject to the requirements of the Land Dedication Offer.

C. Following recordation of the Land Dedication Offer, the City and Surland determined that land described therein included certain property that Surland did not intend to dedicate to the City, and the Dedication Acceptance Period is herein extended to provide the parties time to process and substitute an amended land dedication offer for the September 15, 2014 Land Dedication Offer.

D. Pursuant to Section 1.01(b)(1) of the Development Agreement, the City has until September 15, 2015 to accept Surland’s Land Dedication Offer (“Dedication Acceptance Period”), subject to such extensions of time as may be mutually agreed upon by Surland and the City.

C. Surland and the City now desire to extend the time for the City to accept Surland's Land Dedication Offer, as provided in the Development Agreement, to allow time for Surland to prepare and submit the amended land dedication offer.

NOW, THEREFORE, the parties hereto agree as follows:

1. Incorporation of Recitals: The recitals contained herein are incorporated into the body of this Extension Agreement as though set forth in full and by this reference are made a part of the same.
2. Extension of Time for City to Accept Land Dedication Offer. The Dedication Acceptance Period shall be extended to September 15, 2016.
3. Effective Date: This Extension Agreement shall become effective upon the Effective Date and shall remain in force and effect until 5:00 p.m. on September 15, 2016.
4. First Amendment to Land Dedication Offer. Concurrent with recordation of this Extension Agreement, Surland shall record an amendment to the Land Dedication Offer, in substantially the form of Exhibit A hereto, to extend the Dedication Acceptance Period to September 15, 2016.

Executed as of the Effective Date.

"City"
CITY OF TRACY, a municipal corporation

By: _____
Title: Mayor
Date: _____

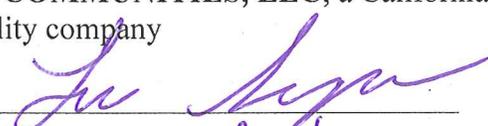
Attest:

By: _____
Title: CITY CLERK
Date: _____

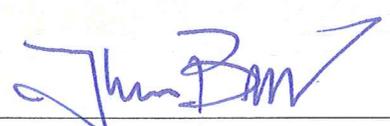
Approved As To Form:

By: Daniel Sodergren
Title: City Attorney

"Surland"
SURLAND COMMUNITIES, LLC, a California limited liability company

By: 
Les Serpa
Title: President
Date: June 9, 2015

"Standard Pacific"
STANDARD PACIFIC CORP., a Delaware Corporation

By: 
Thomas Burrill
Title: Authorized Signatory
Date: June 9, 2015

Date: _____

**NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME
TO ACCEPT LAND DEDICATION OFFER**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

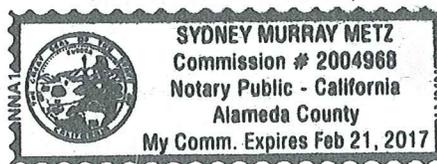
County of Alameda

On June 9, 2015 before me, Sydney Murray Metz, Notary Public personally appeared Thomas Burnill, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacities, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sydney Murray Metz
Signature of Notary Public



**NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME
TO ACCEPT LAND DEDICATION OFFER**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of San Joaquin

On June 9th, 2015 before me, Kirstie L. McKenzie, Notary Public
personally appeared Les Serpa, who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacities, and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kirstie L. McKenzie
Signature of Notary Public



NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME TO ACCEPT LAND DEDICATION OFFER

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of _____

County of _____

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

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

**RECORDED AT THE REQUEST OF
AND WHEN RECORDED RETURN TO:**

**CITY OF TRACY
333 CIVIC CENTER PLAZA
TRACY, CA 95376
ATTENTION: CITY MANAGER**

FIRST AMENDMENT TO OFFER TO DEDICATE LAND

The Offer to Dedicate Land (the "Land Dedication Offer") made by SURLAND COMMUNITIES, LLC, a California limited liability company ("Surland") in favor of the CITY OF TRACY, a municipal corporation (the "City") on September 15th, 2014 and recorded on October 1, 2014 in San Joaquin County as Document No. 2014-097799 is hereby amended with the consent of STANDARD PACIFIC CORP., a Delaware corporation, successor in interest to a portion of the real property subject to the Land Dedication Offer, as follows:

1. Recital C of the Land Dedication Offer shall be amended to read as follows: "Under the Development Agreement, the City shall have until September 15, 2016 to accept the Land Dedication Offer."

2. Paragraph 2 ("Term") of the Land Dedication Offer shall be amended to read as follows: "This Offer shall become effective upon September 15, 2014, and shall remain in force and effect until 5:00 p.m. on September 15, 2016 (the "Term"). During the Term, this Land Dedication Offer shall be irrevocable by Surland and its successors. At the expiration of the Term, if the Land Dedication Offer has not been accepted by the City, the offer shall terminate and be of no further force and effect."

"Surland"

SURLAND COMMUNITIES, LLC, a California limited liability company

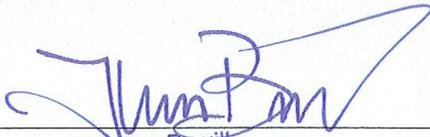
By: _____

Les Serpa

Title: _____

Date: _____

"Standard Pacific"
STANDARD PACIFIC CORP., a Delaware
Corporation

By: 
Thomas Burrill
Title: Authorized Signatory
Date: JUN 9, 2016

**NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME
TO ACCEPT LAND DEDICATION OFFER**

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State of California

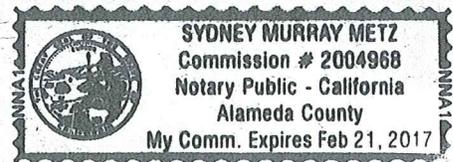
County of Alameda

On June 9, 2015 before me, Sydney Murray Metz, Notary Public
personally appeared Thomas Burnip, who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacities, and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Sydney Murray Metz



**NOTARY ACKNOWLEDGEMENTS TO AGREEMENT TO EXTEND TIME
TO ACCEPT LAND DEDICATION OFFER**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

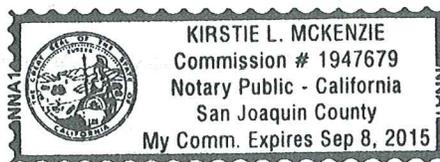
County of San Joaquin

On June 9th, 2015 before me, Kirstie L. McKenzie, Notary Public
personally appeared Les Serpa, who proved to
me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to
the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in
his/~~her~~/~~their~~ authorized capacities, and that by his/~~her~~/~~their~~ signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Kirstie McKenzie



RESOLUTION 2015 - _____

APPROVING AN AGREEMENT TO EXTEND TIME TO ACCEPT A LAND DEDICATION OFFER FROM SURLAND COMMUNITIES, LLC RELATED TO THE 16-ACRE LAND DEDICATION REQUIREMENT CONTAINED IN THE DEVELOPMENT AGREEMENT WITH SURLAND COMMUNITIES, LLC. THE ELLIS PROJECT AND DEVELOPMENT AGREEMENT SITE IS APPROXIMATELY 321-ACRES LOCATED AT THE NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND LINNE ROAD

WHEREAS, On April 18, 2013, the City and Surland entered into a Development Agreement (DA) which was subsequently amended on July 3, 2014, and

WHEREAS, Section 1.01(b) of the DA requires Surland to offer to dedicate to the City "approximately sixteen (16) acres of land as described generally in the City's Ellis Specific Plan, and

WHEREAS, Surland is required to offer to dedicate this area ("Ellis Swim Center Site" or "Site") no later than September 15, 2014, and

WHEREAS, The DA further requires the City to accept the offer by September 15, 2015, or be deemed to have rejected the offer and the offer shall expire, and

WHEREAS, On February 27, 2015, Surland proposed a modified offer of dedication as an alternative to the recorded Offer, and

WHEREAS, The land area described in the modified offer does not conform to the location of the Ellis Swim Center Site as described generally in the Specific Plan and consequently does not satisfy the requirements of the DA, and

WHEREAS, On May 21, 2015, the City received a letter from Surland requesting a time extension for the land dedication to allow time to process a proposed modified location of the swim center, and

WHEREAS, An extension of time to accept a revised land dedication offer is necessary, and

WHEREAS, There is no fiscal impact to the General Fund; Surland Communities, LLC has entered into a Cost Recovery Agreement with the City to cover all staff and consultant costs;

NOW, THEREFORE, BE IT RESOLVED, That City Council hereby approves an agreement to extend the time to accept a land dedication offer from Surland Communities, LLC, related to the swim center site within the Ellis project.

* * * * *

The foregoing Resolution 2015-_____ was adopted by the City Council on the 16^h day of June, 2015, 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 THE 2015 AMENDMENT TO THE REGIONAL TRANSPORTATION IMPACT FEE PROGRAM OPERATING AGREEMENT

EXECUTIVE SUMMARY

The San Joaquin County Regional Transportation Impact Fee Program (RTIF Program) is a countywide, multi-jurisdictional capital improvement funding program in San Joaquin County. In October 2005, the San Joaquin Council of Governments (SJCOG) adopted the RTIF Program. In April 2006, SJCOG entered into the Regional Transportation Impact Fee Operating Agreement (Operating Agreement) with the eight local jurisdictions in the county (seven cities and the County of San Joaquin) to administer the RTIF Program. On April 30, 2015, the SJCOG Board approved a revised RTIF Operating Agreement and authorized the execution of the revised Agreement upon adoption by the other member agencies. One of the updates to the RTIF Operating Agreement is inclusion of an incentive program called the Jobs Balancing Investment Fund. Staff recommends that Council approve the 2015 Amendment to the RTIF Operating Agreement.

DISCUSSION

BACKGROUND

The San Joaquin County Regional Transportation Impact Fee Program (RTIF Program) is a countywide, multi-jurisdictional capital improvement funding program in San Joaquin County. The RTIF Program enables all local public agencies in the county that regulate land use to collect an impact fee from new development for the purpose of contributing funding to regional transportation improvements necessary to offset the impacts of growth. A map depicting the regional transportation improvements is included as Attachment A. In October 2005, SJCOG adopted the RTIF Program. In April 2006, SJCOG entered into the Regional Transportation Impact Fee Operating Agreement (Operating Agreement) with the eight local jurisdictions "Participating Agencies" in the county (seven cities and the County of San Joaquin) to administer the RTIF Program.

The RTIF Fee imposed by all Participating Agencies is payable by all development projects within the jurisdiction for which building permits or other entitlements are issued. There are some exemptions to the RTIF Program Fee relative to rehabilitation and or reconstruction of structures as well as vesting tentative maps and development agreements approved prior to the adoption of RTIF Program Fee. The RTIF Program Fee was adopted in Tracy on December 6, 2005 (Resolution 2005-308). The current RTIF Fee for the various land uses are listed below.

| RESIDENTIAL | | NON – RESIDENTIAL | | | | |
|---------------|--------------|-------------------|-------------|-------------|-------------|----------------|
| Single Family | Multi-Family | Retail | Office | Industrial | Warehouse | Non-Conforming |
| \$3,084.58 | \$1,850.75 | \$1.23 | \$1.55 | \$0.93 | \$0.39 | \$136.10 |
| DUE * | DUE | Square Foot | Square Foot | Square Foot | Square Foot | Per Trip |

*Dwelling Unit Equivalent

All fees collected by each Participating Agency are distributed to the eligible projects as follows:

- Ten percent of the amounts collected by Cities shall be paid directly to the County for the purpose of funding RTIF capital projects in the County.
- Ten percent of the amounts collected by each Participating Agency shall be used to fund state highway improvements on the RTIF project list.
- Five percent of the amounts collected by each Participating Agency shall be used to fund transit improvements on the RTIF project list.
- Seventy-Five percent of the amount collected by each city shall be retained by each city for the purpose of funding RTIF capital projects in or near their jurisdictions.

RTIF Operating Agreement Amendments

Over the past several years, there have been administrative changes to the RTIF program as a result of a program update in 2011 and a subsequent addendum to the update in 2014. While these changes were reviewed by the SJCOG standing committees and the San Joaquin Board in September 2014, the Operating Agreement was not finalized at that time. On April 30, 2015, the SJCOG Board approved the revised RTIF Operating Agreement and authorized the execution of the revised Agreement upon adoption by the other member agencies.

The revised Operating Agreement includes several administrative/clarification changes as well as the inclusion of a new economic development incentive funding program called the "Jobs Balancing Investment Fund." The following highlight some of the changes to the current Operating Agreement and the new incentive program fund:

Administrative/Clarifying Changes to Operating Agreement

- Clarified language for the RTIF annual fee adjustment to specify use of a simple three-year rolling average based on the California Construction Cost Index (CCCI).
- Clarified the definition of the Warehouse and Industrial land-uses that do not conform to other land-uses categories as specified in the technical analyses.
- Clarification of language related to consistency with Regional Transportation Plan (RTP) and the certified Environmental Impact Report (EIR).
- Changes in timing of program fee payments from quarterly to semi-annual, to be accompanied by semi-annual reporting by February 28th and August 31st of each year.

- Changes in required reporting to the SJCOG Board from semi-annual to annual, by October 15th of every year.

RTIF Jobs Balancing Investment Fund / Program

The purpose of the program is to provide transportation project funding to serve as a package of economic incentives to encourage job-creating firms to locate in San Joaquin County. Incentives could be used for eligible projects to include intersection/traffic control devices, turn lanes, STAA truck routes, transit facilities, biking or walking facilities, on or supporting congestion relief on the RTIF network. Below is greater detail on incentive criteria. Projects would be submitted to COG annually.

- The annual maximum funding for the program is \$1 million.
- \$500,000 is the maximum annual project funding.
- Funding for the program shall come from the 15% regional share component of the RTIF fees collected. (5% for transit and 10% for highways, interchanges, and regional roadway projects).
- Projects must meet eligibility criteria to be funded (RTIF Network Projects, meet delivery time frame evaluated in the RTIF Technical Report, or be included as a RTIF Project).
- Project will be selected by a RTIF Project Selection Committee (Chair will be CEO of SJ Partnership, and two other members agreed upon by SJCOG staff and committee chair).
- Project must be spread throughout the region “regional geographic diversity.”
- Project must be well qualified and vetted proposals.

It should be noted that the Jobs Balancing Investment Fund/Program will be evaluated and any needed changes will be incorporated into the full implementation of the program as part of the 2016 RTIF update.

The following table depicts the historic ratio of jobs to housing data for the City of Tracy.

| Year | Number of Jobs | Number of Households |
|-------------|-----------------------|-----------------------------|
| 1990 | 11,112 | |
| 2000 | 20,972 | 17,620 |
| 2007 | 35,217 | 25,030 |
| 2008 | 30,018 | 25,478 |
| 2010 | 30,435 | 25,596 |
| 2014 | 38,143 | 26,039 |

The purpose of this agenda item is to adopt, by resolution, the 2015 Amendment to the Regional Transportation Impact Fee (RTIF) Program Operating Agreement.

Attached to this report is the 2015 Amended Operating Agreement (Attachment B), the San Joaquin Council of Governments (SJCOG) April 30, 2015, staff report (Attachment C) regarding the Jobs Balancing Investment fund and the SJCOG April 30, 2015, staff report regarding changes to the current Operating Agreement (Attachment D). These documents are included as reference for greater detail. A few of the other jurisdictions in the county have already adopted the 2015 Amendment, as of the preparation of this report.

STRATEGIC PLAN

This item correlates to the City Council's Economic Development Plan relative to creating new job opportunities in the community.

FISCAL IMPACT

There is no fiscal impact with this agenda item.

RECOMMENDATION

That the City Council adopts, by resolution, the 2015 Amendment to the RTIF Operating Agreement

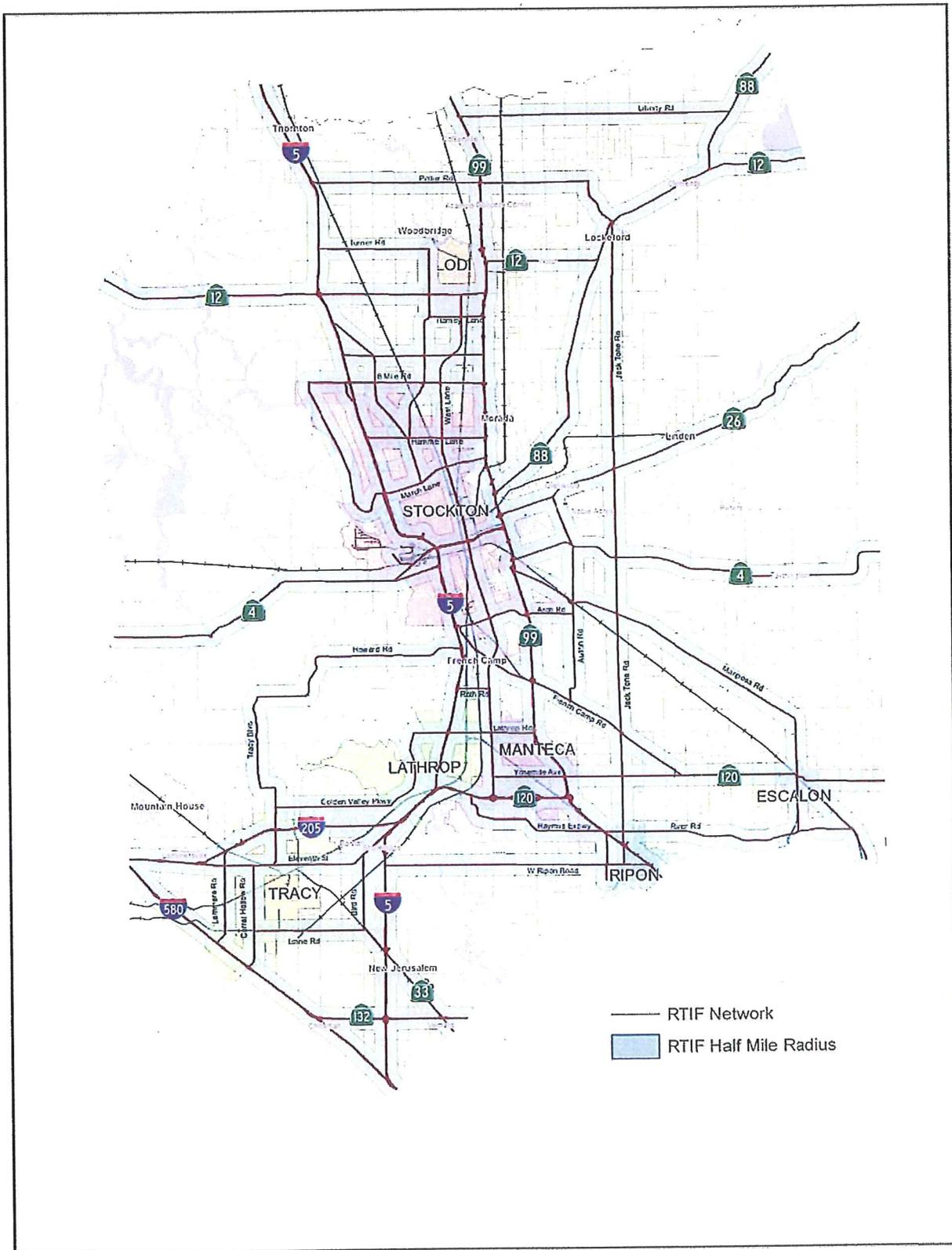
Prepared by: Andrew Malik, Interim Assistant City Manager
Kul Sharma, Utilities Director

Reviewed by: Troy Brown, City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A – RTIF Map
Attachment B – 2015 Amended Operating Agreement
Attachment C – SJCOG Board Staff Report dated April 2015
Attachment D – SJCOG Board Staff Report dated April 30, 2015



**SAN JOAQUIN COUNTY
REGIONAL TRANSPORTATION IMPACT FEE PROGRAM
OPERATING AGREEMENT**

THIS REGIONAL TRANSPORTATION IMPACT FEE PROGRAM OPERATING AGREEMENT (“Agreement”) dated as of the Effective Date is made by and between the San Joaquin Council of Governments (“SJCOG”), and the following eight public agencies located within San Joaquin County (collectively the “Participating Agencies”), including, the County of San Joaquin (“County”), the City of Escalon (“Escalon”), the City of Manteca (“Manteca”), the City of Lathrop (“Lathrop”), the City of Lodi (“Lodi”) the City of Ripon (“Ripon”) the City of Stockton (“Stockton”), and the City of Tracy (“Tracy”) (the identified cities are hereinafter collectively the “Cities”).

RECITALS

WHEREAS, SJCOG has the responsibility as the region’s designated Metropolitan Planning Organization and through its powers as specified in its joint powers agreement to maintain and improve the Regional Transportation Network; and

WHEREAS, the Participating Agencies and SJCOG find that future development within the County of San Joaquin will result in traffic volumes in excess of capacity on a regional system of highways, interchanges, and local roadways; and,

WHEREAS, the Participating Agencies and SJCOG find that failure to expand the capacity of the existing circulation system will cause unacceptable levels of congestion on the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find that existing and future sources of revenue are inadequate to fund substantial portions of the Regional Transportation Network improvements needed to avoid unacceptable levels of congestion and related adverse impacts; and,

WHEREAS, SJCOG, following extensive analysis and consultations with the Participating Agencies and other stakeholders, has prepared a Regional Transportation Impact Program Fee Technical Report (“RTIF Technical Report”) that establishes a nexus between new development and its impacts (increased travel demand, reductions in service levels, and the need for capital improvements) upon the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Technical Report has determined the extent to which new development of land will generate traffic volumes impacting the Regional Transportation Network and have determined that the Regional Transportation Impact Fee Program (“RTIF Program”) establishes a fair and equitable method to fund costs of transportation improvements necessary to accommodate the traffic volumes generated by future development of land within each City and the County; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Program is necessary to help mitigate the impact of new development on the Regional Transportation Network and along with other transportation funding mechanisms, in providing for the construction of improvements to accommodate traffic generated by land development; and,

WHEREAS, the Participating Agencies and SJCOG have determined that it is in their best interest to join together to administer the funds provided by the RTIF Program and to authorize SJCOG to manage the RTIF Program for the San Joaquin County region; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that in order to serve the purposes described herein, additional funding, other than that received from the RTIF Program is necessary and must be obtained and each party agrees to cooperate in obtaining additional funding; and,

WHEREAS, the Participating Agencies and SJCOG find and declare SJCOG prepared, adopted and certified in July 2004 a Final Program Environmental Impact Report (“EIR”) for the 2004 Regional Transportation Plan, State Clearing House number 2003082053. The RTIF Program, as adopted in 2005, relied on and was consistent with this previously prepared, approved and certified EIR.

WHEREAS, the Participating Agencies have adopted or will adopt a Regional Transportation Impact Program Fee (“RTIF Program Fee” or “RTIF Fee”) pursuant to their authority to protect the public health, safety, and welfare consistent with the provisions of California Government Code Section 66000 et seq.; and,

WHEREAS, the integrity and success of the RTIF Program is dependent upon all Participating Agencies and SJCOG working cooperatively with each other in order to fulfill their obligations faithfully and promptly; and,

WHEREAS, funds collected pursuant to the Participating Agencies’ ordinances and/or resolutions adopting the RTIF Program are to be held and expended by the Participating Agencies and SJCOG as specified herein.

AGREEMENT

Now, therefore, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant and agree as follows:

SECTION 1. PURPOSE

1.1. The RTIF Program requires management procedures that assure that the objective of the RTIF Program is achieved. Specifically, the RTIF Program objective is to obtain funding from development projects that have an impact upon the Regional Transportation Network and to integrate these funds with federal, State, and other local funding to fund transportation improvements identified in the RTIF Program. While the RTIF Program and the RTIF Program

Fee will be imposed and collected by the Participating Agencies, the RTIF Program will be managed by SJCOG for the benefit of the entire County region.

1.2. This Agreement defines the terms of the required management procedures for Participating Agencies and SJCOG including specifications regarding levy and collection, administration, project selection, fund management, appropriation of fee funds, and ongoing technical review and updating.

SECTION 2. DEFINITIONS

2.1. "Development Project" or "Project" means any project undertaken for the purpose of development including the issuance of a permit for construction or reconstruction, but not a permit to operate.

2.2. "Industrial Project" means any Development Project that proposes manufacturing, transportation or logistics as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference. Examples of the industrial land-use category are printing, material testing, assembly plants, manufacturing plants (where raw materials or parts are converted to finished products) and utilities.

2.3. "Measure K" means the San Joaquin County Transportation Authority Local Transportation Improvement Plan: Air Quality, Mandatory Developer Fees and Growth Management Ordinance which establishes and implements a retail transactions and use tax, as may be extended from time to time.

2.4. "Multi-Family Residential Unit" means a Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.5. "Non-Conforming Land Use" is any Development Project not adequately represented by the six land use categories called out in this agreement. This is typically a non-retail, non-residential development project that has minimal or no building area and yet would generate impacts at a level that is significantly more than represented in the RTIF fee schedule. Examples of these are projects related to mining, intermodal facilities, agriculture, and outdoor recreation. For these projects a "per trip" calculation is included in the fee schedule.

2.6. "Office Project" means any Development Project that involves business activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal and laundry services, or similar uses, and religious centers as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.7. "Warehousing Project" means any Development Project that is primarily devoted to the storage of materials. Examples of warehousing land-uses include self-storage facilities, distribution centers (used for storage of finished material prior to their distribution to retail centers or other storage facilities, data centers, agricultural storage, refrigerated/cold storage, and

wrecking yards. Other examples are contained in Exhibit “A” hereto and incorporated herein by reference.

2.8. “On-Going Third Party Costs” means costs to implement the program associated with outside professional services secured by SJCOG. Examples of third party professional services include, but are not limited to the following: a) Conducting RTIF program review every five years in accordance with California Government Code Section 66000 et seq.; b) Technical support (e.g., nexus analysis); c) Legal Fees; and, d) Annual fiscal audit.

2.9. “Participating Agencies” means the County of San Joaquin and each of the cities situated in San Joaquin County if such agencies have (1) adopted the RTIF Program Fee by ordinance and/or resolution and (2) entered into this Agreement.

2.10. “Regional Transportation Impact Fee Program” or “RTIF Program” is the regional program established by this Agreement by the Participating Agencies and SJCOG to impose, collect and distribute a RTIF Fee to assist in the funding of transportation improvements to the Regional Transportation Network.

2.11. “Regional Transportation Impact Program Fee” or “RTIF Program Fee” or “RTIF Fee” means the fee established by each Participating Agency consistent with this Agreement to implement the RTIF Program.

2.12. “Regional Transportation Network” means the regional network of highways and arterials as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG.

2.13. “RTIF Capital Projects” or “Capital Projects” or “RTIF Project List” is the RTIF Program improvements and projects as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG’s adoption and amendment of a “RTIF Capital Projects Report.”

2.14. “RTIF Capital Projects Report” means the report adopted by SJCOG annually which identifies the RTIF Capital Projects as amended from time to time consistent with Section 9 of this Agreement.

2.15. “RTIF Technical Report” means the San Joaquin County Regional Transportation Impact Fee RTIF Technical Report dated October 2005, and prepared pursuant to California Government Code, Section 66000 et seq., the Mitigation Fee Act.

2.16. "Residential Dwelling Unit" means a building or portion thereof which is designed primarily for residential occupancy by one family including single-family and multi-family dwellings. "Residential Dwelling Unit" shall not include hotels or motels.

2.17. "Retail Project" means any Development Project that retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise at a fixed point of sale as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.18. "Single-Family Residential Unit" means the use of a parcel for only one residential dwelling unit as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

SECTION 3. FEE RATE

3.1. RTIF Program Fees and Annual Adjustment. The RTIF Program Fee shall be adjusted annually. Annual adjustments to the RTIF Program Fee shall be adjusted by each Participating Agency on an annual basis at the beginning of each fiscal year (July 1). The annual adjustment shall be calculated by SJCOG as the arithmetic average of the annualized percentage change of the Engineering News Record California Construction Cost Index (CCCI) for each of the three most recent years. For example, for the 14/15 fiscal year adjustment, the adjustment calculation would be:

| | | | | |
|---------------------------|-------------|-------------|-------------|-------------|
| <i>Year</i> | 2014 | 2013 | 2012 | 2011 |
| <i>CCCI Index (April)</i> | 5956 | 5786 | 5740 | 5636 |
| <i>Annual % Change</i> | 2.94% | 0.80% | 1.85% | N/A |

3-Year Average

| |
|--------------|
| 1.86% |
|--------------|

Changes to the annual adjustment methodology or index will be considered during each five-year RTIF review as specified in Section 8.1. However, changes to the annual adjustment methodology or index may be instituted as needed, with approval of the SJCOG Board of Directors, without necessitating a change in the Operating Agreement. Based on the annual adjustment methodology noted, the fee schedule for fiscal year 2014/2015 is as follows:

| RESIDENTIAL | | NON – RESIDENTIAL | | | | |
|---------------|--------------|-------------------|-------------|-------------|-------------|----------------|
| Single Family | Multi-Family | Retail | Office | Industrial | Warehouse | Non-Conforming |
| \$3,084.58 | \$1,850.75 | \$1.23 | \$1.55 | \$0.93 | \$0.39 | \$136.10 |
| DUE | DUE | Square Foot | Square Foot | Square Foot | Square Foot | Per Trip |

The RTIF fee collected is based on the predominant use of the project or addition. General definitions and examples for each land-use category are included in Section 2 and Exhibit "A" of

this Agreement. Within these parameters, application of the appropriate fee is determined by the local agency at the time of permit issuance.

SECTION 4. COLLECTION OF RTIF PROGRAM FEES

4.1. Payment of RTIF Program Fees. Payment of the RTIF Program Fees shall be as follows:

(a). The RTIF Program Fees shall be paid at the time of issuance of a building permit for the Development Project, or as otherwise required or permitted pursuant to Government Code section 66007.

(b). The amount of the RTIF Program Fees shall be the fee amounts in effect at the time of payment.

(c). RTIF Program Fees shall not be waived or subject to negotiation.

4.2. Payment by all Development Projects. Except as otherwise expressly provided by this Agreement, the RTIF Program Fee imposed by all Participating Agencies shall be payable by (1) all Development Projects within the jurisdiction of the Participating Agency for which building permits or other entitlements for Development Projects are issued on or after the effective date of the adoption of the RTIF Program Fee by the Participating Agency, and (2) all Development Projects within the Participating Agency for which building permits or other entitlements for Development Projects were issued prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency and which permits or entitlements were issued subject to a condition requiring the developer to pay a RTIF Program Fee to be imposed upon such Development Project within the jurisdiction of the Participating Agency.

4.3. Exemptions from the RTIF Program Fee. The following Development Projects shall not be subject to the RTIF Program Fee:

(a). The rehabilitation and/or reconstruction of any legal, residential structure and/or the replacement of a previously existing legal dwelling unit, including an expansion of an existing dwelling unit that does not create an additional dwelling unit.

(b). The rehabilitation and/or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay the established applicable fee rate for that portion of square footage that is new.

(c). Development Projects for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete on or prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency.

(d). Development Projects which are the subject of a development agreement entered into pursuant to Government Code section 65864 et seq. prior to the effective date of the initial adoption of the RTIF Program Fee by the Participating Agency (2005), wherein the imposition of new fees are expressly prohibited by the development agreement, provided, however, that if the term of such a development agreement is

extended after the effective date of the adoption of the RTIF Program Fee, the RTIF Program Fee shall be imposed.

4.4. Future Development Agreements. All future development agreements entered into by the Participating Agencies shall require the full payment of the RTIF Program Fee.

4.5. Payments for non-residential projects. For non-residential projects the amount of the fee imposed on the entire Development Project shall be determined based upon (1) the gross floor area and (2) the predominant use of the building or structure as identified in the building permit.

4.6. Payment for mixed use projects. For mixed land use projects, which are projects that have both residential and non-residential uses, the amount of the fee imposed on the entire Development Project shall be proportionally determined based on the following:

- (a) The fee associated with the type of residence; and,
- (b) The predominant use of the non-residential portion of the project.

4.7. Previously Paid RTIF Program Fees. In the event that RTIF Program Fees have previously been paid for an existing building which is a new Development Project with a new or different RTIF Fee category, the previously paid RTIF Program Fees for that existing building shall be credited against the amount of the RTIF Program Fee attributable to the new Development Project, up to the amount of the previously paid RTIF Program Fee. A rebate will not be granted if the change in land use represents a lower fee.

SECTION 5. DISTRIBUTION OF RTIF PROGRAM FEES

5.1. Purpose of RTIF Program Fees. Except as otherwise provided in this Agreement, all RTIF Program Fees received by each Participating Agency or SJCOG shall be used solely for the purpose of funding Regional Transportation Network projects as specified in the RTIF Technical Report and which are included within the RTIF Capital Projects Report. Each Participating Agency and SJCOG may spend RTIF Program Fees held by that entity on RTIF Capital Projects at the discretion of that entity.

5.2. Distribution of Fee Revenue. All fees collected by each Participating Agency pursuant to the RTIF Program Fee shall be distributed as follows:

- (a). Ten (10) percent of the amounts collected by the Cities shall be paid directly to the County on a semi-annual basis for the purpose of funding RTIF Capital Projects within the County of San Joaquin.
- (b). Ten (10) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a semi-annual basis for the purposes of funding state highway improvements on the RTIF Project List.

(c). Five (5) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a semi-annual basis for the purposes of funding transit improvements on the RTIF Project List.

(d). Semi-annual payments shall be received no later than February 28th and August 31st with a collection period of July 1st – December 31st and January 1st – June 30th ., respectively. Each payment shall be accompanied by a report that shall specify the amount of RTIF Program Fee revenue collected and the corresponding fee generating activity, including such information as the types of permits issued by land-use category, developer credits and reimbursements granted, RTIF Program revenue applied to RTIF Capital Projects, and the amount of RTIF Program fees forwarded to the County and SJCOG as appropriate.

(e). Seventy Five (75) percent of the amounts collected by each city shall be retained by each city collecting such funds for the purposes of funding RTIF Capital Projects, and Eighty Five (85) percent of the amounts collected by the County shall be retained by the County for the purposes of funding RTIF Capital Projects. In the event a Participating Agency determines it does not want to retain or manage this portion of the RTIF Program Fees, the Participating Agency may provide this portion of the RTIF Program Fees to SJCOG for administration to assist with the construction of Capital Projects on behalf of the Participating Agency.

SECTION 6. ADMINISTRATIVE COSTS

6.1. Participating Agency Administrative Costs. The amount of RTIF Program Fee funds that are permitted to be used by each Participating Agency to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two (2) percent of the first one million dollars (\$1,000,000) retained each year by each City pursuant to subdivision (e) of section 5.2 of this Agreement or received each year by the County pursuant to subdivisions (a) and (e) of section 5.2 of this Agreement. In addition, each Participating Agency may use up to one (1) percent of the amounts retained or received each year in excess of the initial one million dollars (\$1,000,000).

6.2. SJCOG Administrative Costs. The amount of RTIF Program Fee funds permitted to be used by SJCOG to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two percent (2%) of the first one million dollars (\$1,000,000) received each year by SJCOG pursuant to subdivision (b) and (c) of section 5.2 of this agreement and up to one percent (1%) of the amounts received each year in excess of the initial one million dollars (\$1,000,000).

6.3. On-going Third Party Costs. On-going third party costs approved by the SJCOG Board of Directors to regionally implement the RTIF Program will be paid to SJCOG by each Participating Agency and SJCOG on an annual basis. The amount of on-going third party costs each Participating Agency and SJCOG shall pay is based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. These payments for the on-going third party costs shall not be considered

administrative costs and shall not be subject to the limitations provided in sections 6.1 and 6.2 of this Agreement.

6.4. Legal Challenges. In the event that any Participating Agency and/or SJCOG is subject to a legal challenge of the RTIF Program then all Participating Agencies and SJCOG will be responsible for the costs associated with such legal challenge. At the time of such legal challenge the Participating Agencies and SJCOG will coordinate the defense of such legal challenge and the costs incurred for such legal challenge will be the responsibility of the Participating Agencies and SJCOG based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. For the purposes of this section 6.4, a legal challenge of the RTIF Program is limited to a challenge to either (a) the legal ability to adopt or impose the RTIF Program; or (b) the validity of the RTIF Technical Report. This section 6.4. will not apply to any legal challenge due to the manner of implementation of the RTIF Program that is either unique to a Participating Agency or that is not consistent with the provisions of this Agreement.

SECTION 7. ADMINISTRATION OF THE RTIF PROGRAM

7.1. RTIF Account or RTIF Funds. All fees collected pursuant to the RTIF Program Fee by each Participating Agency shall be deposited in a RTIF account or RTIF fund and shall not be commingled with other funds of the Participating Agency. The contents of this RTIF fund shall be designated solely for the purpose of contributing to the financing of the RTIF Capital Projects included in the RTIF Capital Projects Report and for the funding of incidental administrative costs. Any interest income earned on the RTIF fund shall also be deposited therein and shall only be expended for the purposes as set forth in this Agreement.

7.2. Prohibition on Interfund Transfers or Loans. Notwithstanding subsection (b)(1)(G) of section 66006 of the Government Code there shall be no interfund transfer, grant or loan of the RTIF Program Fees or RTIF fund or RTIF account to other accounts, funds, programs or fees. However, a Participating Agency may provide loans, grants or transfers of RTIF Program Fees to other Participating Agencies or SJCOG provided that such funds are consistent with the RTIF Program and used for the development or construction of RTIF Capital Projects.

7.3. Annual Reports. By October 15th of each year, SJCOG shall prepare and deliver to the Executive Director of SJCOG an annual report consistent with the requirements of the Mitigation Fee Act (Gov. Code §§ 66000 et seq.). The annual report, which will be reviewed by the SJCOG Board of Directors, shall specify the amount of RTIF Program Fee revenue collected and the corresponding fee generating activity, including, such information as the types of permits issued by land use category, developer credits and reimbursements granted, RTIF Program revenue applied to RTIF Capital Projects, and the status of RTIF Program fees forwarded to the County and SJCOG by the Cities. For purposes of preparing the annual reports to satisfy the requirements of the Mitigation Fee Act, SJCOG and the County shall coordinate with and provide to each Participating Agency in a timely manner, and no later than August 31st of each year, all necessary information regarding the RTIF Program funds held by SJCOG and the County that were distributed to the County and SJCOG from the Participating Agencies pursuant to section 5.2 of this Agreement.

7.4. Annual Audit. The RTIF Program financial activity for each Participating Agency and SJCOG shall be reviewed annually by December 31st of each year by an independent certified public accountant selected and retained by SJCOG.

7.5. RTIF Program Administrator. SJCOG is the monitor of the RTIF Program and will monitor all fee revenue generated pursuant to the RTIF Program as reported semi-annually by all Participating Agencies.

SECTION 8. PERIODIC REVIEW OF RTIF PROGRAM FEES

8.1. Except as otherwise provided in Section 3.1 of this Agreement, the RTIF Program Fee shall not be adjusted during the first five years following the Effective Date of this Agreement. Thereafter, the RTIF Program Fee shall be evaluated, and adjusted accordingly, by all Participating Agencies and SJCOG every five (5) years to reflect the projected revenues generated or any other local or new funding sources, and to reflect changes in actual and estimated costs of the RTIF Capital Projects including, but not limited to, debt service, lease payments and construction costs. This evaluation shall include the report required by the Fee Mitigation Act (Gov. Code §§ 66000 et seq.) which includes, but is not limited to, all of the following information:

- (a). Identifies the purpose (project need) to which the fee is to be put;
- (b). Demonstrates a reasonable relationship between the fee and the purpose for which it is charged;
- (c). Identifies all sources and amounts of funding anticipated to complete financing in incomplete improvements;
- (d). Commits RTIF Program funds to RTIF Capital Project(s) and indicates that such funds are expended or reimbursed within the time periods established by the Fee Mitigation Act requirements; and,
- (e). Identifies the RTIF Capital Projects to be constructed, the estimated costs of the RTIF Capital Projects, the costs to be funded by the RTIF Program Fee revenue, and the availability or lack thereof of other funds with which to construct the Regional Transportation Network.

8.2. If the periodic reports prepared pursuant to section 8.1 above demonstrates a need, the Participating Agencies, in coordination with SJCOG, may consider modifying the RTIF Program Fee amount to insure that it is a fair and equitable method of distributing the costs of the improvements necessary to accommodate traffic volumes generated by future growth.

8.3. SJCOG and the County shall coordinate with each Participating Agency in the preparation of the periodic reports required by Section 8.1 of this Agreement and the Fee Mitigation Act, and provide any and all information and/or commitments necessary regarding RTIF Program fees distributed to SJCOG and the County from the Cities. In the event RTIF Program fees must be refunded pursuant to section 66001 of the Government Code, SJCOG and

the County will provide to each City for refund any proportional share of RTIF Funds that must be refunded that were distributed to SJCOG and/or the County by each City.

SECTION 9. SJCOG CAPITAL PROJECTS SELECTION.

9.1. RTIF Capital Projects Report. SJCOG will be responsible for establishing and maintaining the RTIF Project List. From time to time, at the request of a Participating Agency, and at least annually, SJCOG shall review the RTIF Capital Projects Report to add, modify, or remove RTIF Capital Projects. Each Participating Agency will have the opportunity to suggest changes to the Capital Projects within the RTIF Program at this time. SJCOG will make any and all changes to the Capital Projects Report annually taking into consideration the comments received from each Participating Agency consistent with the screening criteria contained within the RTIF Technical Report.

9.2. Project Inclusion Criteria. The technical basis of the RTIF Program is a list of road improvement projects identified as Capital Projects within the Regional Transportation Network which are eligible and appropriate for funding from the RTIF Program. The inclusion criteria used to select the RTIF Capital Projects are as set forth in the RTIF Technical Report. It is the application of these criteria that assure adherence to the required nexus principles. Modification to the inclusion criteria will require approval by resolution of all Participating Agencies and an update of the RTIF Technical Report.

9.3. Selection of New Capital Projects. Any new projects recommended for listing as a RTIF Capital Project must be modeled and screened consistent with the requirements of the Mitigation Fee Act (Gov. Code §§ 66000 et seq.) criteria for establishing a rational nexus. In addition, new projects added to the RTIF Project List must meet all of the following criteria:

9.3.1. Highway, Interchange, and Regional Roadway Improvements

- (a) The project is on the adopted Regional Transportation Network;
- (b) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (c) The project involves a capacity improvement of one or more through travel or passing lanes, or auxiliary lanes (i.e. turn lanes). This criterion shall not be applied to interchange improvement projects.

9.3.2. Public Transit Improvements

- (a) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (b) The project involves an improvement to an existing or a new service/facility which connects at least two (2) or more cities or regions.

9.4. Jobs Balancing Investment Fund Improvements. This category provides funding for transportation projects that support non-residential development projects considered a high

priority to meet economic development policy objectives. Funding for these projects shall come from the “regional” share component of RTIF funding overseen by SJCOG. The maximum funding for any single project is \$500,000; the annual program maximum is \$1,000,000. Funding limits may be revised by the SJCOG Board. Use of these funds shall be consistent with the adopted RTIF nexus study and compliant with the Mitigation Fee Act. These improvements must meet the following criteria:

9.4.1. If the improvement is an RTIF Capital Project and is scheduled for delivery within the time frame evaluated in the RTIF Technical Report, the project may be funded with RTIF revenues up to the fair share total costs identified for the project.

9.4.2. If the improvement is not an RTIF Capital Project, the project must meet one or more of the following:

- (a) The improvement is on the RTIF Network;
- (b) The improvement provides a benefit to or supports improvement to the RTIF Network as set-forth in the currently adopted RTIF Technical Analysis.
- (c) The RTIF Network is amended to include the improvement;
- (d) If the improvement does not meet the criteria for 9.3.1., 9.3.2., 9.4.1. or 9.4.2., the improvement shall be screened against the criteria set forth in the Jobs Balancing Investment Fund Interim Implementation Addendum to the 2011 RTIF Update or currently adopted RTIF Technical Analysis, and appropriate findings made to support the adopted RTIF nexus study.

In addition to meeting at least one of the criteria set forth in (a) – (d), the improvement must be reviewed and recommended for funding by the RTIF Project Selection Committee.

9.5. Inclusion in Regional Transportation Plan. Prior to receiving any RTIF Program Fee revenue a project must be identified in the SJCOG Board approved Regional Transportation Plan (RTP) and the RTIF Project List.

9.6. RTIF Project Management. Each City is responsible for managing and delivering RTIF interchange and regional roadway projects located within its incorporated boundaries, except as otherwise specifically agreed to by such city. The County is responsible for managing and delivering RTIF Projects located within the unincorporated area of the county, except as otherwise specifically agreed to by the County.

SECTION 10. CREDITS AND REIMBURSEMENTS

10.1. Reimbursements and Credits. In the event that RTIF Capital Projects are constructed by a developer in excess of the Development Project's RTIF Program Fee obligation or in lieu of payment of RTIF Program Fees by a developer pursuant to an agreement between the developer and the Participating Agency, the developer may be reimbursed or credited for future application for any costs based on the actual costs of construction of the RTIF Capital Project incurred by the developer in excess of the amount the RTIF Program Fees that apply to the Development Project. Reimbursements shall be enacted pursuant to an agreement between the developer and the Participating Agency contingent on payment of funds when available for reimbursement to the developer. In all cases, however, reimbursements to developers pursuant to any agreement must be consistent with construction of the transportation improvements as scheduled in the RTIF Capital Projects Report.

SECTION 11. EXISTING REGIONAL TRANSPORTATION FEES

11.1. Each Participating Agency shall evaluate and adjust, if necessary, its existing local fee program(s), if any, associated with regional traffic impacts to determine continued compliance with the Fee Mitigation Act due to the adoption of the RTIF Program.

SECTION 12. WITHDRAWAL

12.1. For reasons pertaining to the lack of direct benefit, a Participating Agency may elect to withdraw from the RTIF Program upon providing one year written notice to SJCOG and each Participating Agency. If the Participating Agency has accrued RTIF Program Fee revenue, all funds plus interest earned shall be expended on RTIF Capital Projects by the Participating Agency or by any Participating Agency or SJCOG.

SECTION 13. MISCELLANEOUS

13.1. Effective Date. This Agreement shall be effective and all Participating Agencies and SJCOG shall be authorized to proceed under this Operating Agreement at the date in which this Agreement has been executed by the San Joaquin County Board of Supervisors, the City Councils of each of the Cities, and SJCOG.

13.2. Partial Invalidity. If any one or more of the terms or provisions of this Agreement shall be adjudged invalid, unenforceable, void or voidable by a court of competent jurisdiction, each and all of the remaining terms and provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

13.3. Amendments. Any amendments to this Agreement shall be made by the SJCOG and all Participating Agencies.

13.4. Enforcement. It shall be the responsibility of the Participating Agencies and SJCOG to adopt, implement, and maintain the RTIF Program consistent with the terms of this Agreement.

13.5. Execution. The Board of Supervisors of the County of San Joaquin, the City Councils of the Cities, and the Board of Directors of SJCOG have each authorized execution of this Agreement as evidence by the authorized signatures below.

13.6. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

| <u>PARTY</u> | | <u>DATE OF APPROVAL</u> |
|--|--|-------------------------|
| Board of Supervisors, County of San Joaquin | | |
| By | | |
| Chair | | Date |
| Attest: | | |
| Clerk of the Board | | |
| City Council, City of Escalon | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |

| | | |
|--------------------------------------|--|------|
| City Council, City of Lathrop | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Lodi | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Manteca | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Ripon | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |

| | | |
|---|--|------|
| City Council, City of Stockton | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Tracy | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| | | |
| San Joaquin Council of Governments | | |
| By | | |
| Board Chair | | Date |
| Attest: | | |
| Interim Executive Director | | |
| | | |
| | | |

EXHIBIT A

RTIF LAND USE FEE CATEGORY SUMMARY

RESIDENTIAL

Single-Family Dwelling

A single family dwelling is defined as a residence designed for or occupied exclusively as a residence for one family; including a vacation home or seasonal dwelling and is located on one parcel.

Multi-Family Dwelling

Multi-family dwellings are defined as single structures designed for and/or constructed to contain two (2) or more dwelling units which share common walls (i.e., rowhouse, townhouse, duplex, triplex, quadraplex, condominium, apartment complex). When an existing single-family dwelling is converted into two (2) or more dwellings, it will be reclassified and subject to the multi-family dwelling regional fee. As a planned development containing two (2) or more residences, mobile homes parks are considered multi-family dwellings. A “commercial apartment” dwelling located within a commercial building is classified as a multi-family dwelling.

NON-RESIDENTIAL

Relationship of businesses to RTIF non-residential land use categories are based on the North American Industry Classification System (NAICS)

Retail

Sector comprises establishments engaged in retailing merchandise, generally without transformation and rendering services incidental to the sale of merchandise—fixed point of sale location. NAICS Sectors 44 & 45 represents the retail industry. Examples of retail businesses include:

- Garden material and garden supply dealers
- Food and beverage stores (i.e., grocery stores, specialty food stores, beer/wine/liquor stores)
- Health and personal care stores
- Gasoline stations
- Motor vehicle and parts dealers
- Furniture and home furnishing stores
- Electronics and appliance stores
- Clothing and clothing accessories stores

- Sporting goods, hobby, book and music stores
- General merchandise stores
- Miscellaneous store retailers
- Non-store retailers such as electronic shopping and mail-order houses, direct selling establishments

Office/Service

Sector comprises finance, insurance, real estate professional, scientific and technical services, research and development, administrative & support services, education, health care and social assistance and other such as repair & maintenance, personal & laundry, and religious centers, including churches. NAICS Sectors 51 – 72, 81 & 92 represents the office industry. Examples of office related businesses include:

- Publishing industries, except Internet
- Motion picture and sound recording industries
- Broadcasting, except Internet
- Internet publishing and broadcasting
- Telecommunications
- Internet Service Providers, search portals, and data processing
- Other information services such as libraries and archives, news syndicates
- Monetary authorities such as banks, credit unions, credit card issuing services, sales financing, mortgage and non-mortgage loan brokers
- Securities, commodity contracts, investments
- Insurance carriers and related activities
- Funds, trusts, and other financial vehicles
- Real estate
- Rental and leasing activities
- Lessors of non-financial intangible assets
- Professional and technical services such as legal, accounting, engineering, design, consulting, research and development, advertising services
- Management of companies and enterprises
- Administrative and support services such as employment, business support (i.e., call centers, collection agencies), travel arrangement and reservation services, services to buildings and dwellings (i.e., janitorial, landscaping, pest control, carpet cleaning)
- Waste management and remediation services
- Educational services
- Health care and social assistance
- Hospitals
- Nursing and residential care facilities
- Social assistance (i.e., child/youth services, services for the elderly and persons with disabilities, shelters, food banks, vocational rehabilitation services, day care)
- Art, entertainment, and recreation
- Museums, historical sites, zoos, and parks
- Amusements, gambling, and recreation

- Accommodation and food services (i.e., traveler accommodations such as hotels and motels, bed-and breakfast inns, RV parks, rooming and boarding houses)
- Food services and drinking places (i.e., caterers, mobile food services, drinking places of alcoholic beverages, and full service restaurants)

Warehouse

The warehouse land use category should be applied to projects that are primarily devoted to the storage of materials, but they may also contain ancillary industrial, office, or maintenance areas. When the associated industrial, office, or maintenance area is primary rather than ancillary, the industrial or office categories should be used. NAICS sector 493 represents the warehouse land-use category. Examples include:

- Self-storage facilities
- Distribution centers (used for storage of finished material prior to distribution to retail centers or other storage facilities)
- Data centers (primarily used for off-site storage of computer systems, components, and data systems)
- Agricultural storage
- Refrigerated/Cold storage
- Wrecking yards

Industrial

RTIF land use category of industrial may be properly applied to a wide range of uses containing a mix of manufacturing, industrial, and warehouse and includes establishments engaged in the mechanical, physical, or chemical transformation of components into products to include construction engaged in buildings and other structures. The industrial land use category also includes establishments engaged in wholesaling merchandise, generally without transformation and rendering services incidental to the sale of merchandise including industries providing transportation of passengers and cargo, and scenic and sightseeing transportation. The NAICS Sectors 21, 22, 23, 31 through 33, 42, 48 & 49 (with the exception of NAICS 493 – warehousing and storage) represents the industrial land use category. Examples of industrial related businesses include:

- Utilities (i.e., power generation and supply, natural gas distribution, water treatment plants)
- Construction of buildings
- Heavy and civil engineering construction
- Specialty trade contractors such as roofing, sheet rock, framing contractors
- Building and equipment contractors
- Building finishing contractors
- Other specialty trades such as residential and non-residential site preparations
- Food manufacturing (i.e., animal, flour, rice, breakfast cereal, dairy products, bakeries, nuts)

- Beverage and tobacco product manufacturing
- Textile and textile product mills
- Apparel manufacturing
- Leather and applied product manufacturing
- Wood product manufacturing
- Paper Manufacturing
- Printing and related support activities
- Petroleum and coal products manufacturing
- Chemical manufacturing
- Plastics and rubber products manufacturing
- Nonmetallic mineral product manufacturing (i.e., glass, cement & concrete, clay, lime/gypsum)
- Primary metal manufacturing
- Fabricated metal product manufacturing
- Machinery manufacturing
- Computer and electronic product manufacturing
- Electrical equipment and appliance manufacturing
- Transportation equipment manufacturing
- Furniture and related product manufacturing
- Miscellaneous manufacturing (i.e., medical equipment, jewelry, sporting goods, signage)
- Merchant wholesalers of durable and non-durable goods (i.e., motor vehicles and parts, furniture, lumber, paper, clothing, petroleum bulk stations and terminals)
- Electronic markets and agents and brokers
- Air, rail, water, truck, pipeline, scenic/sightseeing transportation
- Transit and ground passenger transportation
- Support activities for transportation

April 2015
SJCOG Board

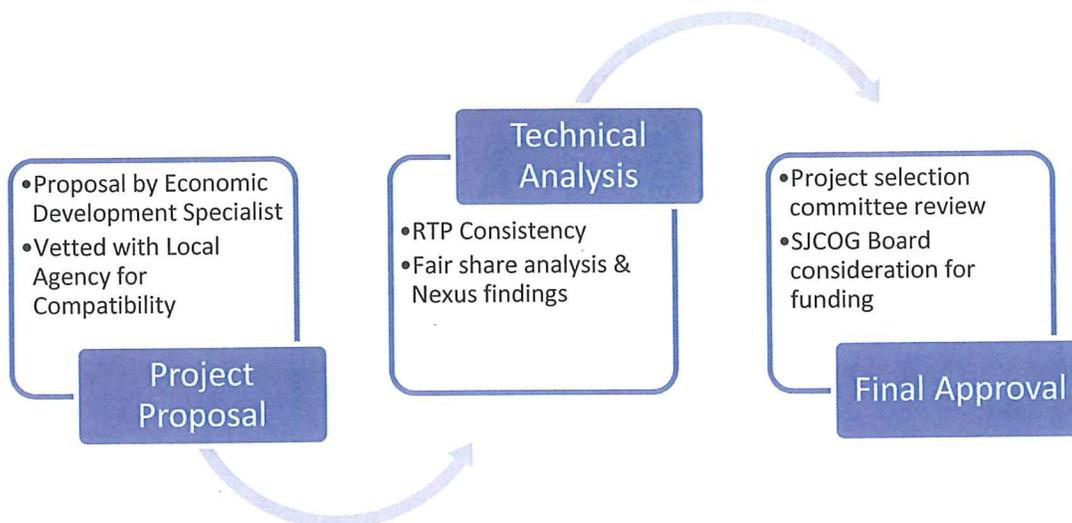
STAFF REPORT

SUBJECT: Regional Transportation Impact Fee (RTIF)
Jobs Balancing Investment Fund

RECOMMENDED ACTION: Adopt the Jobs Balancing Investment Fund
Interim Guidelines and Interim
Implementation Addendum to the 2011
RTIF Update

SUMMARY:

In October 2014 the SJCOG Board approved creating an economic incentive program called the Jobs Balancing Investment Fund utilizing Regional Transportation Impact Fee Program (RTIF) funds. SJCOG staff provided an overview of the proposed program last month. To insure that the proposed program would meet the strict nexus requirements of AB 1600 (the Mitigation Fee Act) and the overall intent of the RTIF program, SJCOG obtained consultant assistance from Kittelson Associates, Inc. and Urban Economics. The consultant team, in conjunction with SJCOG staff and legal counsel, prepared an addendum to the 2011 RTIF Update with the required nexus findings to allow interim implementation of the program. Thus, initial implementation will be accommodated within the current nexus technical analysis and funding capacity identified in the 2011 RTIF update (and subsequent addendums) and incorporated into a concurrent update of the RTIF Operating Agreement, also before the Board this month. Full implementation will occur as part of the second required 5-year program update in 2016. Program guidelines are included in the staff report. The addendum with the required nexus findings is attached to the staff report. The project consideration and approval process is summarized in the graphic below.



RECOMMENDATION:

The recommendation is that the SJCOG Board adopt of the Jobs Balancing Investment Fund Guidelines as presented in the staff report and adopt the Interim Implementation Addendum to the 2011 RTIF Update, included as Attachment 1.

FISCAL IMPACT:

The work required for the creation of the economic incentive program is being conducted in conjunction with the legislatively required AB 1600 update. FY 14/15 costs for this task will result in the expenditure of approximately \$6,000 in previously collected third-party costs. This carry-over will be exhausted this fiscal year. The remainder of the previously approved consultant contract for both this task and the full RTIF update will result in the billing of approximately \$93,000 in third-party costs to signatories to the RTIF Operating Agreement in June 2015 to cover tasks to be completed in FY 15/16. Other eligible billable third party costs such as legal and auditing fees will be estimated and also billed at that time. The creation of this program may result in the expenditure of up to \$1 million annually in regional share RTIF on eligible projects.

DRAFT GUIDELINES:**Background**

Over the past several years the SJCOG Board of Directors has discussed the creation of a funding program to promote job development in San Joaquin County. The rationale has been that the best way to reduce vehicle miles of travel by San Joaquin County residents is to have expanded employment opportunities within the county, thus reducing the length of trips. The argument is sound, but the existing and projected trend in San Joaquin County, as articulated by the University of the Pacific Business Forecasting Center, is a continuing deficit of jobs to population growth. Cities are taking steps to make their communities more attractive to potential employers looking to relocate or expand. However, the San Joaquin Council of Governments has not had such a program. While investments in transportation improvements through Measure K, Proposition 1B, and other funding sources are intended to attract economic growth, these are generally larger scale and not strategic in nature. In other words, their value is broad based and not specific to a particular potential employer. The RTIF Jobs Balancing Investment Fund provides an essential strategic funding mechanism to assist in attracting employers to the region and providing additional opportunities for San Joaquin County residents to both live and work in the same region, consistent with the policies and strategies in SJCOG's long-range transportation planning document, the Regional Transportation Plan.

These guidelines, the attached Jobs Balancing Investment Fund Interim Implementation Addendum to the 2011 RTIF Update, and concurrent revisions to the RTIF Operating Agreement, form the foundation of the interim implementation of the program.

Program Overview

Purpose: The purpose of the program is to provide transportation project funding that may serve as part of a package of economic incentives to encourage job-creating firms to locate in San Joaquin County. The new economic incentive program provides the SJCOG Board, in conjunction with the San Joaquin Partnership and other economic development specialists, with a more tactical tool to attract employers to the region. Investments in transportation infrastructure will be made from this fund in order to supplement or enhance capital or capacity enhancing operational improvements needed by firms to locate in the area.

Annual Program Maximum: \$1 million

Individual Project Maximum: \$500,000

Eligible Projects: A variety of projects meeting the specific criteria indicated in the Jobs Balancing Fund Interim Implementation Addendum may be funded. Examples include Intersection/Traffic Control Devices, Turn Lanes, STAA Truck Routes, Transit Facilities, Biking or Walking Facilities on or supporting congestion relief on the RTIF network.

Program Funding:

SJCOG oversees a “regional share” component of the RTIF funding. The “regional share” is further divided between transit and highway projects. Of the total 15%, 5% is designated for transit and 10% for highway, interchange, and regional roadway projects. The type of project proposed will dictate which category of funding is used. The San Joaquin COG Board has full discretion over the investment of these dollars in transportation projects based upon the adopted RTIF Operating Agreement among all member jurisdictions.

The maximum funding for any single project is \$500,000, up to \$1 million annually. Any funding not utilized during the year will remain in the regional share pool and be available for funding other projects meeting the inclusion criteria as designated in the RTIF Technical Report and the RTIF Operating Agreement.

Project Proposal: Project Eligibility

The projects proposed must meet the following criteria:

- (a) The project is on or supports (within a half-mile buffer) the adopted Regional Transportation Network;
- (b) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report;
- (c) If the project does not meet the criteria in the Operating Agreement for Highway, Interchange, and Regional Roadway Improvements or Public Transit Improvements, it must be

screened against the additional specific criteria for the Jobs Balancing Investment Fund in the attached addendum to the 2011 RTIF Update and an appropriate finding made;

(c) The project has been reviewed and recommended for funding by the RTIF Project Selection Committee;

(d) The project is being funded by the SJCOG 15% regional share available to be programmed to eligible projects by the SJCOG Board of Directors

Project Proposal: Selecting Employment Opportunities

A committee of three professionals with economic development responsibilities and/or experience staffed by a COG staff member will review opportunities for investments brought forward for consideration. The committee chair will be the CEO of the San Joaquin Partnership. The other two members of the committee will be mutually agreed upon by SJCOG staff and the committee chair and confirmed by the SJCOG Board. The committee is known as the RTIF Project Selection Committee. Within the first 30 days of program implementation, the committee will meet and propose minimum economic development/job creation standards for reviewing project proposals. The selection of projects to be funded would proceed as follows:

- 1) Project proposal by the San Joaquin Partnership or other Economic Development Specialist
- 2) Project is screened by SJCOG staff for:
 - Consistency with the currently adopted Regional Transportation Plan
 - Consistency with the affected jurisdiction's currently adopted planning documents
 - Consistency with Mitigation Fee Act Fair Share and Nexus Findings as detailed in currently applicable RTIF Technical Report as amended.
- 3) Project proposal is reviewed by the Project Selection Committee and recommended for funding.
- 4) The SJCOG Board considers the project for incentive funding.

Interim Program Review

Besides the criteria contained in these guidelines and the accompanying technical documents, two additional criteria will be essential: 1) regional geographic diversity, and 2) well qualified and vetted proposals. As part of the pending 2016 Update to the RTIF, the extent to which the Jobs Balancing Investment Fund is meeting the SJCOG Board's expectations will be evaluated and any needed changes will be incorporated into the full implementation of the program as part of that update.

COMMITTEE ACTIONS:

The following committee actions were taken:

- *Technical Advisory Committee* – the TAC heard the item but did not have a quorum, therefore no action was taken. Of the TAC members present, the discussion did not include any opposition to the recommended action.
- *Citizens Advisory Committee* – the CAC heard the item and approved the staff recommendation unanimously.
- *Management & Finance* – did not convene in April
- *Executive Committee* – did not convene in April

NEXT STEPS:

With SJCOG Board approval of the RTIF Jobs Balancing Investment Fund guidelines and the technical addendum that is the subject of this staff report, as well as approval of the revised RTIF Operating Agreement also before the Board. SJCOG staff will be agendaizing the Operating Agreement for approval by each jurisdiction (signatories to the original agreement) by resolution of the individual governing bodies in May. Once the Operating Agreement is approved, SJCOG staff will convene the Project Selection Committee and discuss program job creation/economic development standards for reviewing proposals for the interim implementation of the Jobs Balancing Investment Fund.

The full program implementation will occur as part of the ongoing second five-year update to the RTIF program to be completed in 2016.

Attachments:

- Attachment 1: Jobs Balancing Investment Fund Interim Implementation Addendum to the 2011 RTIF Update
Attachment 2: Map of Jobs Balancing Investment Fund Potential Project Opportunity Areas

Prepared by: Kim Anderson, Senior Regional Planner and Andrew T. Chesley, SJCOG Executive Director

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**ATTACHMENT 1: Jobs Balancing Investment Fund Interim
Implementation Addendum**

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San Joaquin Council of Governments

2015 RTIF Addendum:

Jobs Balancing Investment Fund Interim Implementation Addendum to the 2011 RTIF Update

San Joaquin County, CA

April 1, 2015

San Joaquin County Regional Traffic Impact Fee: 2015 Addendum

San Joaquin County, CA

Prepared For:
San Joaquin Council of Governments
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Project Manager: Jim Damkowitz
Project No. 18551

April 1, 2015



TABLE OF CONTENTS

| | |
|---|----|
| TABLE OF CONTENTS..... | ii |
| INTRODUCTION..... | 1 |
| JOBS BALANCING INVESTMENT FUND INTERIM GUIDELINES | 2 |
| AB1600 NEXUS JUSTIFICATION | 3 |

INTRODUCTION

Per the request of the San Joaquin Council of Governments (SJCOG), Kittelson & Associates, Inc. (KAI) and Urban Economics have prepared this addendum to the San Joaquin Council of Governments Regional Traffic Impact Fee (December 2011). This addendum documents the following modification to the 2011 RTIF document:

- Creation of Jobs Balancing Investment Fund Interim Guidelines and Implementation Addendum to the 2011 RTIF Update

KAI has reviewed the technical documentation and nexus justification for the RTIF 2011 Update report and this 2015 addendum, and find that the RTIF along with its documentation continue to conform to the requirements of the Mitigation Fee Act (AB 1600).

JOBS BALANCING INVESTMENT FUND INTERIM GUIDELINES

The draft program guidelines, developed by SJCOG staff and reviewed by KAI, are included under separate cover. The guidelines, this addendum, and concurrent revisions to the RTIF Operating Agreement, form the foundation of the interim implementation of the program.

AB1600 NEXUS JUSTIFICATION

This section provides the justification for a Jobs Balancing Investment Fund to be funded with Regional Transportation Impact Fee (RTIF) revenues available to the San Joaquin Council of Governments (SJCOG). The purpose of the Fund would be to provide funding for transportation capital projects that support nonresidential development projects considered a high priority to meet economic development policy objectives. The RTIF is based on a nexus study completed in 2011 (RTIF 2011 Update). Use of these funds for the Fund should be consistent with that nexus study for the RTIF to remain compliant with the Mitigation Fee Act. These guidelines will be updated and possibly refined as part of the scheduled update to the RTIF in 2016.

If the transportation capital project is included in Appendix A of the RTIF 2011 Update, as amended, then the project may be funded with RTIF revenues up to the fair share of total costs identified in the Appendix for the project.

If the transportation capital project is not included in Appendix A of the RTIF 2011 Update, as amended, then further analysis is needed to justify funding while maintaining compliance with the RTIF 2011 Update nexus analysis and the Mitigation Fee Act. Further analysis would include one or more of the following:

- ◆ The RTIF Network is the Regional Congestion Management Program (RCMP) network and includes regionally significant facilities supplemented with additional major arterials that serve inter-community travel within San Joaquin County. Inclusion of the project in the RTIF Network based on these criteria supports a reasonable relationship between new development and the use of RTIF revenues. If the project is not on the RTIF Network then either:
 - » The RTIF Network should be amended to include the facility to be improved by the project, or
 - » The project should be limited to within one half-mile of the Network and a finding made that the project will benefit or support improvement to the Network needed to accommodate new development.
- ◆ If the project does not address a future deficiency as defined in the RTIF 2011 Update (with RTIF 2014 Addendum) then additional analysis would be needed to support a reasonable relationship between new development and the need for the project based on benefits to or support of improvements to the RTIF Network needed to accommodate new development. Examples of the types of findings made by this supplemental analysis include:
 - » Increased traffic from new development will cause congestion on the facility to be improved based on the level of service (LOS) standards used in the RTIF 2011 Update.
 - » Increased traffic from new development will cause a safety hazard on the facility to be improved based on professionally accepted criteria, including the need for improved truck routes as defined by the Surface Transportation Assistance Act (STAA) to accommodate increased truck trips from new development by implementing projects such as STAA retrofit and signage improvements identified as STAA network deficiencies and non-STAA ramp termini identified in the SACOG/SJCOG Interregional Truck Operations on I-5 and SR 99 and STAA Improvements Study (Tioga Group, Inc., 2012).

- » Multi-modal improvements identified on designated multi-modal RCMP corridors identified in the Regional Congestion Management Program (2012) that improve modal options and decrease congestion on RTIF roadways where right-of-way constraints limit roadway expansion.
- » New Park-and-Ride lots and/or existing Park-and-Ride lot amenities and improvements identified in SJCOG's Park-and-Ride Master Plan (2007) that improve the attractiveness of TSM/TDM strategies to relieve congestion on the RTIF Network.
- » Improvements identified in the RCMP Regional Deficiency Plan (2010) that address identified RCMP deficiencies on the RTIF Network.
- ◆ If the project does not address a future deficiency as defined in the RTIF 2011 Update then the project must improve traffic conditions based on one or more of the needs or impacts identified in this memorandum to support a reasonable relationship between new development and the use of RTIF revenues.
- ◆ The fair share cost of the project funded by the RTIF should adjust for the following conditions and alternative funding sources should be identified for the remaining non-RTIF share:
 - » Proportion of total project benefit associated with correction of existing deficiencies
 - » Proportion of total project benefit associated with growth in external trips as defined by the RTIF 2011 Update.

Based on the RTIF operating agreement between cities within San Joaquin County, the County of San Joaquin, and SJCOG, SJCOG is allocated ten percent of RTIF revenues generation countywide for highway and interchange projects, and five percent of these total revenues for transit projects. These constraints on the use of RTIF funds by SJCOG are a function of the operating agreement only and not the nexus study completed for the RTIF 2011 Update. The operating agreement could be amended to provide more flexibility for SJCOG to implement the Jobs Balancing Investment Fund if SJCOG did not want to be constrained by these allocations. Projects funded by the Fund would still have to meet the nexus requirements described in this memorandum.

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April 2015
SJCOG Board

STAFF REPORT

SUBJECT: Regional Transportation Impact Fee (RTIF)
Program Operating Agreement

RECOMMENDATION: Motion to: (1) Approve the Revised RTIF Operating Agreement for Adoption by Resolution by SJCOG Member Agencies; (2) Authorize SJCOG Board Chair and Executive Director to Execute the Operating Agreement Upon Adoption by Member Agencies

SUMMARY:

There were several administrative changes to the RTIF program as the result of the 2011 program update and a subsequent addendum to the update in 2014. The majority of these changes were reviewed by the SJCOG standing committees and the SJCOG Board in September 2014; however the Operating Agreement was not finalized at that time pending additional technical analysis required to implement the new economic incentive funding program. That technical work has now been completed. This staff report highlights the changes to the Operating Agreement; a full copy of the document, with areas of substantive change highlighted, is included as an attachment to the staff report. Areas highlighted in yellow reflect administrative changes made and reviewed in September 2014; areas highlighted in green are new changes to the agreement to support implementation of the Jobs Balancing Investment Fund.

RECOMMENDATION:

The recommendation is that the SJCOG Board approves the revised RTIF Operating Agreement for release to SJCOG member agencies for adoption by resolution.

FISCAL IMPACT:

The changes to the operating agreement related to the annual adjustment of the fee schedule will cause an increase in the amount of RTIF revenue collected in the current fiscal year.

The revision of the RTIF Operating Agreement is being accomplished as part of a previously approved consultant contract that has been programmed into both the FY 14/15 and FY 15/16 Overall Work Program. Both the consultant contract and legal fees associated with the update are third party costs to the program. Since the previous carry-over of third party costs will be

fully expended this fiscal year, per the Operating Agreement, SJCOG will estimate and bill signatories to the agreement for anticipated FY 15/16 third-party costs in June 2015.

BACKGROUND:

SJCOG conducted the first five-year review and update to the RTIF program as required by AB 1600 in 2011. Subsequently, in 2014, an addendum to the 2011 update was necessary to, among other items, clarify the language for the RTIF annual fee adjustment. Some of the changes in the technical analysis were put into place upon approval of the 2011 RTIF update and the subsequent 2014 Addendum by the SJCOG Board. For clarity, SJCOG legal counsel recommended that the changes be carried through to the Operating Agreement. A draft of the revised Operating Agreement was circulated for review in September 2014; however, it was not finalized at that time pending additional technical analysis for a new RTIF economic incentive funding program. The additional technical work has now been completed.

The Operating Agreement was last executed in 2005 and had not been amended. It requires re-circulation to all member agencies (signatories on the Operating Agreement).

The following is a list of the changes to the Operating Agreement. A full copy of the document with appropriate sections highlighted is included as an attachment to this staff report.

- Clarified language for the RTIF annual fee adjustment to specify use of a simple three-year rolling average based on the California Construction Cost Index (CCCI).
- Clarified the definition of the Warehouse and Industrial land-use categories.
- Added language clarifying the “per trip” calculation for trip generating land-uses that do not conform to other land-use categories as specified in the technical analysis.
- Clarification of language related to consistency with Regional Transportation Plan (RTP) and the certified Environmental Impact Report (EIR).
- Change in timing of program fee payments from quarterly to semi-annual, to be accompanied by semi-annual reporting by February 28th and August 31st of each year.
- Change in required reporting to SJCOG Board from semi-annual to annual, by October 15th of every year.
- Change in the project selection criteria for economic incentive funding to include the criteria for a new category of projects funded by the Jobs Balancing Investment Fund. These changes are based on a second technical addendum to the 2011 update that is included in a related item also before the committee – Regional Transportation Impact Fee (RTIF) Job Balancing Investment Fund.

NEXT STEPS:

If approved by the SJCOG Board, the amended operating agreement will be circulated to each member agency for review and potential adoption by the individual governing boards/city councils. Because this is an SJCOG effort, SJCOG staff will take the lead in reaching out to the local jurisdictions to get this calendared on the respective agendas and SJCOG staff will be presenting the item (if requested by the jurisdiction).

ATTACHMENT:

- 1) Operating Agreement

Staff Report prepared by: Kim Anderson, Senior Regional Planner

RESOLUTION 2015- _____

ADOPTING THE 2015 AMENDMENT TO THE REGIONAL TRANSPORTATION IMPACT FEE PROGRAM OPERATING AGREEMENT

WHEREAS, The City Council of the City of Tracy adopted the Regional Transportation Impact Fee Program Ordinance, the RTIF Technical Report, and the Regional Transportation Impact Fee Program Operating Agreement, and

WHEREAS, Every five years, pursuant to the Mitigation Fee Act, impact fee programs are required to undergo a comprehensive review to ensure the nexus analysis and fee schedule reflect current assumptions. In 2011, the growth projections, transportation system impacts, project costs and anticipated funding sources of the RTIF were reviewed and findings were set forth in an update to the RTIF Technical Report (2011 RTIF Update), and

WHEREAS, In October 2014, the San Joaquin Council of Governments Board of Directors authorized creating an economic incentive utilizing RTIF funds called the Jobs Balancing Investment Fund, and

WHEREAS, To insure that the incentive program meets the nexus requirements of the Mitigation Fee Act and the overall intent of the RTIF program, an addendum to the 2011 RTIF Update was prepared (2015 Addendum) which contains the required nexus findings to allow for interim implementation of the incentive program prior to the five year program review in 2016, and

WHEREAS, The 2015 Addendum and concurrent revisions to the RTIF Operating Agreement allow for the implementation of the incentive program, and

WHEREAS, The SJCOG Board of Directors adopted the 2015 Addendum and concurrent revisions to the RTIF Operating Agreement at its April 30, 2015, Board Meeting, and

WHEREAS, Any amendments to the RTIF Operating Agreement shall be approved by all participating agencies which are agencies that adopted the RTIF Fee Program, and

WHEREAS, Amendments to the RTIF Technical Report do not require approval of the participating agencies;

NOW, THEREFORE BE IT RESOLVED, That City Council hereby adopts the revisions to the RTIF Operating Agreement, attached hereto as Attachment "A".

* * * * *

The foregoing Resolution 2015-_____ was passed and adopted by the Tracy City Council on the 16th day of June 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

**SAN JOAQUIN COUNTY
REGIONAL TRANSPORTATION IMPACT FEE PROGRAM
OPERATING AGREEMENT**

THIS REGIONAL TRANSPORTATION IMPACT FEE PROGRAM OPERATING AGREEMENT (“Agreement”) dated as of the Effective Date is made by and between the San Joaquin Council of Governments (“SJCOG”), and the following eight public agencies located within San Joaquin County (collectively the “Participating Agencies”), including, the County of San Joaquin (“County”), the City of Escalon (“Escalon”), the City of Manteca (“Manteca”), the City of Lathrop (“Lathrop”), the City of Lodi (“Lodi”) the City of Ripon (“Ripon”) the City of Stockton (“Stockton”), and the City of Tracy (“Tracy”) (the identified cities are hereinafter collectively the “Cities”).

RECITALS

WHEREAS, SJCOG has the responsibility as the region’s designated Metropolitan Planning Organization and through its powers as specified in its joint powers agreement to maintain and improve the Regional Transportation Network; and

WHEREAS, the Participating Agencies and SJCOG find that future development within the County of San Joaquin will result in traffic volumes in excess of capacity on a regional system of highways, interchanges, and local roadways; and,

WHEREAS, the Participating Agencies and SJCOG find that failure to expand the capacity of the existing circulation system will cause unacceptable levels of congestion on the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find that existing and future sources of revenue are inadequate to fund substantial portions of the Regional Transportation Network improvements needed to avoid unacceptable levels of congestion and related adverse impacts; and,

WHEREAS, SJCOG, following extensive analysis and consultations with the Participating Agencies and other stakeholders, has prepared a Regional Transportation Impact Program Fee Technical Report (“RTIF Technical Report”) that establishes a nexus between new development and its impacts (increased travel demand, reductions in service levels, and the need for capital improvements) upon the Regional Transportation Network; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Technical Report has determined the extent to which new development of land will generate traffic volumes impacting the Regional Transportation Network and have determined that the Regional Transportation Impact Fee Program (“RTIF Program”) establishes a fair and equitable method to fund costs of transportation improvements necessary to accommodate the traffic volumes generated by future development of land within each City and the County; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that the RTIF Program is necessary to help mitigate the impact of new development on the Regional Transportation Network and along with other transportation funding mechanisms, in providing for the construction of improvements to accommodate traffic generated by land development; and,

WHEREAS, the Participating Agencies and SJCOG have determined that it is in their best interest to join together to administer the funds provided by the RTIF Program and to authorize SJCOG to manage the RTIF Program for the San Joaquin County region; and,

WHEREAS, the Participating Agencies and SJCOG find and declare that in order to serve the purposes described herein, additional funding, other than that received from the RTIF Program is necessary and must be obtained and each party agrees to cooperate in obtaining additional funding; and,

WHEREAS, the Participating Agencies and SJCOG find and declare SJCOG prepared, adopted and certified in July 2004 a Final Program Environmental Impact Report (“EIR”) for the 2004 Regional Transportation Plan, State Clearing House number 2003082053. The RTIF Program, as adopted in 2005, relied on and was consistent with this previously prepared, approved and certified EIR.

WHEREAS, the Participating Agencies have adopted or will adopt a Regional Transportation Impact Program Fee (“RTIF Program Fee” or “RTIF Fee”) pursuant to their authority to protect the public health, safety, and welfare consistent with the provisions of California Government Code Section 66000 et seq.; and,

WHEREAS, the integrity and success of the RTIF Program is dependent upon all Participating Agencies and SJCOG working cooperatively with each other in order to fulfill their obligations faithfully and promptly; and,

WHEREAS, funds collected pursuant to the Participating Agencies’ ordinances and/or resolutions adopting the RTIF Program are to be held and expended by the Participating Agencies and SJCOG as specified herein.

AGREEMENT

Now, therefore, in consideration of the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant and agree as follows:

SECTION 1. PURPOSE

1.1. The RTIF Program requires management procedures that assure that the objective of the RTIF Program is achieved. Specifically, the RTIF Program objective is to obtain funding from development projects that have an impact upon the Regional Transportation Network and to integrate these funds with federal, State, and other local funding to fund transportation improvements identified in the RTIF Program. While the RTIF Program and the RTIF Program

Fee will be imposed and collected by the Participating Agencies, the RTIF Program will be managed by SJCOG for the benefit of the entire County region.

1.2. This Agreement defines the terms of the required management procedures for Participating Agencies and SJCOG including specifications regarding levy and collection, administration, project selection, fund management, appropriation of fee funds, and ongoing technical review and updating.

SECTION 2. DEFINITIONS

2.1. "Development Project" or "Project" means any project undertaken for the purpose of development including the issuance of a permit for construction or reconstruction, but not a permit to operate.

2.2. "Industrial Project" means any Development Project that proposes manufacturing, transportation or logistics as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference. Examples of the industrial land-use category are printing, material testing, assembly plants, manufacturing plants (where raw materials or parts are converted to finished products) and utilities.

2.3. "Measure K" means the San Joaquin County Transportation Authority Local Transportation Improvement Plan: Air Quality, Mandatory Developer Fees and Growth Management Ordinance which establishes and implements a retail transactions and use tax, as may be extended from time to time.

2.4. "Multi-Family Residential Unit" means a Development Project that uses a single parcel for two or more dwelling units within one or more buildings, including duplexes, townhouses, condominiums, and apartments as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.5. "Non-Conforming Land Use" is any Development Project not adequately represented by the six land use categories called out in this agreement. This is typically a non-retail, non-residential development project that has minimal or no building area and yet would generate impacts at a level that is significantly more than represented in the RTIF fee schedule. Examples of these are projects related to mining, intermodal facilities, agriculture, and outdoor recreation. For these projects a "per trip" calculation is included in the fee schedule.

2.6. "Office Project" means any Development Project that involves business activities associated with professional or administrative services, and typically consists of corporate offices, financial institutions, legal and medical offices, personal and laundry services, or similar uses, and religious centers as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.7. "Warehousing Project" means any Development Project that is primarily devoted to the storage of materials. Examples of warehousing land-uses include self-storage facilities, distribution centers (used for storage of finished material prior to their distribution to retail centers or other storage facilities, data centers, agricultural storage, refrigerated/cold storage, and

wrecking yards. Other examples are contained in Exhibit “A” hereto and incorporated herein by reference.

2.8. “On-Going Third Party Costs” means costs to implement the program associated with outside professional services secured by SJCOG. Examples of third party professional services include, but are not limited to the following: a) Conducting RTIF program review every five years in accordance with California Government Code Section 66000 et seq.; b) Technical support (e.g., nexus analysis); c) Legal Fees; and, d) Annual fiscal audit.

2.9. “Participating Agencies” means the County of San Joaquin and each of the cities situated in San Joaquin County if such agencies have (1) adopted the RTIF Program Fee by ordinance and/or resolution and (2) entered into this Agreement.

2.10. “Regional Transportation Impact Fee Program” or “RTIF Program” is the regional program established by this Agreement by the Participating Agencies and SJCOG to impose, collect and distribute a RTIF Fee to assist in the funding of transportation improvements to the Regional Transportation Network.

2.11. “Regional Transportation Impact Program Fee” or “RTIF Program Fee” or “RTIF Fee” means the fee established by each Participating Agency consistent with this Agreement to implement the RTIF Program.

2.12. “Regional Transportation Network” means the regional network of highways and arterials as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG.

2.13. “RTIF Capital Projects” or “Capital Projects” or “RTIF Project List” is the RTIF Program improvements and projects as identified in the RTIF Technical Report and which may be amended from time to time by SJCOG’s adoption and amendment of a “RTIF Capital Projects Report.”

2.14. “RTIF Capital Projects Report” means the report adopted by SJCOG annually which identifies the RTIF Capital Projects as amended from time to time consistent with Section 9 of this Agreement.

2.15. “RTIF Technical Report” means the San Joaquin County Regional Transportation Impact Fee RTIF Technical Report dated October 2005, and prepared pursuant to California Government Code, Section 66000 et seq., the Mitigation Fee Act.

2.16. "Residential Dwelling Unit" means a building or portion thereof which is designed primarily for residential occupancy by one family including single-family and multi-family dwellings. "Residential Dwelling Unit" shall not include hotels or motels.

2.17. "Retail Project" means any Development Project that retailing merchandise, generally without transformation, and rendering services incidental to the sale of merchandise at a fixed point of sale as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

2.18. "Single-Family Residential Unit" means the use of a parcel for only one residential dwelling unit as identified in the RTIF Land Use Fee Category Summary which is attached as Exhibit "A" hereto and incorporated herein by reference.

SECTION 3. FEE RATE

3.1. RTIF Program Fees and Annual Adjustment. The RTIF Program Fee shall be adjusted annually. Annual adjustments to the RTIF Program Fee shall be adjusted by each Participating Agency on an annual basis at the beginning of each fiscal year (July 1). The annual adjustment shall be calculated by SJCOG as the arithmetic average of the annualized percentage change of the Engineering News Record California Construction Cost Index (CCCI) for each of the three most recent years. For example, for the 14/15 fiscal year adjustment, the adjustment calculation would be:

| | | | | |
|---------------------------|-------------|-------------|-------------|-------------|
| <i>Year</i> | 2014 | 2013 | 2012 | 2011 |
| <i>CCCI Index (April)</i> | 5956 | 5786 | 5740 | 5636 |
| <i>Annual % Change</i> | 2.94% | 0.80% | 1.85% | N/A |

3-Year Average

| |
|--------------|
| 1.86% |
|--------------|

Changes to the annual adjustment methodology or index will be considered during each five-year RTIF review as specified in Section 8.1. However, changes to the annual adjustment methodology or index may be instituted as needed, with approval of the SJCOG Board of Directors, without necessitating a change in the Operating Agreement. Based on the annual adjustment methodology noted, the fee schedule for fiscal year 2014/2015 is as follows:

| RESIDENTIAL | | NON – RESIDENTIAL | | | | |
|---------------|--------------|-------------------|-------------|-------------|-------------|----------------|
| Single Family | Multi-Family | Retail | Office | Industrial | Warehouse | Non-Conforming |
| \$3,084.58 | \$1,850.75 | \$1.23 | \$1.55 | \$0.93 | \$0.39 | \$136.10 |
| DUE | DUE | Square Foot | Square Foot | Square Foot | Square Foot | Per Trip |

The RTIF fee collected is based on the predominant use of the project or addition. General definitions and examples for each land-use category are included in Section 2 and Exhibit "A" of

this Agreement. Within these parameters, application of the appropriate fee is determined by the local agency at the time of permit issuance.

SECTION 4. COLLECTION OF RTIF PROGRAM FEES

4.1. Payment of RTIF Program Fees. Payment of the RTIF Program Fees shall be as follows:

(a). The RTIF Program Fees shall be paid at the time of issuance of a building permit for the Development Project, or as otherwise required or permitted pursuant to Government Code section 66007.

(b). The amount of the RTIF Program Fees shall be the fee amounts in effect at the time of payment.

(c). RTIF Program Fees shall not be waived or subject to negotiation.

4.2. Payment by all Development Projects. Except as otherwise expressly provided by this Agreement, the RTIF Program Fee imposed by all Participating Agencies shall be payable by (1) all Development Projects within the jurisdiction of the Participating Agency for which building permits or other entitlements for Development Projects are issued on or after the effective date of the adoption of the RTIF Program Fee by the Participating Agency, and (2) all Development Projects within the Participating Agency for which building permits or other entitlements for Development Projects were issued prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency and which permits or entitlements were issued subject to a condition requiring the developer to pay a RTIF Program Fee to be imposed upon such Development Project within the jurisdiction of the Participating Agency.

4.3. Exemptions from the RTIF Program Fee. The following Development Projects shall not be subject to the RTIF Program Fee:

(a). The rehabilitation and/or reconstruction of any legal, residential structure and/or the replacement of a previously existing legal dwelling unit, including an expansion of an existing dwelling unit that does not create an additional dwelling unit.

(b). The rehabilitation and/or reconstruction of any non-residential structure where there is no net increase in square footage. Any increase in square footage shall pay the established applicable fee rate for that portion of square footage that is new.

(c). Development Projects for which an application for a vesting tentative map authorized by Government Code Section 66498.1 was deemed complete on or prior to the effective date of the adoption of the RTIF Program Fee by the Participating Agency.

(d). Development Projects which are the subject of a development agreement entered into pursuant to Government Code section 65864 et seq. prior to the effective date of the initial adoption of the RTIF Program Fee by the Participating Agency (2005), wherein the imposition of new fees are expressly prohibited by the development agreement, provided, however, that if the term of such a development agreement is

extended after the effective date of the adoption of the RTIF Program Fee, the RTIF Program Fee shall be imposed.

4.4. Future Development Agreements. All future development agreements entered into by the Participating Agencies shall require the full payment of the RTIF Program Fee.

4.5. Payments for non-residential projects. For non-residential projects the amount of the fee imposed on the entire Development Project shall be determined based upon (1) the gross floor area and (2) the predominant use of the building or structure as identified in the building permit.

4.6. Payment for mixed use projects. For mixed land use projects, which are projects that have both residential and non-residential uses, the amount of the fee imposed on the entire Development Project shall be proportionally determined based on the following:

- (a) The fee associated with the type of residence; and,
- (b) The predominant use of the non-residential portion of the project.

4.7. Previously Paid RTIF Program Fees. In the event that RTIF Program Fees have previously been paid for an existing building which is a new Development Project with a new or different RTIF Fee category, the previously paid RTIF Program Fees for that existing building shall be credited against the amount of the RTIF Program Fee attributable to the new Development Project, up to the amount of the previously paid RTIF Program Fee. A rebate will not be granted if the change in land use represents a lower fee.

SECTION 5. DISTRIBUTION OF RTIF PROGRAM FEES

5.1. Purpose of RTIF Program Fees. Except as otherwise provided in this Agreement, all RTIF Program Fees received by each Participating Agency or SJCOG shall be used solely for the purpose of funding Regional Transportation Network projects as specified in the RTIF Technical Report and which are included within the RTIF Capital Projects Report. Each Participating Agency and SJCOG may spend RTIF Program Fees held by that entity on RTIF Capital Projects at the discretion of that entity.

5.2. Distribution of Fee Revenue. All fees collected by each Participating Agency pursuant to the RTIF Program Fee shall be distributed as follows:

- (a). Ten (10) percent of the amounts collected by the Cities shall be paid directly to the County on a semi-annual basis for the purpose of funding RTIF Capital Projects within the County of San Joaquin.
- (b). Ten (10) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a semi-annual basis for the purposes of funding state highway improvements on the RTIF Project List.

(c). Five (5) percent of the amounts collected by each Participating Agency shall be paid directly to SJCOG on a semi-annual basis for the purposes of funding transit improvements on the RTIF Project List.

(d). Semi-annual payments shall be received no later than February 28th and August 31st with a collection period of July 1st – December 31st and January 1st – June 30th., respectively. Each payment shall be accompanied by a report that shall specify the amount of RTIF Program Fee revenue collected and the corresponding fee generating activity, including such information as the types of permits issued by land-use category, developer credits and reimbursements granted, RTIF Program revenue applied to RTIF Capital Projects, and the amount of RTIF Program fees forwarded to the County and SJCOG as appropriate.

(e). Seventy Five (75) percent of the amounts collected by each city shall be retained by each city collecting such funds for the purposes of funding RTIF Capital Projects, and Eighty Five (85) percent of the amounts collected by the County shall be retained by the County for the purposes of funding RTIF Capital Projects. In the event a Participating Agency determines it does not want to retain or manage this portion of the RTIF Program Fees, the Participating Agency may provide this portion of the RTIF Program Fees to SJCOG for administration to assist with the construction of Capital Projects on behalf of the Participating Agency.

SECTION 6. ADMINISTRATIVE COSTS

6.1. Participating Agency Administrative Costs. The amount of RTIF Program Fee funds that are permitted to be used by each Participating Agency to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two (2) percent of the first one million dollars (\$1,000,000) retained each year by each City pursuant to subdivision (e) of section 5.2 of this Agreement or received each year by the County pursuant to subdivisions (a) and (e) of section 5.2 of this Agreement. In addition, each Participating Agency may use up to one (1) percent of the amounts retained or received each year in excess of the initial one million dollars (\$1,000,000).

6.2. SJCOG Administrative Costs. The amount of RTIF Program Fee funds permitted to be used by SJCOG to cover ongoing administrative costs of implementing the RTIF Program shall be limited to up to two percent (2%) of the first one million dollars (\$1,000,000) received each year by SJCOG pursuant to subdivision (b) and (c) of section 5.2 of this agreement and up to one percent (1%) of the amounts received each year in excess of the initial one million dollars (\$1,000,000).

6.3. On-going Third Party Costs. On-going third party costs approved by the SJCOG Board of Directors to regionally implement the RTIF Program will be paid to SJCOG by each Participating Agency and SJCOG on an annual basis. The amount of on-going third party costs each Participating Agency and SJCOG shall pay is based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. These payments for the on-going third party costs shall not be considered

administrative costs and shall not be subject to the limitations provided in sections 6.1 and 6.2 of this Agreement.

6.4. Legal Challenges. In the event that any Participating Agency and/or SJCOG is subject to a legal challenge of the RTIF Program then all Participating Agencies and SJCOG will be responsible for the costs associated with such legal challenge. At the time of such legal challenge the Participating Agencies and SJCOG will coordinate the defense of such legal challenge and the costs incurred for such legal challenge will be the responsibility of the Participating Agencies and SJCOG based on percentage of the total County-wide RTIF Program Fees retained by each Participating Agency and SJCOG pursuant to section 5.2 of this Agreement. For the purposes of this section 6.4, a legal challenge of the RTIF Program is limited to a challenge to either (a) the legal ability to adopt or impose the RTIF Program; or (b) the validity of the RTIF Technical Report. This section 6.4. will not apply to any legal challenge due to the manner of implementation of the RTIF Program that is either unique to a Participating Agency or that is not consistent with the provisions of this Agreement.

SECTION 7. ADMINISTRATION OF THE RTIF PROGRAM

7.1. RTIF Account or RTIF Funds. All fees collected pursuant to the RTIF Program Fee by each Participating Agency shall be deposited in a RTIF account or RTIF fund and shall not be commingled with other funds of the Participating Agency. The contents of this RTIF fund shall be designated solely for the purpose of contributing to the financing of the RTIF Capital Projects included in the RTIF Capital Projects Report and for the funding of incidental administrative costs. Any interest income earned on the RTIF fund shall also be deposited therein and shall only be expended for the purposes as set forth in this Agreement.

7.2. Prohibition on Interfund Transfers or Loans. Notwithstanding subsection (b)(1)(G) of section 66006 of the Government Code there shall be no interfund transfer, grant or loan of the RTIF Program Fees or RTIF fund or RTIF account to other accounts, funds, programs or fees. However, a Participating Agency may provide loans, grants or transfers of RTIF Program Fees to other Participating Agencies or SJCOG provided that such funds are consistent with the RTIF Program and used for the development or construction of RTIF Capital Projects.

7.3. Annual Reports. By October 15th of each year, SJCOG shall prepare and deliver to the Executive Director of SJCOG an annual report consistent with the requirements of the Mitigation Fee Act (Gov. Code §§ 66000 et seq.). The annual report, which will be reviewed by the SJCOG Board of Directors, shall specify the amount of RTIF Program Fee revenue collected and the corresponding fee generating activity, including, such information as the types of permits issued by land use category, developer credits and reimbursements granted, RTIF Program revenue applied to RTIF Capital Projects, and the status of RTIF Program fees forwarded to the County and SJCOG by the Cities. For purposes of preparing the annual reports to satisfy the requirements of the Mitigation Fee Act, SJCOG and the County shall coordinate with and provide to each Participating Agency in a timely manner, and no later than August 31st of each year, all necessary information regarding the RTIF Program funds held by SJCOG and the County that were distributed to the County and SJCOG from the Participating Agencies pursuant to section 5.2 of this Agreement.

7.4. Annual Audit. The RTIF Program financial activity for each Participating Agency and SJCOG shall be reviewed annually by December 31st of each year by an independent certified public accountant selected and retained by SJCOG.

7.5. RTIF Program Administrator. SJCOG is the monitor of the RTIF Program and will monitor all fee revenue generated pursuant to the RTIF Program as reported semi-annually by all Participating Agencies.

SECTION 8. PERIODIC REVIEW OF RTIF PROGRAM FEES

8.1. Except as otherwise provided in Section 3.1 of this Agreement, the RTIF Program Fee shall not be adjusted during the first five years following the Effective Date of this Agreement. Thereafter, the RTIF Program Fee shall be evaluated, and adjusted accordingly, by all Participating Agencies and SJCOG every five (5) years to reflect the projected revenues generated or any other local or new funding sources, and to reflect changes in actual and estimated costs of the RTIF Capital Projects including, but not limited to, debt service, lease payments and construction costs. This evaluation shall include the report required by the Fee Mitigation Act (Gov. Code §§ 66000 et seq.) which includes, but is not limited to, all of the following information:

- (a). Identifies the purpose (project need) to which the fee is to be put;
- (b). Demonstrates a reasonable relationship between the fee and the purpose for which it is charged;
- (c). Identifies all sources and amounts of funding anticipated to complete financing in incomplete improvements;
- (d). Commits RTIF Program funds to RTIF Capital Project(s) and indicates that such funds are expended or reimbursed within the time periods established by the Fee Mitigation Act requirements; and,
- (e). Identifies the RTIF Capital Projects to be constructed, the estimated costs of the RTIF Capital Projects, the costs to be funded by the RTIF Program Fee revenue, and the availability or lack thereof of other funds with which to construct the Regional Transportation Network.

8.2. If the periodic reports prepared pursuant to section 8.1 above demonstrates a need, the Participating Agencies, in coordination with SJCOG, may consider modifying the RTIF Program Fee amount to insure that it is a fair and equitable method of distributing the costs of the improvements necessary to accommodate traffic volumes generated by future growth.

8.3. SJCOG and the County shall coordinate with each Participating Agency in the preparation of the periodic reports required by Section 8.1 of this Agreement and the Fee Mitigation Act, and provide any and all information and/or commitments necessary regarding RTIF Program fees distributed to SJCOG and the County from the Cities. In the event RTIF Program fees must be refunded pursuant to section 66001 of the Government Code, SJCOG and

the County will provide to each City for refund any proportional share of RTIF Funds that must be refunded that were distributed to SJCOG and/or the County by each City.

SECTION 9. SJCOG CAPITAL PROJECTS SELECTION.

9.1. RTIF Capital Projects Report. SJCOG will be responsible for establishing and maintaining the RTIF Project List. From time to time, at the request of a Participating Agency, and at least annually, SJCOG shall review the RTIF Capital Projects Report to add, modify, or remove RTIF Capital Projects. Each Participating Agency will have the opportunity to suggest changes to the Capital Projects within the RTIF Program at this time. SJCOG will make any and all changes to the Capital Projects Report annually taking into consideration the comments received from each Participating Agency consistent with the screening criteria contained within the RTIF Technical Report.

9.2. Project Inclusion Criteria. The technical basis of the RTIF Program is a list of road improvement projects identified as Capital Projects within the Regional Transportation Network which are eligible and appropriate for funding from the RTIF Program. The inclusion criteria used to select the RTIF Capital Projects are as set forth in the RTIF Technical Report. It is the application of these criteria that assure adherence to the required nexus principles. Modification to the inclusion criteria will require approval by resolution of all Participating Agencies and an update of the RTIF Technical Report.

9.3. Selection of New Capital Projects. Any new projects recommended for listing as a RTIF Capital Project must be modeled and screened consistent with the requirements of the Mitigation Fee Act (Gov. Code §§ 66000 et seq.) criteria for establishing a rational nexus. In addition, new projects added to the RTIF Project List must meet all of the following criteria:

9.3.1. Highway, Interchange, and Regional Roadway Improvements

- (a) The project is on the adopted Regional Transportation Network;
- (b) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (c) The project involves a capacity improvement of one or more through travel or passing lanes, or auxiliary lanes (i.e. turn lanes). This criterion shall not be applied to interchange improvement projects.

9.3.2. Public Transit Improvements

- (a) The project is scheduled for delivery within the time frame evaluated in the RTIF Technical Report; and,
- (b) The project involves an improvement to an existing or a new service/facility which connects at least two (2) or more cities or regions.

9.4. Jobs Balancing Investment Fund Improvements. This category provides funding for transportation projects that support non-residential development projects considered a high

priority to meet economic development policy objectives. Funding for these projects shall come from the “regional” share component of RTIF funding overseen by SJCOG. The maximum funding for any single project is \$500,000; the annual program maximum is \$1,000,000. Funding limits may be revised by the SJCOG Board. Use of these funds shall be consistent with the adopted RTIF nexus study and compliant with the Mitigation Fee Act. These improvements must meet the following criteria:

9.4.1. If the improvement is an RTIF Capital Project and is scheduled for delivery within the time frame evaluated in the RTIF Technical Report, the project may be funded with RTIF revenues up to the fair share total costs identified for the project.

9.4.2. If the improvement is not an RTIF Capital Project, the project must meet one or more of the following:

- (a) The improvement is on the RTIF Network;
- (b) The improvement provides a benefit to or supports improvement to the RTIF Network as set-forth in the currently adopted RTIF Technical Analysis.
- (c) The RTIF Network is amended to include the improvement;
- (d) If the improvement does not meet the criteria for 9.3.1., 9.3.2., 9.4.1. or 9.4.2., the improvement shall be screened against the criteria set forth in the Jobs Balancing Investment Fund Interim Implementation Addendum to the 2011 RTIF Update or currently adopted RTIF Technical Analysis, and appropriate findings made to support the adopted RTIF nexus study.

In addition to meeting at least one of the criteria set forth in (a) – (d), the improvement must be reviewed and recommended for funding by the RTIF Project Selection Committee.

9.5. Inclusion in Regional Transportation Plan. Prior to receiving any RTIF Program Fee revenue a project must be identified in the SJCOG Board approved Regional Transportation Plan (RTP) and the RTIF Project List.

9.6. RTIF Project Management. Each City is responsible for managing and delivering RTIF interchange and regional roadway projects located within its incorporated boundaries, except as otherwise specifically agreed to by such city. The County is responsible for managing and delivering RTIF Projects located within the unincorporated area of the county, except as otherwise specifically agreed to by the County.

SECTION 10. CREDITS AND REIMBURSEMENTS

10.1. Reimbursements and Credits. In the event that RTIF Capital Projects are constructed by a developer in excess of the Development Project's RTIF Program Fee obligation or in lieu of payment of RTIF Program Fees by a developer pursuant to an agreement between the developer and the Participating Agency, the developer may be reimbursed or credited for future application for any costs based on the actual costs of construction of the RTIF Capital Project incurred by the developer in excess of the amount the RTIF Program Fees that apply to the Development Project. Reimbursements shall be enacted pursuant to an agreement between the developer and the Participating Agency contingent on payment of funds when available for reimbursement to the developer. In all cases, however, reimbursements to developers pursuant to any agreement must be consistent with construction of the transportation improvements as scheduled in the RTIF Capital Projects Report.

SECTION 11. EXISTING REGIONAL TRANSPORTATION FEES

11.1. Each Participating Agency shall evaluate and adjust, if necessary, its existing local fee program(s), if any, associated with regional traffic impacts to determine continued compliance with the Fee Mitigation Act due to the adoption of the RTIF Program.

SECTION 12. WITHDRAWAL

12.1. For reasons pertaining to the lack of direct benefit, a Participating Agency may elect to withdraw from the RTIF Program upon providing one year written notice to SJCOG and each Participating Agency. If the Participating Agency has accrued RTIF Program Fee revenue, all funds plus interest earned shall be expended on RTIF Capital Projects by the Participating Agency or by any Participating Agency or SJCOG.

SECTION 13. MISCELLANEOUS

13.1. Effective Date. This Agreement shall be effective and all Participating Agencies and SJCOG shall be authorized to proceed under this Operating Agreement at the date in which this Agreement has been executed by the San Joaquin County Board of Supervisors, the City Councils of each of the Cities, and SJCOG.

13.2. Partial Invalidity. If any one or more of the terms or provisions of this Agreement shall be adjudged invalid, unenforceable, void or voidable by a court of competent jurisdiction, each and all of the remaining terms and provisions of this Agreement shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

13.3. Amendments. Any amendments to this Agreement shall be made by the SJCOG and all Participating Agencies.

13.4. Enforcement. It shall be the responsibility of the Participating Agencies and SJCOG to adopt, implement, and maintain the RTIF Program consistent with the terms of this Agreement.

13.5. Execution. The Board of Supervisors of the County of San Joaquin, the City Councils of the Cities, and the Board of Directors of SJCOG have each authorized execution of this Agreement as evidence by the authorized signatures below.

13.6. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

| <u>PARTY</u> | | <u>DATE OF APPROVAL</u> |
|--|--|-------------------------|
| Board of Supervisors, County of San Joaquin | | |
| By | | |
| Chair | | Date |
| Attest: | | |
| Clerk of the Board | | |
| City Council, City of Escalon | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |

| | | |
|--------------------------------------|--|------|
| City Council, City of Lathrop | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Lodi | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Manteca | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Ripon | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |

| | | |
|---|--|------|
| City Council, City of Stockton | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| City Council, City of Tracy | | |
| By | | |
| Mayor | | Date |
| Attest: | | |
| City Clerk | | |
| | | |
| San Joaquin Council of Governments | | |
| By | | |
| Board Chair | | Date |
| Attest: | | |
| Interim Executive Director | | |
| | | |
| | | |

EXHIBIT A

RTIF LAND USE FEE CATEGORY SUMMARY

RESIDENTIAL

Single-Family Dwelling

A single family dwelling is defined as a residence designed for or occupied exclusively as a residence for one family; including a vacation home or seasonal dwelling and is located on one parcel.

Multi-Family Dwelling

Multi-family dwellings are defined as single structures designed for and/or constructed to contain two (2) or more dwelling units which share common walls (i.e., rowhouse, townhouse, duplex, triplex, quadraplex, condominium, apartment complex). When an existing single-family dwelling is converted into two (2) or more dwellings, it will be reclassified and subject to the multi-family dwelling regional fee. As a planned development containing two (2) or more residences, mobile homes parks are considered multi-family dwellings. A “commercial apartment” dwelling located within a commercial building is classified as a multi-family dwelling.

NON-RESIDENTIAL

Relationship of businesses to RTIF non-residential land use categories are based on the North American Industry Classification System (NAICS)

Retail

Sector comprises establishments engaged in retailing merchandise, generally without transformation and rendering services incidental to the sale of merchandise—fixed point of sale location. NAICS Sectors 44 & 45 represents the retail industry. Examples of retail businesses include:

- Garden material and garden supply dealers
- Food and beverage stores (i.e., grocery stores, specialty food stores, beer/wine/liquor stores)
- Health and personal care stores
- Gasoline stations
- Motor vehicle and parts dealers
- Furniture and home furnishing stores
- Electronics and appliance stores
- Clothing and clothing accessories stores

- Sporting goods, hobby, book and music stores
- General merchandise stores
- Miscellaneous store retailers
- Non-store retailers such as electronic shopping and mail-order houses, direct selling establishments

Office/Service

Sector comprises finance, insurance, real estate professional, scientific and technical services, research and development, administrative & support services, education, health care and social assistance and other such as repair & maintenance, personal & laundry, and religious centers, including churches. NAICS Sectors 51 – 72, 81 & 92 represents the office industry. Examples of office related businesses include:

- Publishing industries, except Internet
- Motion picture and sound recording industries
- Broadcasting, except Internet
- Internet publishing and broadcasting
- Telecommunications
- Internet Service Providers, search portals, and data processing
- Other information services such as libraries and archives, news syndicates
- Monetary authorities such as banks, credit unions, credit card issuing services, sales financing, mortgage and non-mortgage loan brokers
- Securities, commodity contracts, investments
- Insurance carriers and related activities
- Funds, trusts, and other financial vehicles
- Real estate
- Rental and leasing activities
- Lessors of non-financial intangible assets
- Professional and technical services such as legal, accounting, engineering, design, consulting, research and development, advertising services
- Management of companies and enterprises
- Administrative and support services such as employment, business support (i.e., call centers, collection agencies), travel arrangement and reservation services, services to buildings and dwellings (i.e., janitorial, landscaping, pest control, carpet cleaning)
- Waste management and remediation services
- Educational services
- Health care and social assistance
- Hospitals
- Nursing and residential care facilities
- Social assistance (i.e., child/youth services, services for the elderly and persons with disabilities, shelters, food banks, vocational rehabilitation services, day care)
- Art, entertainment, and recreation
- Museums, historical sites, zoos, and parks
- Amusements, gambling, and recreation

- Accommodation and food services (i.e., traveler accommodations such as hotels and motels, bed-and breakfast inns, RV parks, rooming and boarding houses)
- Food services and drinking places (i.e., caterers, mobile food services, drinking places of alcoholic beverages, and full service restaurants)

Warehouse

The warehouse land use category should be applied to projects that are primarily devoted to the storage of materials, but they may also contain ancillary industrial, office, or maintenance areas. When the associated industrial, office, or maintenance area is primary rather than ancillary, the industrial or office categories should be used. NAICS sector 493 represents the warehouse land-use category. Examples include:

- Self-storage facilities
- Distribution centers (used for storage of finished material prior to distribution to retail centers or other storage facilities)
- Data centers (primarily used for off-site storage of computer systems, components, and data systems)
- Agricultural storage
- Refrigerated/Cold storage
- Wrecking yards

Industrial

RTIF land use category of industrial may be properly applied to a wide range of uses containing a mix of manufacturing, industrial, and warehouse and includes establishments engaged in the mechanical, physical, or chemical transformation of components into products to include construction engaged in buildings and other structures. The industrial land use category also includes establishments engaged in wholesaling merchandise, generally without transformation and rendering services incidental to the sale of merchandise including industries providing transportation of passengers and cargo, and scenic and sightseeing transportation. The NAICS Sectors 21, 22, 23, 31 through 33, 42, 48 & 49 (with the exception of NAICS 493 – warehousing and storage) represents the industrial land use category. Examples of industrial related businesses include:

- Utilities (i.e., power generation and supply, natural gas distribution, water treatment plants)
- Construction of buildings
- Heavy and civil engineering construction
- Specialty trade contractors such as roofing, sheet rock, framing contractors
- Building and equipment contractors
- Building finishing contractors
- Other specialty trades such as residential and non-residential site preparations
- Food manufacturing (i.e., animal, flour, rice, breakfast cereal, dairy products, bakeries, nuts)

- Beverage and tobacco product manufacturing
- Textile and textile product mills
- Apparel manufacturing
- Leather and applied product manufacturing
- Wood product manufacturing
- Paper Manufacturing
- Printing and related support activities
- Petroleum and coal products manufacturing
- Chemical manufacturing
- Plastics and rubber products manufacturing
- Nonmetallic mineral product manufacturing (i.e., glass, cement & concrete, clay, lime/gypsum)
- Primary metal manufacturing
- Fabricated metal product manufacturing
- Machinery manufacturing
- Computer and electronic product manufacturing
- Electrical equipment and appliance manufacturing
- Transportation equipment manufacturing
- Furniture and related product manufacturing
- Miscellaneous manufacturing (i.e., medical equipment, jewelry, sporting goods, signage)
- Merchant wholesalers of durable and non-durable goods (i.e., motor vehicles and parts, furniture, lumber, paper, clothing, petroleum bulk stations and terminals)
- Electronic markets and agents and brokers
- Air, rail, water, truck, pipeline, scenic/sightseeing transportation
- Transit and ground passenger transportation
- Support activities for transportation

AGENDA ITEM 9.A

REQUEST

APPOINT AN APPLICANT TO THE SAN JOAQUIN COUNTY COMMISSION ON AGING

EXECUTIVE SUMMARY

On June 30, 2015, the term for the Council appointed representative on the San Joaquin County Commission on Aging will expire. A recruitment was conducted and an appointment needs to be made.

DISCUSSION

On June 30, 2015, the term for the Council appointed representative on the San Joaquin County Commission on Aging will expire. On May 5, 2015, the City Clerk's office opened a three week recruitment to fill the upcoming vacancy. The recruitment ended on May 26, 2015, during which time two applications were received. 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 was extended beginning on May 27, 2015, and ending on June 9, 2015. The City Clerk's office received two additional applications during the extended recruitment period.

On June 15, 2015, a Council subcommittee consisting of Council Member Young and Council Member Mitracos interviewed two applicants. In accordance with Resolution 2004-152, the Council subcommittee will recommend an applicant for appointment to serve a term beginning on July 1, 2015, and end on June 30, 2018.

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 approves the subcommittee's recommendations and appoints an applicant to the San Joaquin County Commission on Aging to serve a term which will end on June 30, 2018.

Prepared by: Adrienne Richardson, Deputy City Clerk
Reviewed by: Nora Pimentel, City Clerk
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

AGENDA ITEM 9.B

REQUEST

**CONSIDERATION OF LEGISLATIVE RECESS - CANCELLATION OF AUGUST 2015
CITY COUNCIL MEETINGS**

EXECUTIVE SUMMARY

Call a legislative recess for the month of August and consider cancellation of the regular City Council meetings scheduled for August 4 and August 18, 2015.

DISCUSSION

The City Council has the legal authority to establish meeting dates and times and to reschedule or cancel such meetings with proper and timely public notice. The City Council has conducted numerous workshops and special meetings and has expeditiously conducted business during 2015.

The City has traditionally minimized business items for Council consideration at the first meeting of August each year. This practice allows the Mayor and City Council members to participate in National Night Out, which is recognized nationwide as a cohesive effort to promote involvement in crime prevention activities, police-community partnerships, neighborhood camaraderie. A review of upcoming agenda items (based on Commission actions, City Council requests and Department operating demands) suggests that there are no items of public significance scheduled for the August 18, 2015 meeting. This is not to suggest that the normal conduct of City business is not of importance to the public – simply that there are no pending Public Hearings or items beyond routine items of business to be considered.

Therefore, staff suggests that August 4, 2015, and August 18, 2015 regular Council meetings be cancelled and call a legislative recess for the month of August and resume business at the regular scheduled September 1, 2015 Council meeting. Should a situation arise prior to September 1, 2015 which requires Council action, Council may call a special meeting.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact associated with this discussion item.

RECOMMENDATION

Staff recommends that Council consider cancelling the City Council meeting scheduled for Tuesday, August 4 and August 18, 2015 and call a legislative recess for the month of August, and provide direction to staff.

Prepared by: Nora Pimentel, City Clerk

Reviewed by: Dan Sodergren, City Attorney
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager