

Tuesday, September 1, 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 – Employees of the Month (August and September)

1. CONSENT CALENDAR

- A. Adopt Council Minutes – Special meeting minutes of June 16, 2015, and July 21, 2015, and regular meeting minutes from July 21, 2015.
- B. Authorize the Appointment of Five Youth Commissioners to the Youth Advisory Commission
- C. Authorize the Purchase of Five Patrol Vehicles from Folsom Chevrolet of Folsom, California
- D. Approve Amendment One to the Master Professional Services Agreement (HA 13-01) with Harris and Associates for Development Program Management Services and Authorize the Mayor to Execute the Amendment
- E. Authorize Federal Fiscal Year 2015 Grant Application for Section 5307 U.S. Department of Transportation Federal Transportation Administration Funds in the Amount of \$2,499,648 for Tracer Public Transportation Services, Bus Radio Replacement and for Replacement Fixed Route Buses, Certification of Application Assurances; and Authorize the City Manager or Designee to Execute the Grant Documents
- F. Approve the Final Subdivision Map, Subdivision Improvement Agreement, and Deferred Improvement Agreement for Ellis Phase 1A, Tract 3764, Authorization for the Mayor to Execute the Subdivision Improvement Agreement and Deferred Improvement Agreement, and Authorization for the City Clerk to File the Agreements with San Joaquin County Recorder

2. ITEMS FROM THE AUDIENCE

3. UPDATE AND DISCUSS RESPONSE TO COUNCIL'S REQUEST REGARDING THE HOMELESS ISSUE IN THE CITY OF TRACY

4. ACCEPT THE REPORT OF THE CITY CLERK DECLARING SUFFICIENCY OF ADULT RESIDENTIAL ALLOTMENT INITIATIVE PETITION; AND DISCUSS AND PROVIDE DIRECTION ON WHETHER TO (1) PREPARE AN INFORMATIONAL REPORT ON THE PROPOSED INITIATIVE MEASURE AND, IF THE DIRECTION IS TO PREPARE THE REPORT, APPROPRIATE \$20,000 FROM THE CITY'S GENERAL FUND; OR (2) ORDER A SPECIAL ELECTION AND APPROPRIATE \$275,776 FROM THE CITY'S GENERAL FUND AND, IF THE SPECIAL ELECTION IS ORDERED, DIRECT THE CITY ATTORNEY REGARDING PREPARATION OF AN IMPARTIAL ANALYSIS, SET THE DATES FOR SUBMITTAL OF BALLOT ARGUMENTS, AND DETERMINE WHETHER TO ALLOW REBUTTAL ARGUMENTS
5. CITY COUNCIL DISCUSSION AND DIRECTION REGARDING A REQUEST FROM TRACY CITY CENTER ASSOCIATION (TCCA) RELATED TO DOWNTOWN PARKING REQUIREMENTS AND PARKLETS
6. RECEIVE PRESENTATION AND PROVIDE INPUT ON CITY OF TRACY, OPEN GOV WEBPAGE
7. APPROVE CITY'S RESPONSES TO THE 2014-2015 SAN JOAQUIN COUNTY GRAND JURY REPORT ON DONATION BINS (CASE NO. 1410)
8. CITY MANAGER'S QUARTERLY REPORT
9. ITEMS FROM THE AUDIENCE
10. COUNCIL ITEMS
 - A. APPOINT FIVE APPLICANTS TO THE BOARD OF APPEALS TO HEAR AN APPEAL ON AN ADMINISTRATIVE DECISION PERTAINING TO ENFORCEMENT RELATED TO REGULATIONS LISTED IN THE TRACY MUNICIPAL CODE
11. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 16, 2015, 6:00 p.m.

Council Chambers, 333 Civic Center Plaza, Tracy

1. CALL TO ORDER – Mayor Maciel called the meeting to order at 6:10 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. DISCUSS AND PROVIDE DIRECTION ON POSSIBLE AMENDMENTS TO THE CITY'S REGULATIONS AND REQUIREMENTS FOR CONSIDERATION OF DEVELOPMENT AGREEMENTS INCLUDING PROVISIONS RELATED TO REQUIRED PUBLIC BENEFITS

Troy Brown, City Manager made some opening remarks, Dan Sodergren, City Attorney provided a brief background on development agreements and the procedures that the City currently follows.

Bill Dean, Interim Development Services Director, briefly spoke about current status of agreements.

Council comments and questions followed.

Mike Souza stated that the developers need the best assurance that projects will be completed once they have started. Mr. Souza urged the Council not to create a pay to play environment.

Robert Tanner asked what happens if a developer goes bankrupt, Mr. Tanner referenced Tracy Gateway.

Staff is to bring back revised amendments to development agreement policy and to include an action of public benefit.

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: 7:04 p.m.

The agenda was posted at City Hall on June 11, 2015.

Mayor

ATTEST:

City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

July 21, 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.
2. ROLL CALL – Roll call found Council Members Mitracos, Vargas, Mayor Pro Tem Rickman and Mayor Maciel present. Council Member Young arrived at 6:47 p.m.
3. ITEMS FROM THE AUDIENCE – None
4. APPROVE AMENDMENTS RELATING TO LEGACY FIELDS TERMINATING THE PROPERTY DEVELOPMENTS AND LEASE AGREEMENTS BETWEEN THE CITY OF TRACY AND TRACY BABE RUTH AND TRACY YOUTH SOCCER LEAGUE, APPROVE A FUTURE AMENDMENT AUTHORIZING REMOVAL OF PROPERTY FROM THE AGREEMENT WITH TRACY LITTLE LEAGUE, AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENTS, AND PROVIDE DIRECTION REGARDING POSSIBLY INCLUDING THREE BASEBALL FIELDS AS BID ALTERNATES SHOULD TRACY LITTLE LEAGUE NOT EXECUTE AND DELIVER THE FUTURE AMENDMENT BY AUGUST 14, 2015

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

Council comments and questions followed.

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Young to adopt Resolution 2015-116 approving an amendment to the Property Development and Lease Agreement terminating the agreement between the City of Tracy and Tracy Babe Ruth and authorizing the Mayor to execute the amendment. Voice vote found all in favor, passed and so ordered. Motion carried 5:0

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-117 approving an amendment to the Property Development and Lease Agreement terminating the agreement between the City of Tracy and Tracy Youth Soccer League and authorizing the Mayor to execute the amendment. Voice vote found all in favor, passed and so ordered. Motion carried 5:0

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-118 approving an amendment to the Property Development and Lease Agreement between the City of Tracy and Tracy Little League to remove a portion of the land from the agreement and to grant the City temporary construction access for drainage and other construction related activities and authorizing the Mayor to execute the amendment. Voice vote found all in favor, passed and so ordered. Motion carried 5:0

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to direct staff to, if Tracy Little League is unable to provide an executed amendment by August 14, 2015, include the three Tracy Little League fields as a bid-alternate but have low bid be determined with those fields included. Voice vote found all in favor, passed and so ordered. Motion carried 5:0

5. ADJOURNMENT - Mayor Pro Tem Rickman motioned to adjourn. Council Member Young seconded the motion. Voice vote found all in favor; passed and so ordered. Time: 6:51 p.m.

The agenda was posted at City Hall on July 16 , 2015.

Mayor

ATTEST:

City Clerk

July 21, 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 7:00 p.m. and led the Pledge of Allegiance.

Invocation was led by Pastor Scott McFarland, Journey Christian Church.

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

Mayor Maciel announced that item seven was heard at a special meeting held at 6:45 p.m.

Mayor Maciel presented outgoing San Joaquin Commission on Aging Commissioner Terry Sonnefeld with a Certificate of Recognition.

Mayor Maciel presented Certificates of Recognition to Hector Hernandez on behalf of Tracy Soccer Club for the 50th Anniversary as a community soccer organization and for their historical contributions to the sport of soccer in the Tracy Community.

1. CONSENT CALENDAR

ACTION Following the removal of item 1D, 1N and 1P, it was moved by Mayor Pro Tem Rickman and seconded by Council Member Young to adopt the Consent Calendar. Roll call vote found all in favor; passed and so ordered. Motion carried 5:0

- A. Adopt Council Minutes – Closed session minutes of July 7, 2015, regular meeting minutes from July 7, 2015 and special meeting minutes from June 9, 2015 were approved.
- B. Approve an Offsite Improvement Agreement (OIA) for Cordes Ranch Phase 1A Non-Program Roadway Improvements on Old Schulte Road, Hansen Road, Old Road "E", New Road "E", and North and South Road "I" and Other Associated Improvements for the Federal Express Ground Facility and Authorization for the Mayor to Execute the Agreement – Resolution 2015-119 approved an Offsite Improvement Agreement.
- C. Acceptance of the Library Entrance Doors Replacement Project - CIP 78147, Completed by T. Amaral's Done Right Construction of Livermore California, Authorization for the City Clerk to File the Notice of Completion, and Authorization for the City Engineer to Release the Bonds and Retention Payment – Resolution 2015-120 accepted the Library Entrance Doors Replacement Project.

- E. Approve an Offsite Improvement Agreement With SR95 Ventures, LLC, Lincoln Investors Grant Line, LLC, and EBA Grant Line, LLC, for the Gateway Apartments on Grant Line Road, and Authorization for the Mayor to Execute the Agreement – Resolution 2015-121 approved an Offsite Improvement Agreement.
- F. Approve Amendment 1 to the Professional Services Agreement with West Yost Associates for the Design of the Booster Pump Station at the John Jones Water Treatment Plant to Serve Tracy Hills Development and Authorize the Mayor to Execute the Agreement – Resolution 2015-122 approved amendment 1 to a Professional Services Agreement.
- G. Approve Amendment No. 1 to Task Order No. CH 01-13 to Master Professional Services Agreement (MPSA) With CH2M Hill for Design of Wastewater Treatment Plant (WWTP) Effluent Outfall Pipeline to the Old River – Resolution 2015-123 approved amendment 1 to a Master Professional Services Agreement.
- H. Approve Task Order No. 8 to the Master Professional Services Agreement with Associated Right Of Way Services, Inc. to Provide Right of Way Services for Intersection Improvements at Eleventh Street and MacArthur Drive (Western Intersection) - CIP 72069, and Authorize the City Manager to Execute Future Amendments to this Task Order, if Needed – Resolution 2015-124 approved task order 8 to a Master Professional Services Agreement.
- I. Approval of the Final Subdivision Map and Subdivision Improvement Agreement for Brookview II, Tract 3658, Authorization for the Mayor to Execute the Agreement, and Authorization for the City Clerk to File the Subdivision Improvement Agreement with the San Joaquin County Recorder - Resolution 2015-125 approved an agreement for Brookview II.
- J. Authorize a Professional Services Agreement with Maze & Associates Accounting Corporation for Professional Auditing Services, Authorize the City Manager to Execute any Subsequent Agreement Extensions and Contract Contingencies, and Authorize the Mayor to Execute the Agreement - Resolution 2015-126 authorized an Agreement with Maze & Associates.
- K. Authorization to Enter into a Five Year Agreement with Microsoft for Automatic Software Updates for Desktop Computers and Servers and Authorization for the Mayor to Execute the Agreement - Resolution 2015-127 authorized a Five Year Agreement with Microsoft.
- L. Authorize a Contract with Superior Auto Parts (Monument Car Parts) for Vehicle and Equipment Parts, Authorize the City Manager to Execute Subsequent Contract Extensions, and Authorize the Mayor to Execute the Contract – Resolution 2015-128 authorized a contract with Monument Car Parts.
- M. Authorize a Professional Services Agreement with West Coast Arborists for Tree Maintenance Services in the Tracy Consolidated Landscape Maintenance District and General Fund Areas, Authorize the City Manager to Execute Subsequent Agreement Extensions, and Authorize the Mayor to Execute the Agreement - Resolution 2015-129 authorized an Agreement with West Coast Arborists.

- O. Adopt Resolution Approving the 2015 Multi-Agency Post-Construction Stormwater Standards Manual as Required by Federal and State Regulations - Resolution 2015-130 approved 2015 Multi-Agency Post-Construction Stormwater Standards Manual.
- Q. Approve an Offsite Improvement Agreement for Cordes Ranch Phase 1B - Program Roadway and Recycled Water Improvements on Hansen Road and New Schulte Road, and Associated Improvements for the Medline Industrial Building and Authorization for the Mayor to Execute the Agreement - Resolution 2015-131 approved an Offsite Improvement Agreement.
- R. Approve an Offsite Improvement Agreement for Cordes Ranch Phase 1B Non-Program Roadway Improvements and Other Associated Improvements on Hansen Road, New Schulte Road, Capital Park Drive, and Road "H" for the Medline Industrial Building, and Authorization for the Mayor to Execute the Agreement – Resolution 2015-132 approved an Offsite Improvement Agreement.
- D. Authorize the Establishment of Preferential Parking on Twelfth Street and Beverdor Avenue Between Mae Avenue and East Street – Resolution 2015-133 authorized the establishment of preferential parking.
- N. Authorization to Enter into an Agreement with the San Luis & Delta-Mendota Water Authority for Sharing the Proportionate Cost of 2015-Mendota Canal Emergency Pumping Facility Project, Appropriation from the Water Fund and Authorization for the Mayor to Execute the Agreement.

Robert Tanner expressed concern about the ongoing water news and potential fines on districts and the recent seize and desist and inquired if this Council item would be affected.

Kul Sharma, Utilities Director, provided the staff report.

Council comments and questions followed.

Tim Silva expressed being against taking water from the Delta Mendota Canal, which was designed for agriculture not for drinking water. Mr. Silva urged the Council to reconsider.

Hector Hernandez expressed the same sentiments as Tim Silva.

Dotty, health care provider expressed that this is a huge health risk utilizing water that is potentially contaminated. Ms. Dotty urged the Council to consider other options to provide the community with healthy clean water.

Maureen, Health Wellness Specialist, concerned with water issues and urged the Council to make well informed decisions on behalf of the citizens.

Kul Sharma provided some additional general information in response to the speakers concerns.

ACTION Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-134 authorizing an Agreement with the San Luis and Delta-Mendota Water Authority. Voice vote found all in favor; passed and so ordered.

- P. Award a Construction Contract for the Joe Wilson Pool Reconstruction Project - CIP 78152, to the Lowest Responsive Bidder, Authorize an Allocation of Funds from the General Fund 301, and Authorize the Mayor to Execute the Contract

Troy Brown, City Manager, reiterated that this item was inadvertently placed on consent and should have been an item for discussion.

Andrew Malik, Interim Assistant City Manager, provided a brief update on the outreach strategy and conceptual design for Joe Wilson. Kul Sharma, Utilities Director, provided an update on the construction contract.

Council comments and questions followed.

Molly stated that it has been 10 years since the Tracy community attended a council meeting to address the lack of swimming pools in the City. There are fewer pools today than there were in 2005. The City has to accept ownership of its mistakes and move forward. Molly urged the Council to consider a more strategic approach and merge the Dr. Power renovation and Ellis Swim Center into one single large project.

David Helm expressed concern about the Joe Wilson project from the beginning. Mr. Helm urged the Council to rethink and put this project on hold until the project can be completed at a lower cost.

Council discussion continued.

ACTION Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to direct staff to return on September 15, 2015 or sooner to provide options with existing design and more specific cost estimates with additives and perhaps bid the two projects at the same time.

Mayor Maciel called a recess at 8:43 p.m.

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

2. ITEMS FROM THE AUDIENCE – Wes Huffman briefly spoke about an incident that occurred on July 18 regarding an encounter with the City and the Tracy Breakfast Lions Club as they were asked not to use any city water in the preparation of pancakes for a Tracy Raider Football fund raiser. Mr. Huffman suggested for future reference that staff be authorized to make decisions.

Robert Tanner urged the Council to relook at the fireworks Ordinance; there were a lot of illegal fireworks activity prior to the fourth of July and a few days after. Mr. Tanner also inquired about the electronic board at the 11th Street overpass and suggested the board be updated regarding the reconstruction schedule.

Dotty a Registered Nurse with Sutter Community Hospital expressed concern regarding a significant staffing issue affecting the local community hospital. Within the last three years there has been a loss of 65 nurses. Dotty urged the Council and the community to stand with the nurses and speak on their behalf and call Dave Thompson at (209) 832-605.

William Rickman shared his concerns about the deplorable conditions at El Pescadero Skate Park. The concrete is broken, there used to be gang problems which have gotten better but now there are drugs being sold to the youth, and assaults, Mr. Rickman requested security presence to make the park a safer place for skateboarders, scooter and bikers.

Anne Marie Fuller and Danette Poole, Tracy Arts Commissioners, invited the Council and the community to the Tracy Arts and Cultural Festival on August 1, 2015 at Lincoln Park at 2:00 p.m. Admission is free to the public. This event is being presented by the Tracy Arts Commission.

Jordan expressed concern about recent water waste she observed in the City and emphasized the need to conserve water.

3. DISCUSSION AND DIRECTION REGARDING DEVELOPMENT POLICY AND ZONING ALONG THE I-205 CORRIDOR

William Dean, Interim Development Services Director, provided the staff report.

Council comments and questions followed.

Council Member Vargas' suggestion for the vision of the corridor included additional trees to give a sense of arrival through the entry ways of the City; facade should be a variation of textures and materials, non-boxy structures with more depth and height variations. Diminish the blighted areas to encourage more landscaping. Review the minimum standard of 15 gallon trees and change the gallon standard and tree species to scale down from shorter to taller.

Council Member Young suggested for future development not to allow heavy equipment on the frontage roads and include outdoor landscaping furnishing as a design standard on the corridor.

Council comments and questions ensued.

Mayor Pro Tem Rickman's vision is general commercial on the West side area between MacArthur and Paradise on both sides of the freeway East of Tracy Blvd (17-26).

Staff was directed to return in October and bring back a staff report to discuss architectural standards, design standards, aesthetics, zoning usage from Tracy Boulevard east to the Tracy City limits on 205 keeping in mind that property owners will need to be engaged.

Steve Nicolaou cautioned the Council about making rash decisions going forward. Land owners should develop their land and Council should take that into consideration when making decisions.

Rodger Birdsall expressed that the July 7, 2015 meeting was unbelievable and urged the Council to think before they act in the future.

David Helm spoke about the vision of other cities, it's valuable to have those broad discussions because today's standard may not be tomorrow's standard. The Council needs to define what they want to see with some flexibility.

Mayor Maciel asked for Council consensus to continue with the agenda past 11:00 p.m. The Council agreed to continue to work through the agenda.

Mayor Maciel called a recess at 10:55 p.m.

Mayor Maciel reconvened the meeting at 11:00 p.m.

4. PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT; (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2015/2016; and (3) AUTHORIZING THE BUDGET OFFICER TO MAKE NECESSARY ADJUSTMENTS TO THE CITY

Ann Bell, Management Analyst, Administrative Services, presented the staff report.

Mayor Maciel opened the public hearing.

Kevin Tobeck stated that there are issues with the Landscape Maintenance Districts which need to be addressed. Corral Hollow, Tracy Blvd, Schulte Road, and Lowell Avenue in front of West High School are a few places that require maintenance. The issue began about 18 - 24 months ago, there is a need to allocate additional resources because the majority of the LMD are underfunded to take care of maintenance of the districts for renovations or just to put in new plants. He suggested a few options to resolve the issue.

Mayor Maciel closed the public comment.

Council comments and questions followed.

Mayor Maciel disclosed that Council Member Young would vote on all Zones and abstain from voting on Zone 3 due to conflict of interest.

ACTION

Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-135 approving the Engineer's Report regarding the proposed levy and collection of assessments for the Tracy Consolidated Landscape District, Fiscal Year 2015/2016, pursuant to the provisions of the Landscaping and Lighting Act of 1972. Voice vote found all in favor; passed and so ordered. Council Member Young abstained from voting on Zone 3.

ACTION

Motion was made by Mayor Pro Tem Rickman and seconded by Council Member Vargas to adopt Resolution 2015-136 ordered the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for Fiscal Year 2015/2016. Voice vote found all Council Members in favor; passed and so ordered. Council Member Young abstained on voting on Zone 3.

5. **ACCEPT ANNUAL REPORT OF THE MEASURE E RESIDENTS' OVERSIGHT COMMITTEE**

Anne Bell, Management Analyst, Administrative Services Department made a few opening remarks and acknowledged the Measure E Committee members and introduced Chair Michel Bazinet who presented the 2015 Annual Report for the Measure E Residents' Oversight Committee.

Council Member Vargas requested budget information related to consultants which she previously requested.

By consensus of the Council the report was accepted.

6. **ACCEPT A REPORT ON PERSONNEL STAFFING WITHIN THE FIRE DEPARTMENT AND IMPACTS FOLLOWING THE CANCELLATION OF FIRE SERVICES CONTRACT BETWEEN TRACY RURAL FIRE DISTRICT AND MOUNTAIN HOUSE COMMUNITY SERVICES DISTRICT AND ADOPT A RESOLUTION ELIMINATING SIX FULL-TIME EQUIVALENT POSITIONS FROM THE CITY EMPLOYEE CONTROL ROSTER ALLOCATED UNDER THE FIRE DEPARTMENT**

Dave Bramell, Division Chief, presented the staff report.

Council comments and questions followed.

Dave Helm expressed concern about the decrease in firefighters at a time when there is more housing construction and more people living in the City. Mr. Helm urged the Council to find a way to fully staff the fire department for the future, elimination of positions is a terrible idea.

Ryan Gall, Tracy Firefighter's Association expressed being in favor of the Council approving the three positions.

Robert Tanner inquired about the negotiations of the empty Mountain House Fire Station.

ACTION

Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to adopt Resolution 2015-137 eliminated six full-time equivalent positions from the Employee Position Control Roster allocated under the Fire Department and allocating three full-time equivalent positions as temporary over hires. Voice vote found all in favor passed and so ordered.

- 7. APPROVE AMENDMENTS TERMINATING THE PROPERTY DEVELOPMENT AND LEASE AGREEMENTS BETWEEN THE CITY OF TRACY AND TRACY BABE RUTH AND TRACY YOUTH SOCCER LEAGUE, AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENTS, AND PROVIDE DIRECTION REGARDING THE BID DOCUMENTS FOR CONSTRUCTION OF FIELDS AT LEGACY FIELDS

This item was heard earlier at 6:45 p.m. during a special meeting.

- 8. ITEMS FROM THE AUDIENCE – There were none.

9. COUNCIL ITEMS

- A. COUNCIL DESIGNATION OF VOTING DELEGATE AND UP TO TWO VOTING ALTERNATES FOR THE LEAGUE OF CALIFORNIA CITIES 2015 ANNUAL CONFERENCE BUSINESS MEETING

Nora Pimentel, City Clerk, presented the staff report.

Council comments followed.

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Mitracos to adopt Resolution 2015-138 appointing Council Member Young as the voting Delegate and Council Member Vargas and Mayor Maciel as the voting alternates for the League of California Cities 2015 Annual Conference Business meeting. Voice vote found all in favor; passed and so ordered.

Mayor Pro Tem Rickman requested a discussion related to a local hire ordinance; Council Member Vargas supported the request. Staff was directed to return within 90 days and bring forward a staff report.

- 10. ADJOURNMENT- Time 11:58 pm

ACTION Motion made by Mayor Pro Tem Rickman and seconded by Council Member Young, to adjourn the meeting. Voice vote found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on July 16, 2015. The above are action minutes. A recording is available at the Office of the City Clerk.

Mayor

ATTEST:

City Clerk

September 1, 2015

AGENDA ITEM 6

REQUEST

AUTHORIZE THE APPOINTMENT OF FIVE YOUTH COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

EXECUTIVE SUMMARY

The bylaws of the Youth Advisory Commission set the minimum number of youth appointed Commissioners at eight, with a maximum limit at fourteen and a maximum of three adult Commissioners. A selection panel was established and they have made recommendations for five youth to be appointed for a two year term to fill the existing youth vacancies on the Youth Advisory Commission.

DISCUSSION

The bylaws of the Youth Advisory Commission call for a minimum of eight youth and a maximum of fourteen youth Commissioners and a maximum of three adult Commissioners that may sit on the Commission. The bylaws are crafted to include two youth representatives from each of the four comprehensive high schools in the area (Kimball, Millennium, Tracy and West) and the four alternative education high schools (Delta Charter, Duncan-Russell Continuation, Excel High and Stein Continuation.) The selection process for the Youth Advisory Commission is to have a diverse group of teens that reflect each of the Tracy area high schools who wish to have a voice in their community and be involved in the Commission. Adult Commissioners shall reside within the jurisdiction of any Tracy school district to include one member of the School District and two members of the community who desire to work with youth. Currently the Commission has five youth and three adult vacancies.

The City recruits new Commissioners on an ongoing basis to fill any vacancies created by outgoing Commissioners. The bylaws of the Youth Advisory Commission call for a selection panel to review new applications and make recommendations for appointment to the City Council. This year's panel consisted of Recreation Services Supervisor Jolene Jauregui, Recreation Coordinator Justin Geibig, and Parks Commissioner Leslie Douglas.

The interview panel conducted interviews on May 27, 2015 and one interview on May 28, 2015. The following five youth: Joseph Sales and Sim Bhatia from Millennium High School, Yash Taneja and Michelle Cho from Tracy High School and Connie Chan from West High School are being recommended to serve two year terms, from September 1, 2015 to July 31, 2017.

FISCAL IMPACT

There is no impact on the General Fund.

RECOMMENDATION

Staff recommends that the City Council approve, by resolution, the appointment of five youth Commissioners to the Youth Advisory Commission based upon the interview and selection panel recommendations.

Prepared by: Jolene Jauregui, Recreation Services Supervisor

Reviewed by: Kim Scarlata, Division Manager II

Approved by: Troy Brown, City Manager

RESOLUTION

AUTHORIZING THE APPOINTMENT OF FIVE YOUTH COMMISSIONERS TO THE YOUTH ADVISORY COMMISSION

WHEREAS, The bylaws of the Youth Advisory Commission call for a minimum of eight Commissioners, and a maximum of fourteen youth Commissioners and a maximum of three adult Commissioners that may sit on the Commission; and

WHEREAS, The eligibility criteria and selection process of YAC Commissioners are established; and

WHEREAS, The City recruits new Commissioners on an ongoing basis to replace the outgoing Commissioners and existing vacancies, and has established a recommendation selection panel to recommend appointees to City Council; and

WHEREAS, The recommendation selection panel recommended the following five youth; Joseph Sales, Michelle Cho, Connie Chan, Yash Taneja, and Sim Bhatia for two year terms, from September 1, 2015 to July 31, 2017;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby approves the appointment of the five new Youth Commissioners recommended by the selection panel as identified above, and for the recommended terms, to the Youth Advisory Commission.

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

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

AGENDA ITEM 1.C

REQUEST

AUTHORIZE THE PURCHASE OF FIVE PATROL VEHICLES FROM FOLSOM CHEVROLET OF FOLSOM, CALIFORNIA

EXECUTIVE SUMMARY

The Police Department needs to replace five existing black and white patrol vehicles in the fleet. They will be replaced by two Chevrolet Caprice for patrol and three Chevrolet Tahoe's will replace a Sergeant's, Watch Commander's and K-9 vehicle.

DISCUSSION

The 2015-2016 fiscal year budget provides designated funds for replacement of police vehicles, including the purchase of five marked patrol vehicles. Under the current program, the out-of-production Ford Crown Victoria vehicles are replaced by Chevrolet Caprice models configured with a patrol vehicle package.

After reviewing past performance of the vehicles and the needs of specific assignments, the decision was made to replace the existing Crown Victoria used by the K9 officers, Sergeants and Watch Commanders with an SUV in order to accommodate a large amount of tactical equipment carried specifically in those vehicles.

Staff was able to locate the vehicles from Folsom Chevrolet in Folsom, California. Folsom Chevrolet has the vehicles with the required specifications which are available under the cooperative purchasing agreement with Sacramento County.

Staff is requesting that Council approve the purchase of two Chevrolet Caprice and three Chevrolet Tahoe from Folsom Chevrolet under a cooperative purchasing agreement through the County of Sacramento. The cooperative purchasing agreement has already gone through a competitive bid process and is likely a better deal, due to the economies of scale from agencies throughout the State, including the lead agency Sacramento County, purchasing numerous vehicles through the cooperative purchasing agreement that is authorized under TMC Section 2.20.220 of the City's Municipal Code (the purchasing ordinance).

STRATEGIC PLAN

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

FISCAL IMPACT

In fiscal year 2015-2016, \$215,100 has been designated for the replacement of existing vehicles (accounts 606-69301-5682-E1127, 60669402-5682-E1151 and 62769402-5682-E1151). The bid received from Folsom Chevrolet of \$157,297.18 is within budget.

RECOMMENDATION

Staff recommends the City Council approve, by resolution, the purchase of two Chevrolet Caprice and three Chevrolet Tahoe from Folsom Chevrolet, amount of \$157,297.18 from the approved fiscal year 2015-2016 vehicle replacement budget.

Prepared by: Alex Neicu, Lieutenant

Reviewed by: Jeremy Watney, Acting Chief of Police

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING THE PURCHASE OF
TWO CHEVROLET CAPRICE AND THREE CHEVROLET TAHOE FROM
FOLSOM CHEVROLET OF FOLSOM, CALIFORNIA

WHEREAS, The procurement of five replacement police vehicles has been budgeted in the 2015-2016 fiscal year vehicle replacement budget,

WHEREAS, Staff had recommended that four Ford Crown Victoria and one Ford Expedition vehicles be replaced with two Chevrolet Caprice and three Chevrolet Tahoe,

WHEREAS, Folsom Chevrolet has in stock the 2014 Chevrolet Caprice and 2014 Chevrolet Tahoe, and

WHEREAS, These vehicles are available to purchase under a cooperative purchasing agreement with the County of Sacramento as authorized under Tracy Municipal Code section 2.20.220 (the purchasing ordinance).

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the purchase of two Chevrolet Caprice and three Chevrolet Tahoe vehicles from Folsom Chevrolet in the amount of \$157,297.18.

The foregoing Resolution _____ is hereby passed and adopted by the Tracy City Council this _____ day _____, 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

APPROVE AMENDMENT ONE TO THE MASTER PROFESSIONAL SERVICES AGREEMENT (HA13-01) WITH HARRIS AND ASSOCIATES FOR DEVELOPMENT PROGRAM MANAGEMENT SERVICES AND AUTHORIZE THE MAYOR TO EXECUTE THE AMENDMENT

EXECUTIVE SUMMARY

This request is to approve Amendment One to the Master Professional Services Agreement (HA 13-01) with Harris and Associates, Inc., (Harris) in the amount of \$200,000, to provide ongoing program management services for new development areas. The MPSA was for a period of two years with an optional one year extension. This amendment exercises the one year optional extension, and also establishes a not-to-exceed amount of \$795,000.

DISCUSSION

In January 2013, the City solicited proposals from various consultants to provide program management services for a period of three years on an as needed basis. Harris was found to be the most qualified consultant and MPSA HA 13-01 was approved by Council on August 20, 2013, under Resolution 2013-125. The MPSA was for a two year period with an optional one year extension. The City wishes to amend Section 2, Time of Performance, of the Agreement, extending the Agreement for the additional year.

The City has been using Harris and Associates as an extension of staff and for their expertise in the field. Harris has been performing similar services for the City and is very familiar with the various programs in the City. The consultant assists the City's Engineering Development Review Section to calculate development impact fees for proposed developments, establishes and administers Finance and Implementation Plans, reviewing Development Agreements, and other similar services. The City has a complex fee program that covers new development (e.g. Cordes Ranch, Tracy Hills, Ellis), Infill Fee Areas, Plan C Areas, the I-205 Plan area, and more. Extending the contract will allow the City to continue to utilize the consultant to help manage the City's development impact fee program. This task order also establishes a new not-to-exceed amount of \$795,000; currently the not-to-exceed amount is \$595,000.

STRATEGIC PLAN

This agenda item supports Objective 1(c) of the Economic Development Strategic Plan which ensures quality infrastructure to meet future development needs.

FISCAL IMPACT

There is no impact to the General Fund. This amendment to the agreement only extends the time on the agreement, increase the contract amount to \$795,000 and approves Amendment One in the amount of \$200,000. This service is paid from the program management portion of the development impact fees paid by developers. As the City evaluates long-term staffing needs in the coming months, this function will also be reviewed.

RECOMMENDATION

That City Council, by resolution, approve Amendment One of the Master Professional Services Agreement with Harris & Associates in the amount of \$200,000, and establish a not-to-exceed amount of \$795,000, and extend the time of the contract by one additional year and authorize the Mayor to execute the Amendment.

Prepared by: Cris Mina, Senior Civil Engineer

Reviewed by: Robert Armijo, City Engineer
Bill Dean, Interim Development Services Director
Andrew Malik, Interim Assistant City Manager

Approved By: Troy Brown, City Manager

ATTACHMENTS:

A - Amendment One to the Master Professional Services Agreement HA 13-01

**CITY OF TRACY
AMENDMENT NO. 1 TO
MASTER PROFESSIONAL SERVICES AGREEMENT (HA13-01)**

This Amendment No. 1 ("Amendment") to the Master Professional Services Agreement No. HA13-01 is entered into between the City of Tracy, a municipal corporation ("City"), and Harris & Associates, Inc., a California Corporation, hereinafter ("CONSULTANT").

RECITALS

- A.** The City and CONSULTANT entered into a Master Professional Services Agreement No. HA 13-01 ("Agreement") for the Development Program Management Services which was approved by the City Council on August 20, 2013 under Resolution No.2013-125.
- B.** In January of 2013, the City solicited proposals from various consultants to provide program management services including management of infrastructure Master Plans and other similar services in multiple projects for a period of three years on an as needed basis. CONSULTANT was found to be the most qualified consultant and the Master Professional Services Agreement (HA 13-01) was entered into between the City and CONSULTANT. The Agreement expires on August 31, 2015 and may be extended for one additional year upon mutual agreement between the City and CONSULTANT. The City wishes to amend Section 2, Time of Performance, of the Agreement, extending the Agreement for additional one year, as set forth herein.
- C.** The City wishes to amend Section 5, Compensation, Paragraph 5.1, of the Agreement, revising the first sentence to include a not to exceed amount of \$795,000, as set forth herein.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. Incorporation by Reference.** This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. The terms which are not specifically modified by this Amendment shall remain in effect.
- 2. Terms of Amendment.**
 - a)** Section 2, Time of Performance, is being amended to extend the contract 1 year as follows: The Master PSA shall remain in effect until August 31, 2016.
 - b)** Section 5, Compensation, Paragraph 5.1, replace the first with sentence as follows: For services performed by CONSULTANT in accordance with this Agreement, CITY shall pay CONSULTANT on a time and expense basis, at the billing rates, and not to exceed amount of \$795,000 for all Task Orders and Exhibits thereto.

CITY OF TRACY
Amendment No. 1 to Master Professional Services Agreement
(HA13-01)
Page 2 of 2

- 3. **Modifications.** This Amendment may not be modified orally or in any manner other than by an agreement in writing signed by both parties, in accordance with the requirements of the Agreement.
- 4. **Severability.** If any term of this Amendment is held invalid by a court of competent jurisdiction, the Amendment shall be construed as not containing that term, and the remainder of this Amendment shall remain in effect.
- 5. **Signatures.** The individuals executing this Amendment represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Amendment. This Amendment shall inure to the benefit of and be binding upon the parties and their respective successors and assigns.

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

City of Tracy

Harris & Associates, Inc.

By: _____
Michael Maciel
Title: Mayor
Date: _____

By: 
Dennis Klingelhofer
Title: Vice President
Date: 7/9/15

Attest:
By: _____
Nora Pimentel
Title: City Clerk
Date: _____

By: 
Gary Wohl
Title: President/CFO
Date: 7/9/15

Approved as to form

By: _____
Daniel G. Sodergren
Title: City Attorney
Date: _____

RESOLUTION 2015-_____

APPROVING AMENDMENT ONE TO THE MASTER PROFESSIONAL SERVICES AGREEMENT (HA13-01) WITH HARRIS AND ASSOCIATES FOR DEVELOPMENT PROGRAM MANAGEMENT SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE THE AMENDMENT

WHEREAS, In January 2013, the City solicited proposals from various consultants to provide program management services for a period of three years on an as needed basis, and

WHEREAS, Harris was found to be the most qualified consultant and MPSA HA 13-01 was approved by Council on August 20, 2013, under Resolution 2013-125, and

WHEREAS, The MPSA was for a two year period with an optional one year extension, and

WHEREAS, The City wishes to amend Section 2, Time of Performance, of the Agreement, extending the Agreement for the additional year, and

WHEREAS, Extending the contract will allow the City to continue to utilize the consultant to help manage new development in the City, and

WHEREAS, There is no impact to the General Fund. This amendment to the agreement only extends the time on the agreement, increases the contract amount to \$795,000 and approves Amendment One in the amount of \$200,000, and

WHEREAS, These costs are paid for by the development community as a component of the City's established development impact fees;

NOW, THEREFORE BE IT RESOLVED, That City Council approves Amendment One of the Master Professional Services Agreement with Harris & Associates in the amount of \$200,000, and establishes a not-to-exceed amount of \$795,000, and extends the time of the contract by one additional year and authorizes the Mayor to execute the Amendment.

* * * * *

The foregoing Resolution 2015-_____ was passed and adopted by the Tracy City Council on the 1ST day of September 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM 1.E

REQUEST

AUTHORIZE FEDERAL FISCAL YEAR 2015 GRANT APPLICATION FOR SECTION 5307 U.S. DEPARTMENT OF TRANSPORTATION FEDERAL TRANSPORTATION ADMINISTRATION FUNDS IN THE AMOUNT OF \$2,499,648 FOR TRACER PUBLIC TRANSPORTATION SERVICES, BUS RADIO REPLACEMENT AND FOR REPLACEMENT FIXED ROUTE BUSES; CERTIFICATION OF APPLICATION ASSURANCES; AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE THE GRANT DOCUMENTS

EXECUTIVE SUMMARY

The City of Tracy is applying for Federal Transportation Administration Grant Funding. This request is for the amount of \$2,499,648 for Tracer public transportation services, bus radio replacement and for replacement fixed route buses. The application has been presented to San Joaquin Council of Governments (SJCOG), which is the Designated Recipient for these funds. Approval of this application is necessary to ensure FTA 5307 funding of the TRACER Public Transportation System and Capital Improvement Program (CIP) Transit Projects.

DISCUSSION

Annually, the City of Tracy can apply for Federal Transportation Administration (FTA) 49 U.S.C. Section 5307 Grant Funding. The available funds programmed for the City of Tracy from FTA Section 5307, for Federal Fiscal Year 2015 are \$2,499,648.

Each year, the City of Tracy receives an FTA Section 5307 apportionment to be used for providing public transportation services. Funds received by the City are valid for the year they are apportioned plus four years. Any money apportioned that is not used immediately is rolled over until it has been utilized or the money lapses. These apportionments are generally used by the City to fund projects on a reimbursable basis. This allows the City to be reimbursed for prior year's operating expenses and capital purchases. As the FTA does not fully fund projects, a local match amount is required. The City of Tracy uses money it receives annually from the Transportation Development Act (TDA) as local match for these projects.

This grant application (CA90Z292) requires certain assurances from the City that funds will be used in a manner which complies with all federal statutes, regulations, executive orders and administrative procedures applicable to the grant. Application is being made to provide grant assistance for TRACER operating assistance, bus radio replacement and for replacement fixed route buses. Operating assistance will be used to pay for 50% of the Transit Fund operating costs in Fiscal Year 2013/14 and Fiscal Year 2014/15, 80% of the capital cost of third party contracting for Fiscal Year 2013/14 and Fiscal Year 2014/15, replacement of bus radios, and replacement of two fixed route buses. TDA funds will be used to fund the difference.

The application has been presented to San Joaquin Council of Governments (SJCOG),

which is the Designated Recipient for these funds. SJCOG, acting as the regional transportation coordinator, assures the State that total County Section 5307 funds have been programmed, that the local funding has been committed to transit operation, that needs of the elderly and handicapped have been met, and that the City has coordinated with other transportation providers and users within the Tracy area.

Approval of this application is necessary to ensure FTA 5307 funding of the TRACER Public Transportation System and Capital Improvement Program (CIP) Transit Projects. TDA funds will be used as the matching funds for the City's portion on all projects listed below. A breakdown of the funding sources for these projects is shown below:

PROJECT	TOTAL COST	FTA / 5307	TDA
TRACER FY13/14 Operating Expense	\$928,428	\$464,214	\$464,214
TRACER FY14/15 Operating Expense	\$1,115,798	\$557,899	\$557,899
Capital Cost of 3 rd Party Contracting FY13/14	\$373,611	\$298,889	\$74,722
Capital Cost of 3 rd Party Contracting FY13/14	\$397,058	\$317,646	\$79,412
Bus Radio Replacement	\$25,000	\$20,000	\$5,000
Replacement Fixed Route Buses	\$1,051,000	\$841,000	\$210,000
TOTALS	\$3,890,895	\$2,499,648	\$1,391,247

STRATEGIC PLAN:

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

FISCAL IMPACT

There is no impact to the General Fund. The City's public transit services and related CIP projects for this application will be funded from the Transit Fund.

RECOMMENDATION

That the City Council, by Resolution, authorizes the Federal Fiscal Year 2015 Grant application for Section 5307 U.S. Department of Transportation Federal Transportation Administration funds in the amount of \$2,499,648 for TRACER Public Transportation Services, bus radio replacement, and for replacement Fixed Route Buses; certification of application assurances; and authorize the City Manager or designee to execute the grant documents.

Prepared by: Ed Lovell, Management Analyst II

Reviewed by: David Ferguson, Director of Public Works
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

RESOLUTION _____

AUTHORIZING FEDERAL FISCAL YEAR 2015 GRANT APPLICATION FOR SECTION 5307 U.S. DEPARTMENT OF TRANSPORTATION FEDERAL TRANSPORTATION ADMINISTRATION FUNDS IN THE AMOUNT OF \$2,499,648 FOR TRACER PUBLIC TRANSPORTATION SERVICES, BUS RADIO REPLACEMENT AND FOR REPLACEMENT FIXED ROUTE BUSES; CERTIFICATION OF APPLICATION ASSURANCES; AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE GRANT DOCUMENTS

WHEREAS, As required by 49 U.S.C. Section 5307, the Section 5307 grant application identifies the need for and use of funds to assist in transit operations, bus security cameras, and for replacement paratransit buses, and

WHEREAS, For Federal Fiscal Year 2015, the available programmed funds from Federal Transportation Administration Section 5307 source are \$2,499,648 and the application (CA90Z292) seeks the amount of \$2,499,648, and

WHEREAS, The San Joaquin County Council of Governments, acting as the regional transportation coordinator and Designated Recipient, assures the State that total County Section 5307 funds have been programmed, that local funding has been committed to transit operation, that needs of the elderly and disabled have been met, and that the City has coordinated with other transportation providers and users within the Tracy area, and

WHEREAS, The grant application requires the City to make certain assurances that the grant funds will be used in compliance with applicable laws, regulations and administrative or executive orders;

NOW, THEREFORE, BE IT RESOLVED, That City Council does hereby authorize the following:

1. The Federal Fiscal Year 2015 grant application for Section 5307 U.S. Department of Transportation Federal Transportation Administration funds in the amount of \$2,499,648 for TRACER public transportation services, bus radio replacement and for replacement fixed route buses; and
2. Certification of application assurances; and
3. The City Manager or designee to execute the grant documents.

* * * * *

The foregoing Resolution _____ was adopted by the Tracy City Council on the 1ST day of September 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

AGENDA ITEM F~~0~~

REQUEST

APPROVE THE FINAL SUBDIVISION MAP, SUBDIVISION IMPROVEMENT AGREEMENT, AND DEFERRED IMPROVEMENT AGREEMENT FOR ELLIS PHASE 1A, TRACT 3764, AUTHORIZATION FOR THE MAYOR TO EXECUTE THE SUBDIVISION IMPROVEMENT AGREEMENT AND DEFERRED IMPROVEMENT AGREEMENT, AND AUTHORIZATION FOR THE CITY CLERK TO FILE THE AGREEMENTS WITH THE SAN JOAQUIN COUNTY RECORDER

EXECUTIVE SUMMARY

Approval of the Final Subdivision Map will facilitate recordation of the Final Subdivision Map, and the issuance of building permits to construct residential houses within the Ellis Phase 1A subdivision. Standard Pacific Corp., a Delaware corporation, (Subdivider) has signed the Subdivision Improvement Agreement (SIA) for construction of the subdivision improvements to serve 165 single family dwelling lots, the neighborhood park site, and two commercial lots that will be created by the Final Subdivision Map. The Subdivider also signed the Deferred Improvement Agreement (DIA) to guarantee completion of the deferred improvements that are to be completed with the future residential and commercial phases of the Ellis Phase 1 Subdivision.

DISCUSSION

The Tentative Subdivision Map for the first phase of the Modified Ellis Project consists of 296 residential lots and six other parcels on approximately 150 acres (Ellis Phase 1 Subdivision) generally located at the northwest corner of Corral Hollow Road and Linne Road and approved by the Planning Commission on July 23, 2014, pursuant to Resolution 2014-0016.

Ellis Phase 1A, Tract 3764, is the first residential and commercial phase of the Ellis Phase 1 Subdivision. The residential phase is designated Residential Low Density in the General Plan. The Final Subdivision Map for Ellis Phase 1A, Tract 3764, is composed of 165 residential lots, the neighborhood park site (Parcel A), Parcel G for future residential lots, and two commercial lots (Parcels B and E) as shown on Attachment A.

The Subdivider has executed the SIA for the completion of the subdivision improvements including the temporary sewer connection on Peony Drive to the Edgewood Subdivision, roadway improvements on Corral Hollow Road, and other associated improvements.

The roadway improvements on Corral Hollow Road include asphalt concrete pavement widening, curb, gutter, commercial sidewalk, storm drainage, water main connection, street light, signing and striping, pavement transition to existing roadway section, and other improvements.

The improvements for the temporary sewer connection will include installation of a sewer main on Ellis Drive to its connection point in the Edgewood Subdivision and restoration of affected streets along the alignment of the sewer main by installing two inches thick asphalt concrete overlay.

The Engineering Division has reviewed the Improvement Plans and all improvements required of Ellis Phase 1A, Tract 3764, are guaranteed as part of the SIA with security.

In order to guarantee completion of the Subdivider's obligations regarding public improvements that will not be constructed at this time such as a traffic signal on Ellis Drive and Corral Hollow Road, and Middlefield Drive and Corral Hollow Road (4th leg), a neighborhood park, permanent sewer and storm drainage connections, removal of the offsite temporary storm drainage retention basin, dirt stockpile and temporary emergency vehicle turnaround, and other improvements as described in the Tentative Subdivision Map conditions of approval, the Subdivider has executed the DIA and has submitted the required improvement security.

The Final Subdivision Map has been reviewed as to its substantial compliance with the design of the approved Tentative Subdivision Map. The SIA, DIA, Final Subdivision Map, and Improvement Plans are on file with the City Engineer and are available for review upon request. Although the road for Ellis Drive is shown as 96' and 100' on the Tentative Map, the Final Map reflects a right of way of 86' and 64'-68', which is basically a reduction on the landscape strip on both sides of the street. The reduction on the right-of-way width does not reduce the street carrying capacity of Ellis Drive on traffic. The City Engineer has determined that this substantially complies with the Tentative Subdivision Map. City Council has the discretion to make the same determination by approval of the Final Map.

The Subdivider has requested that the public landscaping improvements along Corral Hollow Road, Ellis Place, and streets within Ellis Phase 1A be excluded as part of the work described in the SIA, to provide the Subdivider sufficient time to resolve landscape design issues related to new regulations on water conservation measures, and work with City staff in finalizing the improvement plans for the irrigation and landscaping improvements on Corral Hollow, Ellis Place, and in-tract streets (Additional Work). The Subdivider will sign an amendment to the SIA with surety for adding this work before starting construction of the Additional Work and to guarantee completion of the improvements.

Upon completion of all improvements, the City will accept the improvements for maintenance and will accept all offers of dedication of public right-of-way at that time.

FISCAL IMPACT

There will be no impact to the General Fund. The Subdivider has paid the applicable engineering review fees which include the cost of processing the Final Subdivision Map and Subdivision Improvement Agreement.

STRATEGIC PLAN

This agenda item is consistent with the Council approved Economic Development Strategy to ensure physical infrastructure necessary for development.

RECOMMENDATION

That City Council, by resolution, approve the Final Subdivision Map for Ellis Phase 1A, Tract 3764, and authorize the Mayor to execute the Subdivision Improvement Agreement and Deferred Improvement Agreement, and authorize the City Clerk to file the Agreements with the Office of the San Joaquin County Recorder.

Prepared by: Criseldo Mina, Senior Civil Engineer

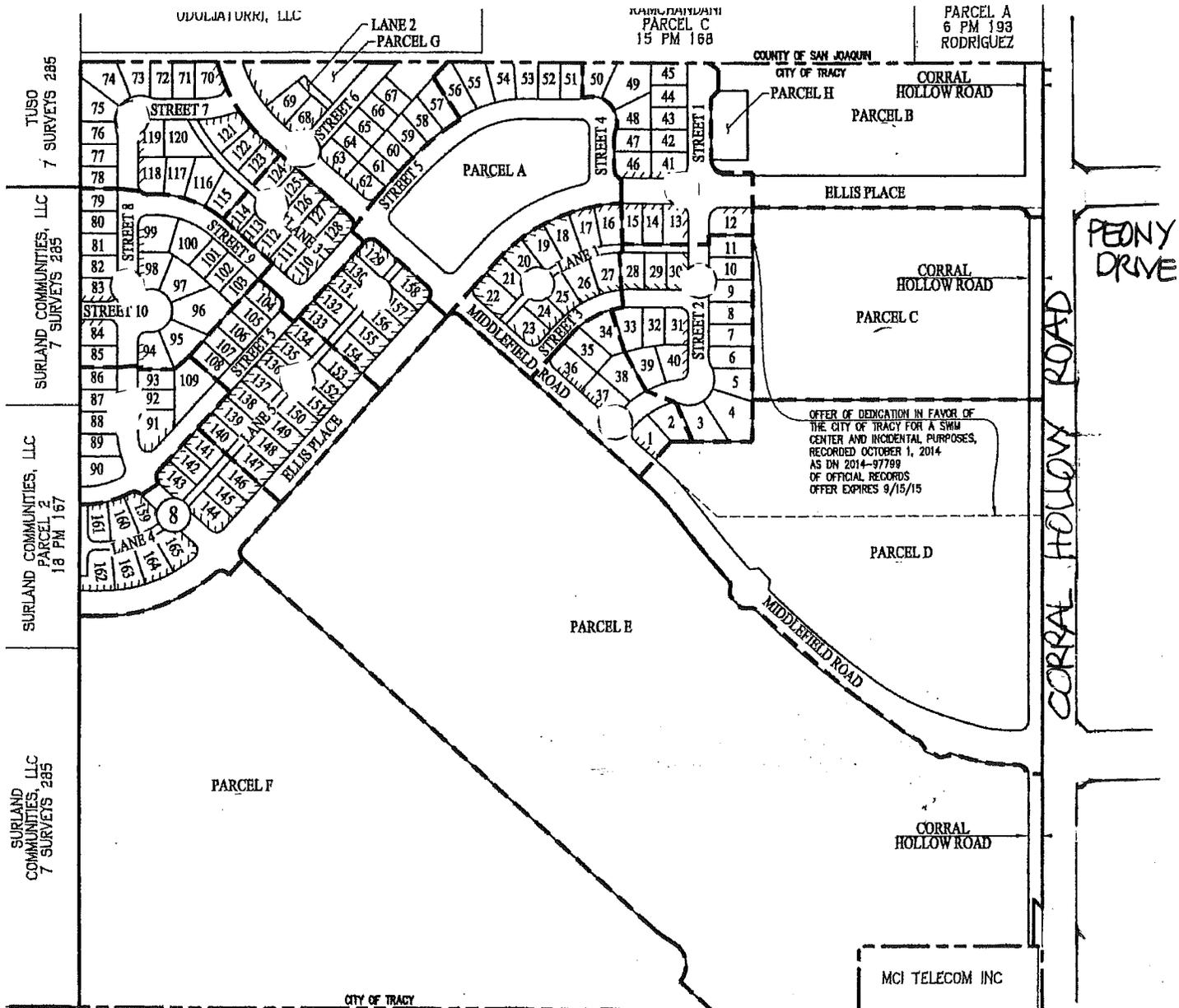
Reviewed by: Robert Armijo, City Engineer
William Dean, Interim Development Services Director
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A - Vicinity Map

ELLIS PHASE 1A, TRACT 3764



ATTACHMENT "A"
N. T. S.



RESOLUTION 2015-_____

APPROVING THE FINAL SUBDIVISION MAP, SUBDIVISION IMPROVEMENT AGREEMENT, AND DEFERRED IMPROVEMENT AGREEMENT FOR ELLIS PHASE 1A, TRACT 3764, AUTHORIZING THE MAYOR TO EXECUTE THE SUBDIVISION IMPROVEMENT AGREEMENT AND DEFERRED IMPROVEMENT AGREEMENT, AND AUTHORIZING THE CITY CLERK TO FILE THE AGREEMENTS WITH THE SAN JOAQUIN COUNTY RECORDER

WHEREAS, The Tentative Subdivision Map for the first phase of the Modified Ellis Project consists of 296 residential lots and six other parcels on approximately 150 acres (Ellis Phase 1 Subdivision) generally located at the northwest corner of Corral Hollow Road and Linne Road, and

WHEREAS, Ellis Phase 1A, Tract 3764, is the first residential and commercial phase of the Ellis Phase 1 Subdivision, and

WHEREAS, The Final Subdivision Map for Ellis Phase 1A, Tract 3764, is composed of 165 residential lots, the neighborhood park site (Parcel A), Parcel G for future residential lots, and two commercial lots (Parcels B and E), and

WHEREAS, The Subdivider has executed the Subdivision Improvement Agreement (SIA) for the completion of the subdivision improvements including the temporary sewer connection on Peony Drive to the Edgewood Subdivision, roadway improvements on Corral Hollow Road, and other associated improvements, and

WHEREAS, In order to guarantee completion of the Subdivider's obligations regarding public improvements, the Subdivider has executed the Deferred Improvement Agreement (DIA) and has submitted the required improvement security, and

WHEREAS, The Final Subdivision Map has been reviewed as to its substantial compliance with the design of the approved Tentative Subdivision Map, and

WHEREAS, The Subdivider has requested that the public landscaping improvements along Corral Hollow Road, Ellis Place, and streets within Ellis Phase 1A be excluded as part of the work described in the SIA, and

WHEREAS, The Subdivider will sign an amendment to the SIA with surety for adding this work before starting construction of the Additional Work and to guarantee completion of the improvements, and

WHEREAS, Upon completion of all improvements, the City will accept the improvements for maintenance and will accept all offers of dedication of public right-of-way at that time, and

WHEREAS, There will be no impact to the General Fund. The Subdivider has paid the applicable engineering review fees which include the cost of processing the Final Subdivision Map, the Subdivision Improvement Agreement, and Deferred Improvement Agreement;

NOW, THEREFORE BE IT RESOLVED, That City Council approves the Final Subdivision Map for Ellis Phase 1A, Tract 3764, and authorizes the Mayor to execute the Subdivision Improvement Agreement and Deferred Improvement Agreement, and authorizes the City Clerk to file the Agreements with the San Joaquin County Recorder.

* * * * *

The foregoing Resolution 2015-_____ was passed and adopted by the Tracy City Council on the 1ST day of September 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

MAYOR

ATTEST:

CITY CLERK

Recording Requested By
City of Tracy
Development Services Department
333 Civic Center Plaza
Tracy, CA 95376

And When Recorded Mail To:
City of Tracy
Office of the City Clerk
333 Civic Center Plaza
Tracy, CA 95376
Attention: Nora Pimentel

**CITY OF TRACY
SUBDIVISION IMPROVEMENT AGREEMENT
(PART OF MODIFIED ELLIS PROJECT AREA)
ELLIS, PHASE 1A, TRACT 3764**

This **SUBDIVISION IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **STANDARD PACIFIC CORP.**, a Delaware corporation (hereinafter "Subdivider").

RECITALS

- A.** The Subdivider is currently the owner of the real property located at the southwest corner of Corral Hollow Road and Peony Drive (hereinafter "Property"), and more particularly described in Exhibit "A", attached and incorporated herein by its reference.
- B.** In accordance with the Subdivision Map Act (California Government Code sections 66410, *et seq.*) and the Subdivision Ordinance (Tracy Municipal Code, title 12), the Subdivider has submitted to the City a Final Map (hereinafter "Final Map") for the Project known as **ELLIS, PHASE 1A, TRACT 3764** (hereinafter "Project"). The Final Map, as approved by the City Council on September 1, 2015, pursuant to Resolution No. 2015- _____, is on file with the City Clerk, and is incorporated herein by reference.
- C.** The Project is geographically located within the boundaries of the Tentative Subdivision Map for the first phase of the **MODIFIED ELLIS PROJECT**, consisting of 296 residential lots and six other parcels on approximately 150 acres (hereinafter "Tentative Subdivision Map"). The Tentative Subdivision Map was approved by the Planning Commission (PC) on July 23, 2014, pursuant to PC Resolution 2014-0016 and was amended on August 12, 2015, pursuant to PC Resolution 2015-010. The Tentative Subdivision Map is on file with the City Clerk, and is incorporated herein by reference.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 2 of 13**

- D. The approval of the Tentative Subdivision Map by the Planning Commission was subject to specified conditions of approval (hereinafter “Conditions”). The Conditions are attached hereto as Exhibit “B,” and incorporated herein by reference.
- E. The Conditions describe, among other things, improvements that are required for approval of the Final Map pursuant to the Subdivision Map Act, the Subdivision Ordinance, and applicable City Standards.
- F. Improvement Plans and Specifications for Ellis Phase 1A, Tract 3764, have been prepared on behalf of the Subdivider, and approved by the City Engineer, which describe in more detail the improvements which are required for approval of the Final Map. The Plans and Specifications, as approved by the City Engineer, are on file with the City Engineer, and are incorporated herein by reference. The term “Plans and Specifications” shall include forty-three (43) sheets of improvement plans titled “Ellis Phase 1A, Improvement Plans, Tract 3764 (APN 240-140-31 & 240-140-30)” prepared by Carlson, Barbee & Gibson, Inc. of San Ramon, California, as approved by the City Engineer.
- F. Since the required improvements, as described in the Conditions and the Plans and Specifications, have not been completed, the Subdivider has requested to execute this Agreement as authorized by Government Code section 66462.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 1. **SCOPE OF WORK.** The Subdivider shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions (hereinafter “Work”), to the reasonable satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at the Subdivider’s expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of Work unless authorized in writing by the City Engineer. The Subdivider may submit a written request to the City Engineer for a change in the Scope of Work, as required by Tracy Municipal Code section 12.36.060(f).
 - 1.1. **Ellis Neighborhood Park.** The Subdivider shall submit final park improvement plans, specifications and cost estimates and signed and notarized improvement agreement (hereinafter “Park Improvement and Reimbursement Agreement” or “PI&RA”), and submit improvement security in the amounts and form specified in the PI&RA for the construction of the Ellis Neighborhood Park, prior to final inspection of the first residential or commercial building to be constructed within the Property.

The Subdivider shall offer dedication of the park site to the City, described as Parcel “A”, on a Grant Deed which will be recorded, prior to City Council’s acceptance of the neighborhood park improvements. The Subdivider shall pay

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 3 of 13**

for the costs of preparing legal description and plat map necessary for recording the Grant Deed.

- 1.2. Corral Hollow Road Improvements.** As part of the Work to be performed as described in the paragraph above, the Subdivider shall construct certain frontage improvements on Corral Hollow Road including but not limited to, concrete curb, gutter, handicap ramp, asphalt concrete pavement, sidewalk, storm drain, catch basin, sanitary sewer, water line, pavement marking and striping, traffic signs, street light, and other improvements as shown on the Plans and Specifications (hereinafter “Corral Hollow Frontage Improvements”). Subdivider will be granted building permits prior to the completion of Corral Hollow Frontage Improvements; however no final building inspection on any house within the Project will be performed until Corral Hollow Frontage Improvements are completed. Cost of Corral Hollow Frontage Improvements including design, construction and construction management shall be the Subdivider’s responsibility. The Subdivider shall not be entitled to any reimbursements or fee credits for Corral Hollow Frontage Improvements.

The Subdivider shall offer the necessary right-of-way on Corral Hollow Road to the City by a Grant Deed, prior to City Council’s acceptance of the Corral Hollow Frontage Improvements, without any compensation or reimbursement from the City.

- 1.3. Offsite Temporary Storm Drainage Retention Basin and Stockpile Area.** The Subdivider shall operate and maintain the temporary storm drainage retention basin and stockpile area as shown on the Plans and Specifications. The Subdivider shall maintain at its sole cost and expense the storm drainage basin, including all pipes within the subdivision to the storm drainage retention basin. The use, operation, and maintenance of the temporary storm drainage retention basin and pipe(s) shall continue until a permanent downstream storm drainage facility (Detention Basin #3A) and all necessary pipelines are completed.

The Subdivider shall maintain the offsite temporary storm drainage retention basin and perform dust control when necessary, and remove and dispose of accumulated silt, weed and debris within the basin.

Within ninety (90) calendar days after the Subdivider receives written notice from the City that the downstream storm drainage line and Detention Basin #3A has been completed, the Subdivider shall remove the offsite temporary storm drainage retention basin and dirt stockpile, compact and restore the basin and stockpile sites to a substantially similar condition as prior to Subdivider’s construction of the temporary storm drainage retention basin and stockpile.

The Subdivider shall deliver to the City a cash deposit in the amount of \$3,500. The cash deposit may be used by the City, if necessary, to cover the City’s

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 4 of 13**

costs of performing emergency maintenance on the temporary storm drainage retention basin and stockpile area required by this section or as determined by the City which the Subdivider fails to perform within five (5) calendar days from the date of Subdivider's receipt of written notice from the City Engineer. In the event that the City has not used any or all of the cash deposit after the Subdivider completes the restoration required by this sub-section 1.3, the City shall promptly return the unused portion of the cash deposit to the Subdivider. In the event the entire amount of Subdivider's original deposit is used by the City for its emergency maintenance services, an additional deposit in the amount of \$3,000 will be delivered by the Subdivider within thirty (30) calendar days after Subdivider's receipt of the written notice from the City thereof.

- 1.4. Temporary Turnaround for Emergency Vehicles.** The Subdivider shall construct and maintain a temporary paved turnaround at the west end of Ellis Drive, all at the Subdivider's sole cost and expense. The construction detail and location of the temporary turnaround shall be as shown on the Improvement Plans. The Subdivider agrees to remove the temporary turnaround within 90 days from the Subdivider's receipt of written notice from the City Engineer.

The Subdivider shall deliver to the City a cash deposit in the amount of \$4,000. The cash deposit may be used by the City, if necessary, to cover the City's costs of performing emergency maintenance on the temporary turnaround required by this section or as determined by the City which the Subdivider fails to perform within five (5) working days from the date of Subdivider's receipt of written notice from the City Engineer. In the event that the City has not used any or all of the cash deposit after the Subdivider completes the restoration required by this sub-section 1.4, the City shall promptly return the unused portion of the cash deposit to the Subdivider.

- 1.5. Lot(s) and Street Grading and Maintenance.** Until the Work is accepted by the City as complete and all applicable warranty periods have expired, the Subdivider shall diligently perform the necessary maintenance of the entire Project site including berms and streets constructed within the Project to the satisfaction of the City Engineer at the Subdivider's sole cost and expense.

The Subdivider shall maintain the streets, undeveloped lots, and berms including the removal and disposal of weeds and accumulated debris.

The Subdivider shall construct the berms with the approved grades and erosion control to prevent ponding and flooding of paved streets. Paved streets within the Project that are damaged as determined by the City Engineer due to flooding and ponding shall be replaced by the Subdivider at Subdivider's own cost. The Subdivider shall deliver to the City a cash deposit in the amount of \$5,000. The cash deposit may be used by the City, if necessary, to cover City's expenses of performing any services required by this sub-section of the

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 5 of 13**

Agreement which the Subdivider fails to perform within the time specified in the written notice from the City, or for any emergency maintenance work on the berms and undeveloped lots, as determined by the City. In the event that the City has not used any or all of the cash deposit, the City shall reimburse the unused portion of the cash deposit to the Subdivider within twenty (20) calendar days after the removal of all berms to the satisfaction of the City Engineer.

All infrastructure constructed under this Agreement will be maintained by the Subdivider until accepted by the City as complete.

- 1.6** The Ellis Program Area Finance Implementation Plan (hereinafter "Ellis FIP") that was approved by the City Council on August 20, 2013 by Resolution 2013-136, identified the Project's obligations towards infrastructure improvements such as roadway, traffic signal, water distribution, sewer conveyance, water treatment, wastewater treatment, storm drainage, and others that will serve the Project. The storm drainage development impact fees for Ellis Phase 1A identified in the Ellis FIP did not include the Project's costs obligations towards the future storm drainage line from the Property to the final location of Detention Basin 3A (DB #3A) which will be constructed in the future. The additional storm drainage impact fee applicable to Residential Mixed Low (RML) is \$2,835 per lot, for Residential Mixed Medium (RMM) is \$1,548 per unit, for Residential Mixed High is \$3,516 per unit, and for commercial standard use is \$37,599 per acre. The City will amend the Ellis FIP to include the cost of the storm drainage line described above, prior to the issuance of the first building permit, except for the model homes.
- 1.7** The Subdivider shall submit the final improvement plans, specifications, and cost estimates for the irrigation and landscaping improvements on Corral Hollow Road and where required within the Final Map area (hereinafter "Additional Work") within thirty (3) calendar days from the date of City Council's approval of this Agreement. Prior to construction of the Additional Work, the Subdivider shall enter into an amendment to the Agreement for the Additional Work, as approved by the City Engineer, in substantially the form set forth in Exhibit "C" to this Agreement ("First Amendment to the Subdivision Improvement Agreement) with the City and post improvement security for the Additional Work. The Subdivider shall pay the cost of processing the First Amendment to the Subdivision Improvement Agreement in the amount of \$6,607.
- 2. SUBDIVIDER'S AUTHORIZED REPRESENTATIVE.** At all times during the progress of the Work, Subdivider shall have a competent foreman or superintendent (hereinafter "Authorized Representative") on site with authority to act on behalf of the Subdivider. The Subdivider shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. The Subdivider shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 6 of 13**

3. **LOCATION OF PERFORMANCE**. The Subdivider shall perform all Work at the locations and grades shown on the Plans and Specifications. The Subdivider shall acquire, at the Subdivider's sole cost and expense, any easement or right-of-way necessary for the performance of the Work.

4. **IMPROVEMENT SECURITY**. Concurrently with the execution of this Agreement by the Subdivider, and prior to the commencement of any Work, the Subdivider shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code section 12.36.080, in the following amounts:
 - 4.1. **Faithful Performance** security in the amount of **\$8,187,000** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
 - 4.2. **Labor and Material** security in the amount of **\$8,187,000** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen) pursuant to Government Code sections 66499.2, 66499.3, 66499.4 and 66499.7(b).
 - 4.3. **Warranty** security in the amount of **\$818,700** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
 - 4.4. **Monumentation** security in the amount of **\$10,000** to secure faithful performance of setting monuments as described in the Final Map within one year from the date this of Agreement pursuant to Government Code section 66496.

5. **INSURANCE**. Concurrently with the execution of this Agreement by the Subdivider, and prior to the commencement of any Work, the Subdivider shall furnish evidence to the City that all of the following insurance requirements have been satisfied.
 - 5.1. **General**. The Subdivider shall, throughout the duration of this Agreement, maintain insurance to cover Subdivider, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.
 - 5.2. **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01 01 96) coverage shall be maintained in an amount not less than \$3,000,000

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 7 of 13**

general aggregate and \$1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

- 5.3. Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for “any auto”) coverage shall be maintained in an amount not less than \$1,000,000 per accident for bodily injury and property damage.
- 5.4. Workers’ Compensation** coverage shall be maintained as required by the State of California.
- 5.5. Endorsements.** Subdivider shall obtain endorsements to the automobile and commercial general liability with the following provisions:
- 5.5.1.** The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an additional “insured.”
- 5.5.2.** For any claims related to this Agreement, Subdivider’s coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Subdivider’s insurance and shall not contribute with it.
- 5.6. Notice of Cancellation.** Subdivider shall obtain endorsements to all insurance policies by which each insurer is required to provide thirty (30) days prior written notice to the City should the policy be canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation.
- 5.7. Authorized Insurers.** All insurance companies providing coverage to Subdivider shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.
- 5.8. Insurance Certificate.** Subdivider shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance, in a form satisfactory to the City Attorney.
- 5.9. Substitute Certificates.** No later than thirty calendar (30) days prior to the policy expiration date of any insurance policy required by this Agreement, Subdivider shall provide a substitute certificate of insurance.
- 5.10. Subdivider’s Obligation.** Maintenance of insurance by the Subdivider as specified in this Agreement shall in no way be interpreted as relieving the Subdivider of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Subdivider may carry, at its own expense, such additional insurance as it deems necessary.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 8 of 13**

- 6. PERMITS, LICENSES, AND COMPLIANCE WITH LAW.** The Subdivider shall, at the Subdivider's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, the Subdivider shall obtain a City of Tracy Business License. The Subdivider shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.
- 7. TIME OF PERFORMANCE.** Time is of the essence in the performance of the Work, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The Subdivider shall submit all requests for extensions of time to the City, in writing, no later than ten (10) days after the start of the condition, which purportedly caused the delay, and not later than the date on which performance is due.

 - 7.1 Commencement of Work.** No later than five (5) days prior to the commencement of Work, the Subdivider shall provide written notice to the City Engineer of the date on which the Subdivider shall commence Work. The Subdivider shall not commence Work until after the notice required by this section is properly provided, and the Subdivider shall not commence Work prior to the date specified in the written notice.
 - 7.2 Schedule of Work.** Concurrently with the written notice of commencement of Work, the Subdivider shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect the Subdivider's prosecution of the Work.
 - 7.3 Completion of Work.** The Subdivider shall complete all Work by no later than three hundred sixty-five (365) days after the City's execution of this Agreement. If the Work is not completed and accepted by City Council by this date, City Engineer may grant an extension of time if a) the Subdivider submits a written request for extension at least five (5) days prior to expiring date of completion, b) the City Engineer reasonably determines that Work is substantially complete and an extension is warranted, c) the Subdivider amends this agreement and provides bonds to cover the term of the Amendment, and d) the Subdivider pays all processing fees for such time extension.
 - 7.4 Reversion to Acreage.** In the event that the Subdivider fails to commence the Work prior to the date on which completion is due, the Subdivider shall, upon written request by the City, consent to the reversion to acreage of all real property described by the Final Map, and the Subdivider shall bear all costs thereof.
- 8. INSPECTION BY THE CITY.** In order to permit the City to inspect the Work, the Subdivider shall, at all times, and upon no less than twenty-four (24) hour written notice from the City to the Subdivider, provide to the City proper and safe access to the Project

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 9 of 13**

site, and all portions of the Work, and to all shops which are within the Subdivider's reasonable control and wherein portions of the Work are in preparation.

- 9. INSPECTION FEES.** Concurrently with the execution of this Agreement by the Subdivider, and prior to the commencement of any Work, the Subdivider shall pay the City Inspection Fees in the amount of three and one-half percent (3-1/2 %) of the estimated Project costs (as approved by the City Engineer). In the event that the City determines that the City's actual costs of inspecting the Work (including all costs and expenses of inspection, reviewing maps and plans, field checking, testing, and administrative and overhead costs of fifteen percent (15 %)) exceeds the amount of Inspection Fees paid by the Subdivider, the Subdivider shall pay the City the actual costs of inspecting the Work less Inspection Fees previously paid. In the event that the City requires an independent inspection, the Subdivider shall pay all such costs and provide a report to the City.

In the event that the City determines that the City's actual costs of inspecting the Work (including all costs and expenses of inspection, reviewing maps and plans, field checking, testing and administrative and overhead costs of fifteen (15%)) is less than the amount of Inspection Fees paid by the Subdivider, the City shall promptly refund the Subdivider the cost difference between the Inspection Fees previously paid and the actual costs of inspecting the Work.

10. DEFAULT.

10.1. In the event that the Subdivider is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to the Subdivider and the Subdivider's surety (if any) in which the default is described with appropriate specificity.

10.2. The Subdivider shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

10.2.1. The Subdivider is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

10.2.2. The Subdivider abandons the Project site.

10.2.3. The Subdivider fails to perform one or more requirements of this Agreement.

10.2.4. The Subdivider fails to replace or repair any damage caused by Subdivider or its agents, representatives, contractors, subcontractors, or employees in connection with performance of the Work.

10.2.5. The Subdivider violates any legal requirement related to the Work.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 10 of 13**

- 10.3.** In the event that the Subdivider fails to cure the default within ten (10) days of the Subdivider's receipt of written notice from the City setting forth with reasonable specificity the nature of default, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:
- 10.3.1.** Cure the default and charge the Subdivider for the costs therefore, including administrative costs and interest in an amount equal to seven percent (7 %) per annum from the date of default.
 - 10.3.2.** Demand the Subdivider to complete performance of the Work.
 - 10.3.3.** Demand the Subdivider's surety (if any) to complete performance of the Work.
- 11. ACCEPTANCE OF WORK.** Prior to acceptance of the Work by the City Council, the Subdivider shall be solely responsible for maintaining the quality of the Work, and maintaining safety at the Project site. The Subdivider's obligation to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.
- 12. WARRANTY PERIOD.** The Subdivider shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one (1) year after acceptance of the Work by the City Council. In the event that (during the one (1) year warranty period) any portion of the Work is determined by the City Engineer to be defective solely as a result of an obligation of the Subdivider under this Agreement, the Subdivider shall correct such default within a reasonable period of time and to the reasonable satisfaction of the City Engineer.
- 13. INDEPENDENT CONTRACTOR STATUS.** Subdivider is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Subdivider is not City's employee and Subdivider shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation whatsoever, unless the City provides prior written authorization to Subdivider.
- 14. OWNERSHIP OF WORK.** Upon completion of the Work and the City's acceptance of such Work, all original documents prepared by Subdivider for this Agreement shall be the property of the City, and shall be given to the City at the completion of Subdivider's Work, or upon demand from the City. Prior to acceptance of the work, the Subdivider shall submit the as-built drawings in Autodesk AutoCAD format Release-14 or higher.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 11 of 13**

15. **ATTORNEY'S FEES.** In the event any legal action is commenced to enforce this Agreement, the prevailing party is entitled to reasonable attorney's fees, costs, and expenses incurred.
16. **ASSIGNMENT AND DELEGATION.** This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Subdivider's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.

Notwithstanding the foregoing, Subdivider shall have the right to assign its rights, duties and obligations under this Agreement to any entity controlled by, controlling, or under common control with Subdivider without the consent of the City.

17. **NOTICES.**

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

To CITY:
City of Tracy
Development Services
333 Civic Center Plaza
Tracy, California 95376
Attn: Robert Armijo
City Engineer

To Subdivider:
Standard Pacific Corp.
4750 Willow Road
Suite 150
Pleasanton, CA 94588
Attn: Tony Ponterio
Project Manager

Standard Pacific Corp.
15360 Barranca Parkway
Irvine, CA 92618-2215
Attn: Dwight Hirsch
Vice President & Associate
Counsel

- 17.2. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated above, or (2) three working days following the deposit in the United States Mail of registered or certified mail, sent to the address designated above.
18. **MODIFICATIONS.** This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties.

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 12 of 13**

19. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
20. **SEVERABILITY.** In the event, any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
22. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
23. **INDEMNIFICATION.** Subdivider shall indemnify, defend and hold harmless the City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, liabilities, costs and expenses (including court costs and attorney's fees) resulting from or arising out of an actual occurrence giving rise to a claim related to the performance of the Work by Subdivider or Subdivider's agents, representatives, contractors, subcontractors or employees, prior to acceptance of the Work by the City.
24. **DEFERRED IMPROVEMENT AGREEMENT.** The Property is subject to the requirements specified in that certain Deferred Improvement Agreement (DIA) recorded on _____, as Document Number 2015-____ of the San Joaquin County Records. Subdivider agreed to submit improvement plans, sign improvement agreement, and post improvement security for the completion of the Deferred Improvements within the timelines specified in the DIA. The City has no obligation to construct or complete the Deferred Improvements.
25. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements.

Portion of this Page Intentionally Left Blank

**CITY OF TRACY – SUBDIVISION IMPROVEMENT AGREEMENT
PART OF ELLIS MODIFIED PROJECT
ELLIS PHASE 1A, TRACT 3764
Page 13 of 13**

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

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

CITY OF TRACY,
a municipal corporation

SUBDIVIDER:
STANDARD PACIFIC CORP.,
a Delaware corporation

By: Michael Maciel
Title: MAYOR
Date: _____

By: _____
Title: _____
Date: _____

Attest:

By: Nora Pimentel
Title: CITY CLERK
Date: _____

By: _____
Title: _____
Date: _____

Approved As To Form:

By: Daniel Sodergren
Title: CITY ATTORNEY
Date: _____

EXHIBIT "A"
PAGE 1 OF 1

LEGAL DESCRIPTION OF THE PROPERTY

THAT CERTAIN REAL PROPERTY SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN, CITY OF TRACY, DESCRIBED AS FOLLOWS:

BEING A SUBDIVISION OF A PORTION OF SECTION 6, TOWNSHIP 3, SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCELS A, B, C, AND D OF THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN BOOK 25 OF PARCEL MAPS, AT PAGE 195 OF THE SAN JOAQUIN COUNTY RECORDS.

APPROXIMATELY 150.75 ACRES

NOTHING FOLLOWS

RESOLUTION 2015-010

APPROVING AMENDMENTS TO THE ELLIS TENTATIVE SUBDIVISION MAP
CONDITIONS OF APPROVAL FOR THE FIRST PHASE OF THE ELLIS PROJECT,
WHICH CONSISTS OF APPROXIMATELY 150 ACRES LOCATED AT THE
NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND LINNE ROAD,
ASSESSOR'S PARCEL NUMBERS 240-140-30 AND 31
APPLICATION NUMBER TSM11-0002

WHEREAS, On January 22, 2013, City Council certified the Final Revised Environmental Impact Report for the Modified Ellis Project and approved a General Plan Amendment, annexation, and the Modified Ellis Specific Plan for the 321-acre site known as Ellis, and

WHEREAS, A development agreement was approved by City Council on March 19, 2013, and

WHEREAS, Annexation of the Ellis site to the City of Tracy was completed on April 16, 2013, and

WHEREAS, On July 23, 2014, Planning Commission approved a Tentative Subdivision Map for the first phase of the Modified Ellis Project, consisting of 296 residential lots and six other parcels on approximately 150 acres, located at the northwest corner of Corral Hollow Road and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM11-0002, and

WHEREAS, Amendments have been proposed for the Ellis Tentative Subdivision Map Conditions of Approval, Application Number TSM11-0002, and

WHEREAS, The proposed amendments to the Conditions of Approval occur on pages 3, 4, 5, 7, and 20, and include changes to condition B.5 related to landscape maintenance, the deletion of condition C.1.11 and changes to condition C.3.2 related to a Park Improvement and Reimbursement Agreement, and changes to condition C.4 related to grading and encroachment permits, as shown in Attachment A of the Planning Commission Staff Report, dated August 12, 2015, and

WHEREAS, The project is consistent with the Final Revised Environmental Impact Report (EIR) certified by the City Council on January 22, 2013 for the Modified Ellis Project, which included the Modified Ellis Specific Plan (SCH#2012022023). Pursuant to CEQA Guidelines Section 15162 and Public Resources Code Section 21166, no subsequent EIR shall be prepared for the project because the project has a certified EIR and no substantial changes are proposed in the project that would require major revisions to the previous EIR; no substantial changes have occurred with respect to the circumstances under which the project will be undertaken that would require major revisions to the previous EIR; and no new information of substantial importance regarding significant effects, mitigation measures, or alternatives for this project has become known, which was not known at the time the previous EIR was certified as complete. Furthermore, as a residential subdivision that is consistent with a specific plan for which an EIR was certified after January 1, 1980, the project is exempt from

Resolution Number 2015-010
Amendments to Ellis TSM11-0002 COAs
Page 2

the requirements of CEQA pursuant to California Government Code Section 65457. Therefore, no further environmental review is necessary, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the proposed amendments to the Ellis Tentative Subdivision Map Conditions of Approval on August 12, 2015;

NOW, THEREFORE, BE IT RESOLVED, That Planning Commission approve the amendments to the Ellis Tentative Subdivision Map Conditions of Approval for the first phase of the Ellis Project, Application Number TSM11-0002, as stated in Exhibit "1" attached and made part hereof.

The foregoing Resolution 2015-010 was adopted by the Planning Commission on the 12th day of August, 2015, by the following vote:

AYES: COMMISSION MEMBERS: ORCUTT, RANSOM, MITRACOS, SANGHA, TANNER
NOES: COMMISSION MEMBERS: NONE
ABSENT: COMMISSION MEMBERS: NONE
ABSTAIN: COMMISSION MEMBERS: NONE


CHAIR

ATTEST:


STAFF LIAISON

**Conditions of Approval for a Tentative Subdivision Map
for approximately 150 acres in the Ellis Specific Plan Area,
consisting of 296 residential lots and 6 other parcels,
located west of Corral Hollow Road in the vicinity of
Peony Drive and Linne Road
Assessor's Parcel Numbers 240-140-30 and 31
Application Number TSM11-0002
August 12, 2015**

These Conditions of Approval shall apply to the real property shown on the Tentative Subdivision Map for approximately 150 acres in the Ellis Specific Plan Area, consisting of 296 residential lots and 6 other parcels, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM 11-0002.

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

1. "Applicant" means any person, or other legal entity, defined as a "Subdivider".
2. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, the Development Services Director, or the City Engineer, to perform the duties set forth herein.
3. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director, to perform the duties set forth herein.
4. "Ellis FIP" means the finance and implementation plan (titled "Ellis Program Area Finance and Implementation Plan") approved by the City Council on August 20, 2013 by Resolution 2013-136, and any amendments.
5. "Ellis DA" means the development agreement (titled "Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities, LLC") approved by the City Council on March 19, 2013 by the adoption of Ordinance 1182, and any amendments.
6. "Ellis SP" means the specific plan (titled "Modified Ellis Specific Plan") approved by the City Council on January 22, 2013 by Resolution 2013-012, and any amendments.
7. "Ellis EIR" means the Final Environmental Impact Report (titled "City of Tracy Modified Ellis Project Final Revised Environmental Impact Report"), bearing the State Clearing House Number 2012022023, certified by the City Council on January 22, 2013 by Resolution 2013-011, as adequate and in compliance with the California Environmental Quality Act (CEQA).
8. "Applicable Law" shall have the meaning set forth in section 1.03 of the Ellis DA.
9. "Conditions of Approval" means these conditions of approval applicable to the Tentative Subdivision Map for approximately 150 acres in the Ellis SP Area,

Ellis – Tentative Subdivision Map
Application Number TSM11-0002
August 12, 2015
Page 2

consisting of 296 residential lots and 6 other parcels, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM 11-0002.

10. "Project" means the Tentative Subdivision Map for approximately 150 acres in the Ellis SP Area, consisting of 296 residential lots and 6 other parcels, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM 11-0002.
11. "Property" means the approximately 150 acres in the Ellis SP Area, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31.
12. "Subdivider" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. "Subdivider" also means the Developer, which shall include the Owner as described in the Preamble to the Ellis DA, and all successors in interest.

B. Planning Division Conditions of Approval

1. Compliance with laws. The Subdivider shall comply with all Applicable Law.
2. Mitigation Measures. The Subdivider shall comply with all mitigation measures applicable to the Project in the Ellis EIR, which was certified by the City Council on January 22, 2013 (SCH#2012022023).
3. Notice of protest period. Pursuant to Government Code Section 66020, including Section 66020 (d)(1), the City HEREBY NOTIFIES the Subdivider that the 90-day approval period (in which the Subdivider may protest the imposition of any fees, dedications, reservations, or other exactions that are within the purview of the Mitigation Fee Act [Government Code section 66000 et seq.] ("Exactions") and imposed on this Project by these Conditions of Approval) shall commence on the date of the conditional approval of this Project. If the Subdivider fails to file a protest of the Exactions within this 90-day period, complying with all of the requirements of Government Code Section 66020, the Subdivider will be legally barred from later challenging any of the Exactions. The terms of this paragraph shall not affect any other deadlines or statutes of limitations set forth in the Mitigation Fee Act or other applicable law, or constitute a waiver of any affirmative defenses available to the Developer.
4. Conformance with Tentative Subdivision Map. All Final Maps shall be in substantial conformance with the approved Tentative Subdivision Map, which was date stamped as received by the Development Services Department on April 22, 2014, unless modified herein by these Conditions of Approval.

5. Landscape Maintenance. Before approval of the first Final Map, the Subdivider shall enter into an agreement, which shall be recorded against the Project property, which includes one of the following options (a. or b.):

a. Annexation to LMD. (1) prior to final inspection and/or issuance of a certificate of occupancy (except for up to twelve model homes), the Project shall annex into the Tracy Consolidated Landscape Maintenance District (TCLMD); (2) when property annexes into the TCLMD, the owners of the property will be assessed for assessment district costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public special amenities as described in the TCLMD; (3) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area; (4) prior to final inspection and issuance of certificate of occupancy (except for up to twelve model homes), the developer shall deposit an amount equal to the amount of the first year's assessment; and (5) the developer shall be responsible for all costs associated with annexation into the TCLMD. Or, in lieu of annexing into the TCLMD, and prior to final inspection or issuance of certificate of occupancy, the Subdivider shall deposit with the City, an amount necessary to fund the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project in perpetuity. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area.

Or

b. CFD or other funding mechanism. (1) prior to final inspection and/or issuance of a certificate of occupancy (except for up to twelve model homes), the Subdivider shall form a Community Facilities District (CFD) for funding the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area; (3) formation of

the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit (except for up to twelve model homes), the developer shall deposit an amount equal to the first year's taxes; and (6) the developer shall be responsible for all costs associated with formation of the CFD. Or, in lieu of forming the CFD, and prior to final inspection or issuance of certificate of occupancy, the Subdivider shall deposit with the City an amount reasonably necessary to fund the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project in perpetuity. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area.

6. Emergency Radio Communications System. There is a need for a new radio communications tower and appurtenances ("Radio Tower") to provide adequate emergency services to the City, including the Ellis Specific Plan Area. In lieu of imposing the \$26,131.26 fee, Subdivider agrees to pay a fee of \$155,141.50 at Final Map approval. This accelerates the Subdivider's payment of the fee to the City. In adopting this condition of approval, neither the Subdivider nor the City waive any right or are prevented from or impaired from either seeking to impose or increase a fee or opposing the authority to impose or increase a fee.
7. Deed Notice regarding Airport Land Use. Before approval of each Final Map, the Subdivider shall include the following Deed Notice on the Final Map, to the satisfaction of the Development Services Director and consistent with the San Joaquin County Airport Land Use Commission's Airport Land Use Compatibility Plan:

The San Joaquin County Airport Land Use Commission's Airport Land Use Compatibility Plan identifies the Tracy Municipal Airport's Airport Influence Area. Properties within this area are routinely subject to overflights by aircraft using this public-use airport and, as a result, residents may experience inconvenience, annoyance, or discomfort arising from the noise of such operations. State law (Public Utilities Code Section 21670 et seq.) establishes the importance of public use airports to the public interest of the people of the State of California. Residents of property near such airports should therefore be prepared to accept the inconvenience, annoyance, or discomfort from normal aircraft operations. Residents also should be aware that the current volume of aircraft activity may increase in the future. Any subsequent deed conveying this parcel or subdivisions thereof shall contain a statement in substantially this form,

Ellis – Tentative Subdivision Map
Application Number TSM11-0002
August 12, 2015
Page 5

C. Engineering Division Conditions of Approval

C.1 Final Map

No Final Map within the Project boundaries will be approved by the City until the Subdivider demonstrates, to the satisfaction of the City Engineer, that all the requirements set forth in these Conditions of Approval are completed, including, but not limited to the following:

- C.1.1 Subdivider has submitted one (1) reproducible copy of the approved tentative subdivision map for the Project within ten (10) days after Subdivider's receipt of a notification of approval of the Tentative Subdivision Map. The signature of the owner of the Property on the Tentative Subdivision Map means consent to the preparation of the Tentative Subdivision Map and the proposed subdivision of the Property.
- C.1.2 Each Final Map is prepared in accordance with the applicable requirements of the Tracy Municipal Code, these Conditions of Approval, and in substantial conformance with the Tentative Subdivision Map.
- C.1.3 Each Final Map includes and shows offer(s) of dedication of all right(s)-of-way and/or temporary or permanent easement(s) required to construct and serve the Project described by the Improvement Plans and Final Map, in accordance with Applicable Laws and these Conditions of Approval. If construction easement(s) is/are shown, it/they shall indicate the termination of the construction easement(s).
- C.1.4 Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd order Class 1 control points establishing the "Basis of Bearing" and shown as such on the Final Map. The Final Map shall also identify surveyed ties from two of the horizontal control points to a minimum of two separate points adjacent to or within the Property described by the Final Map.
- C.1.5 Subdivider has submitted a signed and stamped Engineer's Estimate that show construction cost of subdivision and offsite improvements that are described in Conditions C.2 and C.3.1, below. In determining the total construction cost, add 10% for construction contingencies.
- C.1.6 Subdivider has submitted a signed and notarized Subdivision Improvement Agreement (SIA) and Improvement Security, for the completion of improvements that are required to serve the Project as shown on the Improvement Plans. The form and amount of Improvement Security shall be in accordance with the Applicable Law and the SIA.
- C.1.7 Subdivider has submitted a signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, for the completion of

improvements described in Condition 2.5.1, below. The form and amount of Improvement Security shall be in accordance with, Applicable Law and the OIA.

- C.1.8 Subdivider has paid engineering review fees, pursuant to the City's Master Fee Resolution, including improvement plan checking, final map review, agreement processing, and all other fees required by these Conditions of Approval and Applicable Laws.
- C.1.9 Subdivider has submitted technical or materials specifications, cost estimate, and technical reports related to the design of improvements that are shown on the Improvement Plans and as required by these Conditions of Approval.
- C.1.10 Subdivider has submitted hydrologic and storm drainage calculations for the design and sizing of in-tract storm drainage pipes and the temporary storm drainage retention basin located within the Ellis SP, as required in Condition C.2.3.4, below.
- C.1.11 Subdivider has submitted a signed and stamped Improvement Plans as required in Condition C.2, below.

C.2 Improvement Plans

C.2.1 General. Improvement Plans shall contain the design, construction details and specifications of improvements that is/are required to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (mylar) and shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. The Improvement Plans shall be completed to comply with Applicable Laws and these Conditions of Approval.

C.2.2 Site Grading

C.2.2.1 Erosion Control

Improvement Plans shall specify the method of erosion control to be employed and materials to be used.

C.2.2.2 Grading and Drainage Plans

Submit a Grading and Drainage Plan prepared by a Registered Civil Engineer and accompanied by the Project's Geo-technical /Soils Engineering report. The report shall provide recommendations regarding adequacy of the site relative to the stability of soils such as soil types and classification, percolation rate, soil bearing capacity, highest observed ground water elevation, and others.

- C.2.2.3 When the grade differential between the Project site and residential lot with the adjacent property(s) exceeds 12 inches, a reinforced or masonry block wall, engineered slope, or engineered retaining wall is required for retaining soil. The Subdivider shall submit a Grading Plan that includes the construction detail(s) and structural calculations of the retaining wall or masonry wall.
- C.2.2.4 In the event an engineered slope is used to retain soil subject to approval by the City Engineer, a slope easement will be necessary from the adjacent property. The Subdivider shall obtain permission from owner(s) of the adjacent and affected property(s) and show the slope easement on the Final Map.
- C.2.2.5 If applicable, show all existing irrigation structure(s), channel(s) and pipe(s) that are to remain or relocated or to be removed, if there any, after coordinating with the irrigation district or owner of the irrigation facilities. If there are irrigation facilities including tile drains, that are required to remain to serve existing adjacent agricultural uses, the Subdivider shall design, coordinate and construct required modifications to the facilities to the reasonable satisfaction of the owner of the irrigation facilities and the City.

C.2.3 Storm Drainage

C.2.3.1 Storm Drainage Release Point

Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an existing or a public street with a functional storm drainage system in the storm drainage line on the street has adequate capacity to drain storm water from the Property, or private property subject to a drainage release.

C.2.3.2 Permanent storm drainage connection

The Project's permanent storm drainage connection(s) shall be designed and constructed to meet Applicable Laws and the recommendations on the Ellis Program Sub-Basin – Final Storm Drainage Technical Report dated September 2012. The design of the permanent storm drainage connection shall be shown on the Grading and Storm Drainage Plans and shall be submitted with the required hydrologic calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2008, any subsequent amendments, and Applicable Law. The Subdivider shall provide the design and construction detail shown on the improvement

plans that are required to meet the City's storm water regulations, and shall construct these improvements as part of the subdivision improvements.

C.2.3.3 Temporary Storm Drainage Retention Basin Located within the Ellis SP

In the absence of a permanent downstream storm drainage facilities, the City will allow the Subdivider to use temporary storm drainage retention basin with adequate a capacity as an interim solution for the disposal of storm water generated from the Property, provided the Subdivider design and construct the on-site temporary storm drainage retention basin in accordance with Applicable Laws, and signs an improvement agreement (Deferred Improvement Agreement), to assure completion of Subdivider's obligation to repair and maintain while the temporary storm drainage retention facility is in service and to remove the temporary storm drainage retention basin when it is no longer needed as reasonably determined by the City Engineer and it is taken out of service. The Subdivider shall pay all costs for the design, construction, and maintenance of the on-site temporary storm drainage retention basin including the removal of the on-site temporary storm drainage retention basin and re-grading of the basin site.

The Subdivider shall sign the Deferred Improvement Agreement and post reasonable improvement security in the amounts approved by the City Engineer, and form approved by the City Attorney, prior to the approval of the First Final Map.

C.2.3.4 The Project's temporary storm drainage retention basin located in the Ellis SP must be located at the downstream portion of the Property's on-site storm drainage system, and must be designed and constructed in accordance with Applicable Laws. The sizing of the temporary storm drainage retention basin shall consider percolation of storm water into the ground. Submit the engineering calculations for determining the size of the basin with the soils report that contains information on the site's percolation rate and groundwater elevation.

Excavated materials shall be kept near the Property. If the excavated materials are removed from the Property, the Subdivider shall post cash security equivalent to the cost of import backfill materials, hauling to the basin site, spreading, compacting and re-grading the basin site. If excavated materials are retained near the site, the

stockpile of excavated materials shall not be higher than 8 feet and slope should not be steeper than 1:1. A chain link fence with redwood slats and access gate shall be installed by the Subdivider to enclose the basin site. The bottom of the temporary on-site storm drainage retention basin shall be 5 feet above the observed highest groundwater elevation at the basin site. The percolation report shall also indicate the observed highest groundwater elevation at the basin site.

C.2.3.5 The Subdivider shall record a temporary storm drainage easement to grant rights to the City to access the on-site temporary storm drainage retention for any emergency repair or maintenance work the City may have to perform within the basin site. The temporary access easement shall be recorded after the First Final Map is recorded and shall have a sunset clause that such easement will automatically terminate after the recordation of a notice of completion.

C.2.3.6 Refundable Storm Drainage Deposit
Prior to the approval of the Final Map, the Subdivider shall deliver cash deposit in the amount of \$3,500 to cover cost of City services on any emergency repair or maintenance work that the City performs on the temporary storm drainage retention basin. The City shall return unused portion of the cash deposit within thirty (30) calendar days from the date the temporary storm drainage retention basin was removed.

C.2.3.7 Prior to the issuance of a grading permit for the Project, the Subdivider shall provide reasonable proof of compliance with the applicable Construction General Permit through a Waste Discharge ID number or Notice of Intent submittal to the reasonable satisfaction of the Public Works Director or his/her designee.

C.2.3.8 Prior to the approval of the Final Map for the Project, the Subdivider shall provide a Stormwater Quality Control Plan (SWQCP) detailing the methods in which the development will address compliance with the applicable City of Tracy Manual of Stormwater Quality Control Standards for New Development and Redevelopment (Manual) to the reasonable satisfaction of the Public Works Director or his/her designee. The Manual includes the requirements for Site Design, Source, and Treatment Control Measures. Permanent stormwater quality control measures may include any combination of the following methods and must consider future maintenance requirements in their selection to serve the Project: deepening of future City

detention basin DET 3A to the north of the Project to create a low lying "retention", or "water quality treatment" component in the bottom of the basin, one or more extended detention basins within the Project, vegetated swales, grass filter strips or other treatment measures consistent with the Manual that are deemed to be acceptable by the Public Works Director or his/her designee. In order for future DET 3A to be considered by the City to be acceptable in providing stormwater quality treatment as a joint-use, the Subdivider will be required to obtain and submit specific geotechnical information in the location of the site of future DET 3A that clearly indicates that soil percolation rates will allow the "retention" components within the basin to drain effectively via percolation and in conformance with Applicable Law, or provide a second low flow outlet for the water quality treatment storage.

Until such time as future DET 3A is operational, which includes adequate detention storage to accommodate storm runoff from development areas and a positive outlet, the Project will be required to provide temporary retention basins as the interim discharge element for all Project drainage in conformance with Applicable Law.

C.2.3.9 Prior to the issuance of a building permit for the Project, the Subdivider shall provide reasonable proof of compliance with the applicable CalGreen Building Standards to the reasonable satisfaction of the Public Works Director or his/her designee, in accordance with Applicable Law.

C.2.4. Sanitary Sewer

C.2.4.1 Permanent Sewer Connection

It is the Subdivider's responsibility to pay its proportionate share of the Project's permanent sewer connection in accordance with the City of Tracy Wastewater Master Plan/ Corral Hollow Sewer Analysis dated October 2009 and the 2010 Update (STM) prepared by CH2MHill and Applicable Laws.

C.2.4.2 Temporary Sewer Line to the Eastside Sewer System

According to Section 1.13(b)(3) of the Ellis DA, sewer conveyance capacity for 250 residential units is available on the Eastside Sewer Conveyance System on an interim basis until the upgrade to the Corral Hollow Sewer Conveyance System is completed. It was determined that an additional capacity on the Eastside Sewer Conveyance

System through existing sewer main on the Edgewood Subdivision is available for 46 residential units and the commercial parcels on an interim basis. The Subdivider will be required to design and install an interim sewer connection near the intersection of Ellis Drive / Corral Hollow Road up to its connection point at the existing sewer manhole on Peony Drive / Heirloom Lane on Edgewood Subdivision. The temporary sewer line must be designed and installed such that it will function as a gravity sewer line. The Subdivider shall complete the temporary sewer improvements described under this sub-section, all at the Subdivider's sole cost and expense, prior to the issuance of the 1st occupancy permit on the Property.

The Subdivider will be required to apply a 2" thick asphalt concrete overlay with reinforcing fabric along the alignment of the sewer main to its connection point. If the sewer main is installed on one side of the street, the limits of asphalt concrete overlay shall be half of the width of the street, and shall be 25 feet from both sides of the trench at crossing(s). Pavement saw-cutting and grinding will be required to remove the top 2" of the existing asphalt concrete pavement. Design of and the improvement plans for the sewer improvements described under this sub-section shall be prepared and will become part of the improvement plans for Corral Hollow Road Improvements.

C.2.4.3

Temporary Sewer Main on Corral Hollow Road

In accordance with Section 1.13(b)(1) of the Ellis DA, the existing Corral Hollow Sewer Conveyance System has existing conveyance capacity for 330 residential units reserved for this Project on a permanent basis. The City is currently completing the designs for a permanent sewer main on Corral Hollow Road from Peony Drive to the existing sewer manhole at Parkside Drive. This sewer line will be designed to its ultimate size but will function with a restricted flow capacity equivalent to the sewer generation of 330 residential units only.

In order to guarantee completion of the design and installation of the permanent sewer and roadway improvements described under this section not later than October 31, 2018, the Subdivider shall sign a Deferred Improvement Agreement with the City, and post improvement security in the amounts approved by the City Engineer, before approval of the first Final Map.

C.2.4.4 The portion of the sewer main on Corral Hollow Road that will be installed within the jurisdiction of the San Joaquin County (County) will require encroachment permit and a maintenance agreement with the County. The Subdivider is required to coordinate with the County Public Works Department the design of the utility trench and extent of pavement replacement for the portion of Corral Hollow Road that is within the County right-of-way. The Subdivider shall comply with all the applicable requirements of the County, obtain encroachment permit, and pay permit processing, plan checking and inspection fees, prior to starting work. The County will require a traffic control plan and improvement plans as part of the encroachment permit application.

The temporary sewer improvements described under this sub-section shall only be completed at Subdivider's election.

C.2.4.5 Prior to starting the work described in this section, the Subdivider shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic at work areas during the installation of the sewer improvements described in Conditions C.2.4.2 and C.2.4.4, above. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

C.2.4.6 Permanent Sewer Connection to Corral Hollow Sewer Conveyance System
When the ultimate Corral Hollow Sewer Transmission Upgrades are complete, and the Corral Hollow Road sewer trunk line is installed to Ellis Drive and becomes available for connection, the interim sewer connection from Ellis Drive shall be diverted or replaced with permanent sewer improvements that will be connected to the new sewer trunk line with a manhole on Corral Hollow Road. The gravity sewer line on Peony Drive from Corral Hollow Road to the Edgewood Subdivision shall be disconnected by plugging pipe ends at the sewer manholes.

C.2.5. Water System

C.2.5.1 Ellis Specific Plan Water System Analysis (WTM)
According to the Technical Memorandum dated August 14, 2013 titled "Ellis Specific Plan Water System Analysis" (WTM), in the interim condition, the Property can be served by Pressure Zone 2 water distribution line on Corral Hollow Road after the installation of certain permanent and

temporary water line improvements as identified in the WTM (Offsite Water Improvements) by the Subdivider.

These Offsite Water Improvements must be completed by the Subdivider before the issuance of the occupancy permit of the first residential house to be constructed on the Property. In order to guarantee completion of the Offsite Water Improvements, the Subdivider shall enter into an Offsite Improvement Agreement (OIA) with the City and post improvement security in the amounts approved by the City Engineer, prior to the approval of the First Final Map. The OIA requires authorization from the City Council. The Subdivider shall design and prepare improvement plans for the Offsite Water Improvements, and pay engineering review fees such as plan checking, agreement and permit processing, testing, and construction inspection fees based on current charge rate and as required by these Conditions of Approval, and in accordance with Applicable Law.

C.2.5.2 All costs associated with the installation of the Offsite Water Improvements including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street that may be disturbed with the installation of these improvements shall be paid by the Subdivider.

C.2.5.3 The Subdivider is also responsible for obtaining permission from the Union Pacific Railroad Company (UPRR), if necessary, for the installation of a permanent water line crossing across the UPRR right-of-way, prior to starting construction of the Offsite Water Improvements in any UPRR area. The water line crossing agreement requires approval from the City Council. The Subdivider shall pay for the cost of obtaining the written permission including the water line crossing agreement from UPRR. The City will allow construction of a portion of the Offsite Water Improvements outside UPRR's right-of-way, if the Subdivider provides the City documentation that a written request to UPRR to process a water line crossing agreement has been submitted. The City may request the required permission from UPRR if requested by Subdivider.

C.2.6 Street Improvements

C.2.6.1 Corral Hollow Road Right of Way

City will adopt a precise plan line to establish the location and alignment of the centerline of Corral Hollow Road from

Ellis – Tentative Subdivision Map
Application Number TSM11-0002
August 12, 2015
Page 14

Parkside Drive to Highway 580 (PPL). With the adoption of the alignment plan, it will provide the amount of right-of-way to be acquired from each of the properties that are located along this portion of Corral Hollow Road including the Project. Per the Citywide Roadway & Transportation Master Plan (CRTMP) that was adopted by City Council on November 26, 2012, pursuant to Resolution 2012-240, amended on November 19, 2013, Corral Hollow Road between Parkside Drive to Linne Road will be a 4-lane major arterial street with a raised median as depicted on Figure 4.15b Arterial Street Roadway Cross Sections of the CRTMP.

The Subdivider shall dedicate all rights-of-way and/ or easement(s) that are necessary for the widening of Corral Hollow Road along the entire frontage of the Property on Corral Hollow Road that satisfies the roadway cross section shown on the PPL and CRTMP, and for the widening and construction of intersection improvements with a traffic signal at Ellis Drive / Corral Hollow Road and Middlefield Drive / Corral Hollow Road ("Corral Hollow Road Improvements"). The design of the intersection improvements will include the installation of a traffic signal and appurtenances and associated improvements such as right-turn lane(s), left turn lane(s), raised median(s), pavement transition, lane line marking(s), pavement markings, traffic sign(s), and other improvements as reasonably determined by the City that are necessary to be constructed to have a safe signalized intersection.

C.2.6.2 Corral Hollow Road Improvements

The Subdivider shall design and construct it's pro rata share, as determined by the cost estimate of a licensed engineer, of the Corral Hollow Road Improvements, which shall be designed and constructed in accordance with Applicable Laws and these Conditions of Approval and shall be completed by the Subdivider per the timeline specified in the SIA. Corral Hollow Road Improvements may include but not limited to, concrete curb, gutter, and sidewalk, asphalt concrete pavement, water main, fire hydrant, storm drain line, catch basin, storm drainage drop inlet, street tree, landscaping with automatic irrigation system (Motorola Controller), pavement marking and striping, traffic sign, street light, asphalt concrete overlay (where required), pavement transition and other street and utilities improvements that are required to serve the Project and based on the phasing plan approved by the City Engineer.

Before approval of a Final Map, Subdivider shall sign a Deferred Improvement Agreement with the City for the design and construction of frontage improvements on Parcel "D" on Corral Hollow Road. If the City declines to accept the dedication of Parcel "D" as provided in the Ellis DA, the Subdivider shall, not later than ninety (90) days thereafter, post appropriate security, as determined by the City, for the completion of the design and construction of the Parcel "D" frontage improvements.

Corral Hollow Road Improvements shall be designed and constructed by the Subdivider to meet the applicable requirements of the latest edition of the California Department of Transportation Highway Design Manual (CHDM) and the California Manual of Uniform Traffic Control Devices (MUTCD), the Applicable Law, and these Conditions of Approval, prior to the final inspection of the first building to be constructed on the Property or issuance of the first building certificate of occupancy on the commercial lots.

C.2.6.3 Traffic Signal at Ellis Drive/Corral Hollow Road

A four-way traffic signal will be required at Ellis Drive / Corral Hollow Road and shall be installed and made operational at the time specified in the traffic signal warrant analysis described in Condition C.2.6.5, below. The Subdivider shall provide improvement plans that show the design and construction details of the four-way traffic signal and all associated intersection improvements such as left-turn lane, exclusive right-turn lane, new travel lane, raised median, pavement marker and sign, traffic controller and power supply cabinet, traffic detecting loops and video camera for traffic monitoring, fiber optic traffic signal interconnect system and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection.

Subdivider shall provide the fiber optics system for communication of the traffic signals for the future condition. In interim condition, the Subdivider shall provide a functional communication system from the City Hall to the traffic signals that will be constructed with this Project.

C.2.6.4 Intersection Improvements at Middlefield Drive/Corral Hollow Road

Additional roadway improvements and the fourth leg of the existing traffic signal will be required at the intersection of Middlefield Drive / Corral Hollow Road. The work described

under this sub-section shall be completed when Middlefield Road from the Property is extended to Corral Hollow Road. The Subdivider shall provide improvement plans that show the design and construction details of the four-way traffic signal and all associated intersection improvements such as left-turn lane, exclusive right-turn lane, new travel lane, raised median, pavement marker and sign, traffic detecting loops and video camera, traffic signal interconnect wires and conduit and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection

C.2.6.5 Traffic Signal Warrant Analysis (Trigger Study)

Prior to the issuance of the 200th building permit, a traffic signal warrant analysis shall be completed to determine if a traffic signal is warranted at the intersection of Ellis Drive / Corral Hollow Road and to identify timeline when the traffic signal is needed and also identify when the portion of Middlefield Road that is within the Property must be extended to Corral Hollow Road. If a traffic signal is warranted, the Subdivider shall install the traffic signal and construct associated intersection improvements as described in Conditions C.2.6.1 and C.2.6.3, above, and per the Ellis SP, FIP, and Applicable Law. Improvements beyond the Subdivider's responsibility are subject to reimbursement from the City from City fees collected.

C.2.6.6 Bus Shelter and Turnout on Corral Hollow Road

The final location and geometric configuration such as storage length, bay taper, and others of the bus turnout shall be determined at the time of preparation of improvement plans and will require approval from the City Engineer. The bus shelter and turnout shall be located such that it does not create a horizontal sight distance issue with the outbound traffic on the commercial driveway for Parcel "C". The bus shelter and turnout shall be constructed as part of the Corral Hollow Road Improvements. Construction details of the bus shelter must be shown on the Improvement Plans. The City will provide the construction details and materials specifications of the bus shelter. The cost for the bus shelter and improvements are subject to reimbursement subject to availability of funds.

C.2.6.7 Encroachment Permit

All work to be performed and improvements to be constructed within City's right-of-way will require an Encroachment Permit from the City, prior to starting the work. The Subdivider or its authorized representative shall

submit all documents that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan that is prepared by and signed and stamped by a Civil Engineer or Traffic Engineer registered to practice in the State of California, payment of engineering review fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance naming the City of Tracy as additional insured or as a certificate holder.

C.2.6.8 Dead-End Streets

A standard barricade and guardrail with appropriate traffic sign will be required at the west end of Street 10, Street 5, Street 11 and Street 15, and north end of Street 6, Street 4, Street 2, Street 1, and at temporary turn around. A wooden fence shall be installed at the end and for the entire right-of-way width of these streets. The space behind the barricade shall be paved to prevent growth of weeds and provide easier access for removing accumulated debris. To prevent street runoff from draining to adjacent property(s), a concrete curb shall be installed through the entire width of the pavement or curb-to-curb. Asphalt concrete berm or curb is an acceptable alternative solution. Construction details of the improvements described under this sub-section must be shown on the Improvement Plans.

C.2.6.9 Temporary Turn Around

The temporary cul-de-sac at the end of Street 18, Ellis Drive and Middlefield Drive shall be enclosed with a wooden fence with chain link gate secured by a padlock. The temporary cul-de-sac shall be constructed with an asphalt concrete pavement (lesser pavement section/ thickness), and temporary asphalt concrete berm. The Subdivider shall be responsible for obtaining permission to construct, use, repair and maintain the temporary cul-de-sac from the involved property owner(s) and shall also be responsible for repairing and maintaining the temporary cul-de-sac. Construction details of the temporary turn around shall be shown on the Improvement Plans. The Subdivider's obligations towards the repair and maintenance of the temporary turn around shall be guaranteed in the DIA.

C.2.6.10 Ellis Drive, Middlefield Drive and Other In-tract Streets

The Subdivider shall dedicate all rights-of-way that are necessary to construct Ellis Drive, Middlefield Drive and all the in-tract streets based on their respective cross sections shown on the Ellis SP once improvements are complete for

the given street. The width of travel lanes, street median, landscaping strip and sidewalk shall be in accordance with the Ellis SP. Design and construction details of the in-tract streets such as asphalt concrete pavement, curb, gutter, sidewalk, street light, water main, fire hydrant, landscaping with automatic irrigation system (Motorola), storm drain, catch basin and drop inlets, sanitary sewer main and lateral, water main, individual water service and meter, pavement marking and striping, traffic sign, driveway, handicap ramp and other street improvements shall be consistent with the Ellis SP and shall be shown on the Improvement Plans.

C.2.7. Undergrounding of Overhead Utilities

C.2.7.1 Public Utility Easement

All private utility services to serve Project such as electric, telephone and cable TV to the building must be installed underground, and to be installed within dedicated Public Utility Easement (PUE) and at the location approved by the respective owner(s) of the utilities. The Subdivider shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are to be installed under the sidewalk or within the 6 feet wide Public Utility Easement (PUE) within the Property. The Subdivider shall complete the necessary coordination work with the respective owner(s) of the utilities for the design of these underground utilities and to ensure it can be constructed under the sidewalk or within the 6 feet wide PUE, and for additional space if the 6 feet PUE is inadequate as determined by the utilities owner(s), prior to the approval of the Final Map.

C.2.7.2 Pavement cuts or utility trench(s) on existing street(s) for the installation of electric, gas, cable TV, and telephone will require the application of 2" asphalt concrete overlay and replacement of pavement striping and marking that are disturbed during construction. The limits of asphalt concrete overlay shall be 25 feet from both sides of the trench, and shall extend over the entire width of the adjacent travel lane(s) if pavement excavation encroaches to the adjacent travel lane or up to the street centerline or the median curb. If the utility trench extends beyond the street centerline, the asphalt concrete overlay shall be applied over the entire width of the street (to the lip of gutter or edge of pavement). Construction details and limits of asphalt concrete overlay shall be shown on the Improvement Plans.

C.3 Mini/Neighborhood and Community Parks

- C.3.1 The Subdivider or Owner shall offer for dedication Parcel "A" (approximately 3.06 acres) for park purposes as required by sub-section 1.15(a) of the Ellis DA, the Ellis SP and Applicable Law on the first Final Map. The Subdivider shall design and construct the neighborhood park improvements consistent with the Ellis SP and Applicable Law. The Subdivider is entitled to neighborhood/mini park fee credits, if the Subdivider complies with Applicable Law.
- C.3.2 The Subdivider shall submit park improvement plans, signed and notarized improvement agreement ("Park Improvement and Reimbursement Agreement or PI&RA"), and Improvement Security in the amount and type specified in the Applicable Law prior to final inspection (except for up to twelve model homes). The timing of completion of the neighborhood park improvements shall be in accordance with the Ellis SP, or as agreed by the Subdivider.

C.4 Grading and Encroachment Permit

No applications for grading and encroachment permits will be accepted by the City as complete until the Subdivider has provided documents to the reasonable satisfaction of the City Engineer, which may include the following:

- C.4.1 Permit(s), agreement(s) and approval of other public agencies that has jurisdiction over the required public facilities, if applicable.
- C.4.2 Three (3) copies of the Project's Geo-technical /Engineering Soils Report prepared or signed and stamped by a Geo-technical Engineer as required in Condition C.3.2.2, above.
- C.4.3 Three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) identical to the reports submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Subdivider is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Subdivider. The Subdivider shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008 and any subsequent amendment(s), and Applicable Law.
- C.4.4 Reasonable written permission from irrigation district or affected owner(s), if applicable as required in Condition C.3.2.5, above. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Subdivider.

C.4.5 Written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), if applicable. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Subdivider shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection.

C.4.6 Payment of engineering review fees, pursuant to City's Master Fee Resolution, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees as required by these Conditions of Approval and Applicable Law.

C.4.7 Pipeline Crossing Agreement with UPRR, for the installation of water main crossing on Corral Hollow Road, as required in Condition C.2.5.3, above.

C.5 Building Permit

The City will not approve any building permit within the Project boundaries until the Final Map is approved by the City Council and it is recorded, and the Subdivider demonstrates, to the reasonable satisfaction of the City Engineer, compliance with all the required Conditions of Approval, including, but not limited to, the following:

C.5.1 The Subdivider has submitted payment of development impact fees and all other applicable fees as determined and required on Ellis FIP and all subsequent amendments to the Ellis FIP.

C.6 Agreements and Improvement Security

C.6.1. Subdivision Improvement Agreement

Before the City's approval of the Final Map, the Subdivider shall execute a Subdivision Improvement Agreement (for the public facilities required to serve the real property described by the Final Map), post all required improvement security in accordance with Applicable Law.

C.6.2 Deferred Improvement Agreement

Before the City's approval of the First Final Map, the Subdivider shall execute a Deferred Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all remaining public facilities (to the extent the public facilities are not included in the Subdivision Improvement Agreement), under the Applicable Law.

C.6.3 Improvement Security

The Subdivider shall provide improvement security for all public facilities, as required by the Subdivision Improvement Agreement and the Deferred Improvement Agreement. The form of the improvement security may be a surety bond, letter of credit or other form in accordance with Applicable Law. The amount of the improvement security shall be as follows:

- C.6.3.1 Faithful Performance (100% of the estimated cost of constructing the public facilities),
- C.6.3.2 Labor & Material (100% of the estimated cost of constructing the public facilities), and
- C.6.3.3 Warranty (10% of the estimated cost of constructing the public facilities)
- C.6.3.4 Monumentation (\$500 multiplied by the total number of street centerline monuments that are shown on the Final Map)

C.7 Benefit District

The Subdivider may make a written request to the City for the formation of a Benefit District only if the written request is made before the approval of the Final Map for which the public facilities are required, and in accordance with these Conditions of Approval, and Applicable Law.

C.8 Final Building Inspection

The City will not perform final building inspection until after the Subdivider provides documentation which demonstrates, to the reasonable satisfaction of the City Engineer, that:

- C.8.1 Prior to the final building inspection of the 65th residential building, the Subdivider has constructed two (2) vehicular access points (one of which may be temporary) from Corral Hollow Road for use by fire and emergency vehicles, consistent with the construction phasing of the Project, to the reasonable satisfaction of the Fire Code Officer, and as required by these Conditions of Approval. The temporary access may be a permanent parking lot (or parking aisle) or a temporary road, and if it is a temporary road, it shall not be less than 20 feet in width and shall be paved with 3 inches thick asphalt concrete and not less than 10 inches aggregate base. If the access is a temporary access road, the Subdivider shall remove the temporary access road within 60 calendar days from the date of written notification from the Fire Code Officer. The Subdivider shall be solely responsible for the costs of constructing and removing the temporary access road including signing and striping, and the City shall not be responsible for any reimbursement therefor. Design and construction details of the improvements required under this sub-section shall be shown on the Improvement Plans.

C.8.2 The Subdivider has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested or a final building inspection has to be performed. Unless specifically provided in these Conditions of Approval, or the Applicable Law, the Subdivider shall take all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.9 Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Subdivider demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

C.9.1 All the public improvements shown on the Improvement Plans are completed and all the deficiencies listed in the deficiency report prepared by the assigned Engineering Inspector are all corrected.

C.9.2 Subdivider has completed the 90-day public landscaping maintenance period.

C.9.3 Subdivider has submitted Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Subdivider, the City shall temporarily release the originals of the Improvement Plans to the Subdivider so that the Subdivider will be able to document revisions to show the "As Built" configuration of all improvements.

C.10 Release of Improvement Security

C.10.1 Improvement Security for Faithful Performance, Labor & Materials, and Warranty will be immediately released to the Subdivider pursuant to Section 12.36.080(d) of the Tracy Municipal Code.

C.10.2 Monumentation Bond will be immediately released to the Subdivider after City Council's acceptance of the public improvements and all the street centerline monuments shown on the Final Map are installed and tagged by a Land Surveyor licensed to practice in the State of California.

C.10.3 Unused portion of the storm drainage cash deposit specified in Condition C.2.3.6, above, will be immediately released to the Subdivider after the removal of the off-site or on-site temporary storm drainage retention basin and in accordance with the DIA.

Ellis – Tentative Subdivision Map
Application Number TSM11-0002
August 12, 2015
Page 23

C.11 Special Conditions

- C.11.1. Nothing contained herein shall be construed to permit any violation of Applicable Law. Subject, however, to Applicable Law, this Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the final map, improvement agreements, and improvement plans, prior to the City Engineer's signature on the final map and improvement plans, if the City Council finds it necessary due to public health and safety reasons. The Subdivider shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City. Costs may be applicable to the Ellis FIP as credit. Health and Safety findings shall be made by the City Council under the terms of a City wide review of the Health and Safety related issue.

Nothing in these Conditions of Approval are intended or may be interpreted to limit or interfere with any of the vested rights provided in the Ellis Development Agreement. In the event of any conflict between any provision of these Conditions of Approval and the Applicable Law, the Applicable Law shall control.

RECORDING REQUESTED BY:

CITY OF TRACY
DEVELOPMENT SERVICES

WHEN RECORDED MAIL TO:

CITY OF TRACY
OFFICE OF THE CITY CLERK
333 CIVIC CENTER PLAZA
TRACY, CA 95376
ATTENTION: NORA PIMENTEL

SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

**CITY OF TRACY
DEFERRED IMPROVEMENT AGREEMENT
ELLIS PHASE1A, TRACT 3764**

This **DEFERRED IMPROVEMENT AGREEMENT** (hereinafter "Agreement") is made and entered into by and between the **CITY OF TRACY**, a municipal corporation (hereinafter "City"), and **STANDARD PACIFIC CORP.**, a Delaware corporation (hereinafter "Subdivider").

RECITALS

- A. Subdivider is the owner of the real property located on the southwest corner of Corral Hollow Road and Peony Drive within the City of Tracy (hereinafter "Property"), and more particularly described in Exhibit "A," attached hereto and incorporated herein by reference.
- B. The Project is geographically located within the boundaries of the Tentative Subdivision Map for the first phase of the **MODIFIED ELLIS PROJECT**, consisting of 299 residential lots and six other parcels on approximately 150 acres (hereinafter "Tentative Map"). The Tentative Map, as approved by the Planning Commission (PC) on July 23, 2014, pursuant to PC Resolution No. 2014-0016, is on file with the PC Secretary, and is incorporated herein by reference. The approval of the Tentative Subdivision Map by the Planning Commission was subject to specified conditions of approval (hereinafter "Conditions"). The Conditions are attached hereto as Exhibit "B", and incorporated herein by reference.
- C. In accordance with the Subdivision Map Act (California Government Code sections 66410, *et seq.*) and the Subdivision Ordinance (Tracy Municipal Code, title 12), the Subdivider has submitted to the City a Final Map (hereinafter "Final Map") for the Project known as **ELLIS PHASE 1A, TRACT 3764** (hereinafter "Project"). The Final Map, as approved by the City Council on September 1, 2015, pursuant to Resolution No. 2015-_____, is on file with the City Clerk, and is incorporated herein by reference.

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 2 of 10**

No. 2015-_____, is on file with the City Clerk, and is incorporated herein by reference.

- D. In processing the Final Map for approval by the City, the Subdivider entered into a Subdivision Improvement Agreement (hereinafter "Improvement Agreement") incorporated herein by its reference. By the terms of the Improvement Agreement, the Subdivider agreed to perform specifically described improvements (defined in the Improvement Agreement as "Work") within a specific period of time.
- E. In accordance with the Conditions, the Subdivider is required to execute a Deferred Improvement Agreement which will describe responsibilities of each of the lots or parcels created by the Final Map and post improvement security, to guarantee completion of improvements required in the Conditions that Subdivider will not perform under the Improvement Agreement which are identified in Exhibit "C" attached hereto and incorporated herein by this reference (hereinafter the "Deferred Improvements").
- F. Section 18 of the Improvement Agreement authorizes modifications to be made to the Improvement Agreement only if the modifications are set forth in writing signed by the Subdivider and the City.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION OF TERMS OF IMPROVEMENT AGREEMENT.** As indicated in Recital "D," the Improvement Agreement is incorporated by reference into this Agreement. Unless the terms of the Improvement Agreement are specifically modified by this Agreement, all terms and provisions of the Improvement Agreement shall apply to this Agreement. Specifically, all definitions set forth in the Improvement Agreement, including "Conditions," "Work," and "Plans and Specifications" shall apply to this Agreement.
2. **SCOPE OF WORK.** The Subdivider shall perform, or cause to be performed, the improvements described in Exhibit "C" (hereinafter "Deferred Improvements"), to the reasonable satisfaction of the City Engineer, in accordance with the terms and conditions set forth in this Agreement. The Deferred Improvements shall be performed, and all materials and labor shall be provided, at the Subdivider's expense, in the manner described in the Plans and Specifications. No change shall be made to the Scope of the Deferred Improvements unless authorized in writing by the City Engineer. The Subdivider may submit a written request to the City Engineer for a change in the Scope of the Deferred Improvements, as required by Tracy Municipal Code section 12.36.060(f).
3. **IMPROVEMENT SECURITY.** Within the times specified in Exhibit "C," the Subdivider shall furnish improvement security for the Deferred Improvements, in a form authorized by the Subdivision Map Act (including Government Code sections

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 3 of 10**

66499 *et seq.*) and Tracy Municipal Code section 12.36.080, in the following amounts:

3.1. Deferred Improvements specified in section II(A) of Exhibit "C" attached to this Agreement:

- (a) **Faithful Performance** security in the amount of \$412,500 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Deferred Improvements as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
- (b) **Labor and Material** security in the amount of \$412,500 (in accordance with the cost estimates approved by the City) to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen) pursuant to Government Code sections 66499.2, 66499.3, 66499.4 and 66499.7(b).
- (c) **Warranty** security in the amount of \$41,250 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (from the date on which the City Council accepts the work as complete until one year thereafter) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.

3.5. Deferred Improvements specified in section II(B) of Exhibit "C" attached to this Agreement:

- (a) **Faithful Performance** security in the amount of \$1,000 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Deferred Improvements as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
- (b) **Labor and Material** security in the amount of \$1,000 (in accordance with the cost estimates approved by the City) to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen) pursuant to Government Code sections 66499.2, 66499.3, 66499.4 and 66499.7(b).
- (c) **Warranty** security in the amount of \$100 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (from the date on which the City Council accepts the work as complete until one year thereafter) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.

3.6. Deferred Improvements specified in section II(D) of Exhibit "C" attached to

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 4 of 10**

this Agreement:

- (a) **Faithful Performance** security in the amount of \$100,000 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Deferred Improvements as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
- (b) **Labor and Material** security in the amount of \$100,000 (in accordance with the cost estimates approved by the City) to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen) pursuant to Government Code sections 66499.2, 66499.3, 66499.4 and 66499.7(b).
- (c) **Warranty** security in the amount of \$10,000 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (from the date on which the City Council accepts the work as complete until one year thereafter) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.

3.7. Deferred Improvements specified in section II(F of Exhibit "C" attached to this Agreement:

- (a) **Faithful Performance** security in the amount of \$21,293 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (until the date on which the City Council accepts the Deferred Improvements as complete) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.
- (b) **Labor and Material** security in the amount of \$21,293 (in accordance with the cost estimates approved by the City) to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen) pursuant to Government Code sections 66499.2, 66499.3, 66499.4 and 66499.7(b).
- (c) **Warranty** security in the amount of \$2,129 (in accordance with the cost estimates approved by the City) to secure faithful performance of this Agreement (from the date on which the City Council accepts the work as complete until one year thereafter) pursuant to Government Code section 66499.1, 66499.4, and 66499.9.

4. TIME OF PERFORMANCE. Time is of the essence in the performance of the Deferred Improvements, and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. The timing requirements for the Deferred Improvements are set forth in Exhibit "C." The Subdivider shall submit all requests for extensions of time to the City, in writing,

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 5 of 10**

no later than ten (10) days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due.

5. OBLIGATIONS RUN WITH THE LAND. All obligations and provisions of this Agreement shall run with the real property described in Exhibit "A".

6. NOTICES.

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

To CITY:

City of Tracy
Development Services
333 Civic Center Plaza
Tracy, California 95376
Attn: Robert Armijo
City Engineer

To Subdivider:

Standard Pacific Corp.
4750 Willow Road
Suite 150
Pleasanton, CA 94588
Attn: Tony Ponterio
Project Manager

Standard Pacific Corp.
15360 Barranca Parkway
Irvine, CA 92618-2215
Attn: Dwight Hirsch
Vice President & Associate
Counsel

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

7. ASSIGNMENT AND DELEGATION. This Agreement and any portion thereof shall not be assigned or transferred, nor shall any of the Subdivider's duties be delegated, without the written consent of the City. Any attempt to assign or delegate this Agreement without the written consent of the City shall be void and of no force and effect. Consent by the City to one assignment shall not be deemed to be consent to any subsequent assignment.

Notwithstanding the foregoing, Subdivider shall have the right to assign its rights, duties and obligations under this Agreement to any entity controlled by, controlling, or under common control with Subdivider without the consent of the City.

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

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 6 of 10**

9. **WAIVERS.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.
10. **SEVERABILITY.** In the event any term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in full force and effect.
11. **JURISDICTION AND VENUE.** The interpretation, validity, and enforcement of the Agreement shall be governed by and construed under the laws of the State of California. Any suit, claim, or legal proceeding of any kind related to this Agreement shall be filed and heard in a court of competent jurisdiction in the County of San Joaquin.
12. **ENTIRE AGREEMENT.** This Agreement, including all documents incorporated herein by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements.

[Portion of this Page Intentionally Left Blank]

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 7 of 10**

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

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

CITY OF TRACY,
a municipal corporation

SUBDIVIDER:
STANDARD PACIFIC CORP.,
a Delaware corporation

By: Michael Maciel
Title: MAYOR
Date: _____

By: _____
Title: _____
Date: _____

Attest:

By: Nora Pimentel
Title: CITY CLERK
Date: _____

By: _____
Title: _____
Date: _____

Approved As To Form:

By: Daniel Sodergren
Title: CITY ATTORNEY
Date: _____

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 8 of 10**

EXHIBIT "A"
PAGE 1 OF 1

LEGAL DESCRIPTION OF THE PROPERTY

THAT CERTAIN REAL PROPERTY SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF SAN JOAQUIN, CITY OF TRACY, DESCRIBED AS FOLLOWS:

BEING A SUBDIVISION OF A PORTION OF SECTION 6, TOWNSHIP 3, SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE & MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF PARCELS A, B, C, AND D OF THAT CERTAIN PARCEL MAP, FILED FOR RECORD IN BOOK 25 OF PARCEL MAPS, AT PAGE 195 OF THE SAN JOAQUIN COUNTY RECORDS.

APPROXIMATELY 150.75 ACRES

NOTHING FOLLOWS

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 9 of 10**

**CITY OF TRACY
DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT**

EXHIBIT "B"

[insert copy of Conditions]

RESOLUTION 2015-010

APPROVING AMENDMENTS TO THE ELLIS TENTATIVE SUBDIVISION MAP
CONDITIONS OF APPROVAL FOR THE FIRST PHASE OF THE ELLIS PROJECT,
WHICH CONSISTS OF APPROXIMATELY 150 ACRES LOCATED AT THE
NORTHWEST CORNER OF CORRAL HOLLOW ROAD AND LINNE ROAD,
ASSESSOR'S PARCEL NUMBERS 240-140-30 AND 31
APPLICATION NUMBER TSM11-0002

WHEREAS, On January 22, 2013, City Council certified the Final Revised Environmental Impact Report for the Modified Ellis Project and approved a General Plan Amendment, annexation, and the Modified Ellis Specific Plan for the 321-acre site known as Ellis, and

WHEREAS, A development agreement was approved by City Council on March 19, 2013, and

WHEREAS, Annexation of the Ellis site to the City of Tracy was completed on April 16, 2013, and

WHEREAS, On July 23, 2014, Planning Commission approved a Tentative Subdivision Map for the first phase of the Modified Ellis Project, consisting of 296 residential lots and six other parcels on approximately 150 acres, located at the northwest corner of Corral Hollow Road and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM11-0002, and

WHEREAS, Amendments have been proposed for the Ellis Tentative Subdivision Map Conditions of Approval, Application Number TSM11-0002, and

WHEREAS, The proposed amendments to the Conditions of Approval occur on pages 3, 4, 5, 7, and 20, and include changes to condition B.5 related to landscape maintenance, the deletion of condition C.1.11 and changes to condition C.3.2 related to a Park Improvement and Reimbursement Agreement, and changes to condition C.4 related to grading and encroachment permits, as shown in Attachment A of the Planning Commission Staff Report, dated August 12, 2015, and

WHEREAS, The project is consistent with the Final Revised Environmental Impact Report (EIR) certified by the City Council on January 22, 2013 for the Modified Ellis Project, which included the Modified Ellis Specific Plan (SCH#2012022023). Pursuant to CEQA Guidelines Section 15162 and Public Resources Code Section 21166, no subsequent EIR shall be prepared for the project because the project has a certified EIR and no substantial changes are proposed in the project that would require major revisions to the previous EIR; no substantial changes have occurred with respect to the circumstances under which the project will be undertaken that would require major revisions to the previous EIR; and no new information of substantial importance regarding significant effects, mitigation measures, or alternatives for this project has become known, which was not known at the time the previous EIR was certified as complete. Furthermore, as a residential subdivision that is consistent with a specific plan for which an EIR was certified after January 1, 1980, the project is exempt from

Resolution Number 2015-010
Amendments to Ellis TSM11-0002 COAs
Page 2

the requirements of CEQA pursuant to California Government Code Section 65457. Therefore, no further environmental review is necessary, and

WHEREAS, The Planning Commission conducted a public hearing to review and consider the proposed amendments to the Ellis Tentative Subdivision Map Conditions of Approval on August 12, 2015;

NOW, THEREFORE, BE IT RESOLVED, That Planning Commission approve the amendments to the Ellis Tentative Subdivision Map Conditions of Approval for the first phase of the Ellis Project, Application Number TSM11-0002, as stated in Exhibit "1" attached and made part hereof.

The foregoing Resolution 2015-010 was adopted by the Planning Commission on the 12th day of August, 2015, by the following vote:

AYES: COMMISSION MEMBERS: ORCUTT, RANSOM, MITRACOS, SANGHA, TANNER
NOES: COMMISSION MEMBERS: NONE
ABSENT: COMMISSION MEMBERS: NONE
ABSTAIN: COMMISSION MEMBERS: NONE


CHAIR

ATTEST:


STAFF LIAISON

**Conditions of Approval for a Tentative Subdivision Map
for approximately 150 acres in the Ellis Specific Plan Area,
consisting of 296 residential lots and 6 other parcels,
located west of Corral Hollow Road in the vicinity of
Peony Drive and Linne Road
Assessor's Parcel Numbers 240-140-30 and 31
Application Number TSM11-0002
August 12, 2015**

These Conditions of Approval shall apply to the real property shown on the Tentative Subdivision Map for approximately 150 acres in the Ellis Specific Plan Area, consisting of 296 residential lots and 6 other parcels, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM 11-0002.

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

1. "Applicant" means any person, or other legal entity, defined as a "Subdivider".
2. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed engineer designated by the City Manager, the Development Services Director, or the City Engineer, to perform the duties set forth herein.
3. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director, to perform the duties set forth herein.
4. "Ellis FIP" means the finance and implementation plan (titled "Ellis Program Area Finance and Implementation Plan") approved by the City Council on August 20, 2013 by Resolution 2013-136, and any amendments.
5. "Ellis DA" means the development agreement (titled "Amended and Restated Development Agreement by and between the City of Tracy and Surland Communities, LLC") approved by the City Council on March 19, 2013 by the adoption of Ordinance 1182, and any amendments.
6. "Ellis SP" means the specific plan (titled "Modified Ellis Specific Plan") approved by the City Council on January 22, 2013 by Resolution 2013-012, and any amendments.
7. "Ellis EIR" means the Final Environmental Impact Report (titled "City of Tracy Modified Ellis Project Final Revised Environmental Impact Report"), bearing the State Clearing House Number 2012022023, certified by the City Council on January 22, 2013 by Resolution 2013-011, as adequate and in compliance with the California Environmental Quality Act (CEQA).
8. "Applicable Law" shall have the meaning set forth in section 1.03 of the Ellis DA.
9. "Conditions of Approval" means these conditions of approval applicable to the Tentative Subdivision Map for approximately 150 acres in the Ellis SP Area,

consisting of 296 residential lots and 6 other parcels, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM 11-0002.

10. "Project" means the Tentative Subdivision Map for approximately 150 acres in the Ellis SP Area, consisting of 296 residential lots and 6 other parcels, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31, Application Number TSM 11-0002.
11. "Property" means the approximately 150 acres in the Ellis SP Area, located west of Corral Hollow Road in the vicinity of Peony Drive and Linne Road, Assessor's Parcel Numbers 240-140-30 and 31.
12. "Subdivider" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. "Subdivider" also means the Developer, which shall include the Owner as described in the Preamble to the Ellis DA, and all successors in interest.

B. Planning Division Conditions of Approval

1. Compliance with laws. The Subdivider shall comply with all Applicable Law.
2. Mitigation Measures. The Subdivider shall comply with all mitigation measures applicable to the Project in the Ellis EIR, which was certified by the City Council on January 22, 2013 (SCH#2012022023).
3. Notice of protest period. Pursuant to Government Code Section 66020, including Section 66020 (d)(1), the City HEREBY NOTIFIES the Subdivider that the 90-day approval period (in which the Subdivider may protest the imposition of any fees, dedications, reservations, or other exactions that are within the purview of the Mitigation Fee Act [Government Code section 66000 et seq.] ("Exactions") and imposed on this Project by these Conditions of Approval) shall commence on the date of the conditional approval of this Project. If the Subdivider fails to file a protest of the Exactions within this 90-day period, complying with all of the requirements of Government Code Section 66020, the Subdivider will be legally barred from later challenging any of the Exactions. The terms of this paragraph shall not affect any other deadlines or statutes of limitations set forth in the Mitigation Fee Act or other applicable law, or constitute a waiver of any affirmative defenses available to the Developer.
4. Conformance with Tentative Subdivision Map. All Final Maps shall be in substantial conformance with the approved Tentative Subdivision Map, which was date stamped as received by the Development Services Department on April 22, 2014, unless modified herein by these Conditions of Approval.

5. Landscape Maintenance. Before approval of the first Final Map, the Subdivider shall enter into an agreement, which shall be recorded against the Project property, which includes one of the following options (a. or b.):

a. Annexation to LMD. (1) prior to final inspection and/or issuance of a certificate of occupancy (except for up to twelve model homes), the Project shall annex into the Tracy Consolidated Landscape Maintenance District (TCLMD); (2) when property annexes into the TCLMD, the owners of the property will be assessed for assessment district costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public special amenities as described in the TCLMD; (3) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area; (4) prior to final inspection and issuance of certificate of occupancy (except for up to twelve model homes), the developer shall deposit an amount equal to the amount of the first year's assessment; and (5) the developer shall be responsible for all costs associated with annexation into the TCLMD. Or, in lieu of annexing into the TCLMD, and prior to final inspection or issuance of certificate of occupancy, the Subdivider shall deposit with the City, an amount necessary to fund the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project in perpetuity. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area.

Or

b. CFD or other funding mechanism. (1) prior to final inspection and/or issuance of a certificate of occupancy (except for up to twelve model homes), the Subdivider shall form a Community Facilities District (CFD) for funding the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area; (3) formation of

the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit (except for up to twelve model homes), the developer shall deposit an amount equal to the first year's taxes; and (6) the developer shall be responsible for all costs associated with formation of the CFD. Or, in lieu of forming the CFD, and prior to final inspection or issuance of certificate of occupancy, the Subdivider shall deposit with the City an amount reasonably necessary to fund the on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project in perpetuity. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space area.

6. Emergency Radio Communications System. There is a need for a new radio communications tower and appurtenances ("Radio Tower") to provide adequate emergency services to the City, including the Ellis Specific Plan Area. In lieu of imposing the \$26,131.26 fee, Subdivider agrees to pay a fee of \$155,141.50 at Final Map approval. This accelerates the Subdivider's payment of the fee to the City. In adopting this condition of approval, neither the Subdivider nor the City waive any right or are prevented from or impaired from either seeking to impose or increase a fee or opposing the authority to impose or increase a fee.
7. Deed Notice regarding Airport Land Use. Before approval of each Final Map, the Subdivider shall include the following Deed Notice on the Final Map, to the satisfaction of the Development Services Director and consistent with the San Joaquin County Airport Land Use Commission's Airport Land Use Compatibility Plan:

The San Joaquin County Airport Land Use Commission's Airport Land Use Compatibility Plan identifies the Tracy Municipal Airport's Airport Influence Area. Properties within this area are routinely subject to overflights by aircraft using this public-use airport and, as a result, residents may experience inconvenience, annoyance, or discomfort arising from the noise of such operations. State law (Public Utilities Code Section 21670 et seq.) establishes the importance of public use airports to the public interest of the people of the State of California. Residents of property near such airports should therefore be prepared to accept the inconvenience, annoyance, or discomfort from normal aircraft operations. Residents also should be aware that the current volume of aircraft activity may increase in the future. Any subsequent deed conveying this parcel or subdivisions thereof shall contain a statement in substantially this form,

Ellis – Tentative Subdivision Map
Application Number TSM11-0002
August 12, 2015
Page 5

C. Engineering Division Conditions of Approval

C.1 Final Map

No Final Map within the Project boundaries will be approved by the City until the Subdivider demonstrates, to the satisfaction of the City Engineer, that all the requirements set forth in these Conditions of Approval are completed, including, but not limited to the following:

- C.1.1 Subdivider has submitted one (1) reproducible copy of the approved tentative subdivision map for the Project within ten (10) days after Subdivider's receipt of a notification of approval of the Tentative Subdivision Map. The signature of the owner of the Property on the Tentative Subdivision Map means consent to the preparation of the Tentative Subdivision Map and the proposed subdivision of the Property.
- C.1.2 Each Final Map is prepared in accordance with the applicable requirements of the Tracy Municipal Code, these Conditions of Approval, and in substantial conformance with the Tentative Subdivision Map.
- C.1.3 Each Final Map includes and shows offer(s) of dedication of all right(s)-of-way and/or temporary or permanent easement(s) required to construct and serve the Project described by the Improvement Plans and Final Map, in accordance with Applicable Laws and these Conditions of Approval. If construction easement(s) is/are shown, it/they shall indicate the termination of the construction easement(s).
- C.1.4 Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd order Class 1 control points establishing the "Basis of Bearing" and shown as such on the Final Map. The Final Map shall also identify surveyed ties from two of the horizontal control points to a minimum of two separate points adjacent to or within the Property described by the Final Map.
- C.1.5 Subdivider has submitted a signed and stamped Engineer's Estimate that show construction cost of subdivision and offsite improvements that are described in Conditions C.2 and C.3.1, below. In determining the total construction cost, add 10% for construction contingencies.
- C.1.6 Subdivider has submitted a signed and notarized Subdivision Improvement Agreement (SIA) and Improvement Security, for the completion of improvements that are required to serve the Project as shown on the Improvement Plans. The form and amount of Improvement Security shall be in accordance with the Applicable Law and the SIA.
- C.1.7 Subdivider has submitted a signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, for the completion of

improvements described in Condition 2.5.1, below. The form and amount of Improvement Security shall be in accordance with, Applicable Law and the OIA.

- C.1.8 Subdivider has paid engineering review fees, pursuant to the City's Master Fee Resolution, including improvement plan checking, final map review, agreement processing, and all other fees required by these Conditions of Approval and Applicable Laws.
- C.1.9 Subdivider has submitted technical or materials specifications, cost estimate, and technical reports related to the design of improvements that are shown on the Improvement Plans and as required by these Conditions of Approval.
- C.1.10 Subdivider has submitted hydrologic and storm drainage calculations for the design and sizing of in-tract storm drainage pipes and the temporary storm drainage retention basin located within the Ellis SP, as required in Condition C.2.3.4, below.
- C.1.11 Subdivider has submitted a signed and stamped Improvement Plans as required in Condition C.2, below.

C.2 Improvement Plans

C.2.1 General. Improvement Plans shall contain the design, construction details and specifications of improvements that is/are required to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (mylar) and shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work. The Improvement Plans shall be completed to comply with Applicable Laws and these Conditions of Approval.

C.2.2 Site Grading

C.2.2.1 Erosion Control

Improvement Plans shall specify the method of erosion control to be employed and materials to be used.

C.2.2.2 Grading and Drainage Plans

Submit a Grading and Drainage Plan prepared by a Registered Civil Engineer and accompanied by the Project's Geo-technical /Soils Engineering report. The report shall provide recommendations regarding adequacy of the site relative to the stability of soils such as soil types and classification, percolation rate, soil bearing capacity, highest observed ground water elevation, and others.

- C.2.2.3 When the grade differential between the Project site and residential lot with the adjacent property(s) exceeds 12 inches, a reinforced or masonry block wall, engineered slope, or engineered retaining wall is required for retaining soil. The Subdivider shall submit a Grading Plan that includes the construction detail(s) and structural calculations of the retaining wall or masonry wall.
- C.2.2.4 In the event an engineered slope is used to retain soil subject to approval by the City Engineer, a slope easement will be necessary from the adjacent property. The Subdivider shall obtain permission from owner(s) of the adjacent and affected property(s) and show the slope easement on the Final Map.
- C.2.2.5 If applicable, show all existing irrigation structure(s), channel(s) and pipe(s) that are to remain or relocated or to be removed, if there any, after coordinating with the irrigation district or owner of the irrigation facilities. If there are irrigation facilities including tile drains, that are required to remain to serve existing adjacent agricultural uses, the Subdivider shall design, coordinate and construct required modifications to the facilities to the reasonable satisfaction of the owner of the irrigation facilities and the City.

C.2.3 Storm Drainage

C.2.3.1 Storm Drainage Release Point

Site grading shall be designed such that the Project's storm drainage overland release point will be directly to an existing or a public street with a functional storm drainage system in the storm drainage line on the street has adequate capacity to drain storm water from the Property, or private property subject to a drainage release.

C.2.3.2 Permanent storm drainage connection

The Project's permanent storm drainage connection(s) shall be designed and constructed to meet Applicable Laws and the recommendations on the Ellis Program Sub-Basin – Final Storm Drainage Technical Report dated September 2012. The design of the permanent storm drainage connection shall be shown on the Grading and Storm Drainage Plans and shall be submitted with the required hydrologic calculations for the sizing of the storm drain pipe(s), and shall comply with the applicable requirements of the City's storm water regulations adopted by the City Council in 2008, any subsequent amendments, and Applicable Law. The Subdivider shall provide the design and construction detail shown on the improvement

plans that are required to meet the City's storm water regulations, and shall construct these improvements as part of the subdivision improvements.

C.2.3.3 Temporary Storm Drainage Retention Basin Located within the Ellis SP

In the absence of a permanent downstream storm drainage facilities, the City will allow the Subdivider to use temporary storm drainage retention basin with adequate a capacity as an interim solution for the disposal of storm water generated from the Property, provided the Subdivider design and construct the on-site temporary storm drainage retention basin in accordance with Applicable Laws, and signs an improvement agreement (Deferred Improvement Agreement), to assure completion of Subdivider's obligation to repair and maintain while the temporary storm drainage retention facility is in service and to remove the temporary storm drainage retention basin when it is no longer needed as reasonably determined by the City Engineer and it is taken out of service. The Subdivider shall pay all costs for the design, construction, and maintenance of the on-site temporary storm drainage retention basin including the removal of the on-site temporary storm drainage retention basin and re-grading of the basin site.

The Subdivider shall sign the Deferred Improvement Agreement and post reasonable improvement security in the amounts approved by the City Engineer, and form approved by the City Attorney, prior to the approval of the First Final Map.

C.2.3.4 The Project's temporary storm drainage retention basin located in the Ellis SP must be located at the downstream portion of the Property's on-site storm drainage system, and must be designed and constructed in accordance with Applicable Laws. The sizing of the temporary storm drainage retention basin shall consider percolation of storm water into the ground. Submit the engineering calculations for determining the size of the basin with the soils report that contains information on the site's percolation rate and groundwater elevation.

Excavated materials shall be kept near the Property. If the excavated materials are removed from the Property, the Subdivider shall post cash security equivalent to the cost of import backfill materials, hauling to the basin site, spreading, compacting and re-grading the basin site. If excavated materials are retained near the site, the

stockpile of excavated materials shall not be higher than 8 feet and slope should not be steeper than 1:1. A chain link fence with redwood slats and access gate shall be installed by the Subdivider to enclose the basin site. The bottom of the temporary on-site storm drainage retention basin shall be 5 feet above the observed highest groundwater elevation at the basin site. The percolation report shall also indicate the observed highest groundwater elevation at the basin site.

C.2.3.5 The Subdivider shall record a temporary storm drainage easement to grant rights to the City to access the on-site temporary storm drainage retention for any emergency repair or maintenance work the City may have to perform within the basin site. The temporary access easement shall be recorded after the First Final Map is recorded and shall have a sunset clause that such easement will automatically terminate after the recordation of a notice of completion.

C.2.3.6 Refundable Storm Drainage Deposit
Prior to the approval of the Final Map, the Subdivider shall deliver cash deposit in the amount of \$3,500 to cover cost of City services on any emergency repair or maintenance work that the City performs on the temporary storm drainage retention basin. The City shall return unused portion of the cash deposit within thirty (30) calendar days from the date the temporary storm drainage retention basin was removed.

C.2.3.7 Prior to the issuance of a grading permit for the Project, the Subdivider shall provide reasonable proof of compliance with the applicable Construction General Permit through a Waste Discharge ID number or Notice of Intent submittal to the reasonable satisfaction of the Public Works Director or his/her designee.

C.2.3.8 Prior to the approval of the Final Map for the Project, the Subdivider shall provide a Stormwater Quality Control Plan (SWQCP) detailing the methods in which the development will address compliance with the applicable City of Tracy Manual of Stormwater Quality Control Standards for New Development and Redevelopment (Manual) to the reasonable satisfaction of the Public Works Director or his/her designee. The Manual includes the requirements for Site Design, Source, and Treatment Control Measures. Permanent stormwater quality control measures may include any combination of the following methods and must consider future maintenance requirements in their selection to serve the Project: deepening of future City

detention basin DET 3A to the north of the Project to create a low lying "retention", or "water quality treatment" component in the bottom of the basin, one or more extended detention basins within the Project, vegetated swales, grass filter strips or other treatment measures consistent with the Manual that are deemed to be acceptable by the Public Works Director or his/her designee. In order for future DET 3A to be considered by the City to be acceptable in providing stormwater quality treatment as a joint-use, the Subdivider will be required to obtain and submit specific geotechnical information in the location of the site of future DET 3A that clearly indicates that soil percolation rates will allow the "retention" components within the basin to drain effectively via percolation and in conformance with Applicable Law, or provide a second low flow outlet for the water quality treatment storage.

Until such time as future DET 3A is operational, which includes adequate detention storage to accommodate storm runoff from development areas and a positive outlet, the Project will be required to provide temporary retention basins as the interim discharge element for all Project drainage in conformance with Applicable Law.

C.2.3.9 Prior to the issuance of a building permit for the Project, the Subdivider shall provide reasonable proof of compliance with the applicable CalGreen Building Standards to the reasonable satisfaction of the Public Works Director or his/her designee, in accordance with Applicable Law.

C.2.4. Sanitary Sewer

C.2.4.1 Permanent Sewer Connection

It is the Subdivider's responsibility to pay its proportionate share of the Project's permanent sewer connection in accordance with the City of Tracy Wastewater Master Plan/ Corral Hollow Sewer Analysis dated October 2009 and the 2010 Update (STM) prepared by CH2MHill and Applicable Laws.

C.2.4.2 Temporary Sewer Line to the Eastside Sewer System

According to Section 1.13(b)(3) of the Ellis DA, sewer conveyance capacity for 250 residential units is available on the Eastside Sewer Conveyance System on an interim basis until the upgrade to the Corral Hollow Sewer Conveyance System is completed. It was determined that an additional capacity on the Eastside Sewer Conveyance

System through existing sewer main on the Edgewood Subdivision is available for 46 residential units and the commercial parcels on an interim basis. The Subdivider will be required to design and install an interim sewer connection near the intersection of Ellis Drive / Corral Hollow Road up to its connection point at the existing sewer manhole on Peony Drive / Heirloom Lane on Edgewood Subdivision. The temporary sewer line must be designed and installed such that it will function as a gravity sewer line. The Subdivider shall complete the temporary sewer improvements described under this sub-section, all at the Subdivider's sole cost and expense, prior to the issuance of the 1st occupancy permit on the Property.

The Subdivider will be required to apply a 2" thick asphalt concrete overlay with reinforcing fabric along the alignment of the sewer main to its connection point. If the sewer main is installed on one side of the street, the limits of asphalt concrete overlay shall be half of the width of the street, and shall be 25 feet from both sides of the trench at crossing(s). Pavement saw-cutting and grinding will be required to remove the top 2" of the existing asphalt concrete pavement. Design of and the improvement plans for the sewer improvements described under this sub-section shall be prepared and will become part of the improvement plans for Corral Hollow Road Improvements.

C.2.4.3

Temporary Sewer Main on Corral Hollow Road

In accordance with Section 1.13(b)(1) of the Ellis DA, the existing Corral Hollow Sewer Conveyance System has existing conveyance capacity for 330 residential units reserved for this Project on a permanent basis. The City is currently completing the designs for a permanent sewer main on Corral Hollow Road from Peony Drive to the existing sewer manhole at Parkside Drive. This sewer line will be designed to its ultimate size but will function with a restricted flow capacity equivalent to the sewer generation of 330 residential units only.

In order to guarantee completion of the design and installation of the permanent sewer and roadway improvements described under this section not later than October 31, 2018, the Subdivider shall sign a Deferred Improvement Agreement with the City, and post improvement security in the amounts approved by the City Engineer, before approval of the first Final Map.

C.2.4.4 The portion of the sewer main on Corral Hollow Road that will be installed within the jurisdiction of the San Joaquin County (County) will require encroachment permit and a maintenance agreement with the County. The Subdivider is required to coordinate with the County Public Works Department the design of the utility trench and extent of pavement replacement for the portion of Corral Hollow Road that is within the County right-of-way. The Subdivider shall comply with all the applicable requirements of the County, obtain encroachment permit, and pay permit processing, plan checking and inspection fees, prior to starting work. The County will require a traffic control plan and improvement plans as part of the encroachment permit application.

The temporary sewer improvements described under this sub-section shall only be completed at Subdivider's election.

C.2.4.5 Prior to starting the work described in this section, the Subdivider shall submit a Traffic Control Plan, to show the method and type of construction signs to be used for regulating traffic at work areas during the installation of the sewer improvements described in Conditions C.2.4.2 and C.2.4.4, above. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

C.2.4.6 Permanent Sewer Connection to Corral Hollow Sewer Conveyance System
When the ultimate Corral Hollow Sewer Transmission Upgrades are complete, and the Corral Hollow Road sewer trunk line is installed to Ellis Drive and becomes available for connection, the interim sewer connection from Ellis Drive shall be diverted or replaced with permanent sewer improvements that will be connected to the new sewer trunk line with a manhole on Corral Hollow Road. The gravity sewer line on Peony Drive from Corral Hollow Road to the Edgewood Subdivision shall be disconnected by plugging pipe ends at the sewer manholes.

C.2.5. Water System

C.2.5.1 Ellis Specific Plan Water System Analysis (WTM)
According to the Technical Memorandum dated August 14, 2013 titled "Ellis Specific Plan Water System Analysis" (WTM), in the interim condition, the Property can be served by Pressure Zone 2 water distribution line on Corral Hollow Road after the installation of certain permanent and

temporary water line improvements as identified in the WTM (Offsite Water Improvements) by the Subdivider.

These Offsite Water Improvements must be completed by the Subdivider before the issuance of the occupancy permit of the first residential house to be constructed on the Property. In order to guarantee completion of the Offsite Water Improvements, the Subdivider shall enter into an Offsite Improvement Agreement (OIA) with the City and post improvement security in the amounts approved by the City Engineer, prior to the approval of the First Final Map. The OIA requires authorization from the City Council. The Subdivider shall design and prepare improvement plans for the Offsite Water Improvements, and pay engineering review fees such as plan checking, agreement and permit processing, testing, and construction inspection fees based on current charge rate and as required by these Conditions of Approval, and in accordance with Applicable Law.

C.2.5.2 All costs associated with the installation of the Offsite Water Improvements including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street that may be disturbed with the installation of these improvements shall be paid by the Subdivider.

C.2.5.3 The Subdivider is also responsible for obtaining permission from the Union Pacific Railroad Company (UPRR), if necessary, for the installation of a permanent water line crossing across the UPRR right-of-way, prior to starting construction of the Offsite Water Improvements in any UPRR area. The water line crossing agreement requires approval from the City Council. The Subdivider shall pay for the cost of obtaining the written permission including the water line crossing agreement from UPRR. The City will allow construction of a portion of the Offsite Water Improvements outside UPRR's right-of-way, if the Subdivider provides the City documentation that a written request to UPRR to process a water line crossing agreement has been submitted. The City may request the required permission from UPRR if requested by Subdivider.

C.2.6 Street Improvements

C.2.6.1 Corral Hollow Road Right of Way

City will adopt a precise plan line to establish the location and alignment of the centerline of Corral Hollow Road from

Ellis – Tentative Subdivision Map
Application Number TSM11-0002
August 12, 2015
Page 14

Parkside Drive to Highway 580 (PPL). With the adoption of the alignment plan, it will provide the amount of right-of-way to be acquired from each of the properties that are located along this portion of Corral Hollow Road including the Project. Per the Citywide Roadway & Transportation Master Plan (CRTMP) that was adopted by City Council on November 26, 2012, pursuant to Resolution 2012-240, amended on November 19, 2013, Corral Hollow Road between Parkside Drive to Linne Road will be a 4-lane major arterial street with a raised median as depicted on Figure 4.15b Arterial Street Roadway Cross Sections of the CRTMP.

The Subdivider shall dedicate all rights-of-way and/ or easement(s) that are necessary for the widening of Corral Hollow Road along the entire frontage of the Property on Corral Hollow Road that satisfies the roadway cross section shown on the PPL and CRTMP, and for the widening and construction of intersection improvements with a traffic signal at Ellis Drive / Corral Hollow Road and Middlefield Drive / Corral Hollow Road ("Corral Hollow Road Improvements"). The design of the intersection improvements will include the installation of a traffic signal and appurtenances and associated improvements such as right-turn lane(s), left turn lane(s), raised median(s), pavement transition, lane line marking(s), pavement markings, traffic sign(s), and other improvements as reasonably determined by the City that are necessary to be constructed to have a safe signalized intersection.

C.2.6.2 Corral Hollow Road Improvements

The Subdivider shall design and construct it's pro rata share, as determined by the cost estimate of a licensed engineer, of the Corral Hollow Road Improvements, which shall be designed and constructed in accordance with Applicable Laws and these Conditions of Approval and shall be completed by the Subdivider per the timeline specified in the SIA. Corral Hollow Road Improvements may include but not limited to, concrete curb, gutter, and sidewalk, asphalt concrete pavement, water main, fire hydrant, storm drain line, catch basin, storm drainage drop inlet, street tree, landscaping with automatic irrigation system (Motorola Controller), pavement marking and striping, traffic sign, street light, asphalt concrete overlay (where required), pavement transition and other street and utilities improvements that are required to serve the Project and based on the phasing plan approved by the City Engineer.

Before approval of a Final Map, Subdivider shall sign a Deferred Improvement Agreement with the City for the design and construction of frontage improvements on Parcel "D" on Corral Hollow Road. If the City declines to accept the dedication of Parcel "D" as provided in the Ellis DA, the Subdivider shall, not later than ninety (90) days thereafter, post appropriate security, as determined by the City, for the completion of the design and construction of the Parcel "D" frontage improvements.

Corral Hollow Road Improvements shall be designed and constructed by the Subdivider to meet the applicable requirements of the latest edition of the California Department of Transportation Highway Design Manual (CHDM) and the California Manual of Uniform Traffic Control Devices (MUTCD), the Applicable Law, and these Conditions of Approval, prior to the final inspection of the first building to be constructed on the Property or issuance of the first building certificate of occupancy on the commercial lots.

C.2.6.3 Traffic Signal at Ellis Drive/Corral Hollow Road

A four-way traffic signal will be required at Ellis Drive / Corral Hollow Road and shall be installed and made operational at the time specified in the traffic signal warrant analysis described in Condition C.2.6.5, below. The Subdivider shall provide improvement plans that show the design and construction details of the four-way traffic signal and all associated intersection improvements such as left-turn lane, exclusive right-turn lane, new travel lane, raised median, pavement marker and sign, traffic controller and power supply cabinet, traffic detecting loops and video camera for traffic monitoring, fiber optic traffic signal interconnect system and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection.

Subdivider shall provide the fiber optics system for communication of the traffic signals for the future condition. In interim condition, the Subdivider shall provide a functional communication system from the City Hall to the traffic signals that will be constructed with this Project.

C.2.6.4 Intersection Improvements at Middlefield Drive/Corral Hollow Road

Additional roadway improvements and the fourth leg of the existing traffic signal will be required at the intersection of Middlefield Drive / Corral Hollow Road. The work described

under this sub-section shall be completed when Middlefield Road from the Property is extended to Corral Hollow Road. The Subdivider shall provide improvement plans that show the design and construction details of the four-way traffic signal and all associated intersection improvements such as left-turn lane, exclusive right-turn lane, new travel lane, raised median, pavement marker and sign, traffic detecting loops and video camera, traffic signal interconnect wires and conduit and other improvements reasonably determined by the City Engineer to be necessary to operate a signalized intersection

C.2.6.5 Traffic Signal Warrant Analysis (Trigger Study)

Prior to the issuance of the 200th building permit, a traffic signal warrant analysis shall be completed to determine if a traffic signal is warranted at the intersection of Ellis Drive / Corral Hollow Road and to identify timeline when the traffic signal is needed and also identify when the portion of Middlefield Road that is within the Property must be extended to Corral Hollow Road. If a traffic signal is warranted, the Subdivider shall install the traffic signal and construct associated intersection improvements as described in Conditions C.2.6.1 and C.2.6.3, above, and per the Ellis SP, FIP, and Applicable Law. Improvements beyond the Subdivider's responsibility are subject to reimbursement from the City from City fees collected.

C.2.6.6 Bus Shelter and Turnout on Corral Hollow Road

The final location and geometric configuration such as storage length, bay taper, and others of the bus turnout shall be determined at the time of preparation of improvement plans and will require approval from the City Engineer. The bus shelter and turnout shall be located such that it does not create a horizontal sight distance issue with the outbound traffic on the commercial driveway for Parcel "C". The bus shelter and turnout shall be constructed as part of the Corral Hollow Road Improvements. Construction details of the bus shelter must be shown on the Improvement Plans. The City will provide the construction details and materials specifications of the bus shelter. The cost for the bus shelter and improvements are subject to reimbursement subject to availability of funds.

C.2.6.7 Encroachment Permit

All work to be performed and improvements to be constructed within City's right-of-way will require an Encroachment Permit from the City, prior to starting the work. The Subdivider or its authorized representative shall

submit all documents that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan that is prepared by and signed and stamped by a Civil Engineer or Traffic Engineer registered to practice in the State of California, payment of engineering review fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance naming the City of Tracy as additional insured or as a certificate holder.

C.2.6.8 Dead-End Streets

A standard barricade and guardrail with appropriate traffic sign will be required at the west end of Street 10, Street 5, Street 11 and Street 15, and north end of Street 6, Street 4, Street 2, Street 1, and at temporary turn around. A wooden fence shall be installed at the end and for the entire right-of-way width of these streets. The space behind the barricade shall be paved to prevent growth of weeds and provide easier access for removing accumulated debris. To prevent street runoff from draining to adjacent property(s), a concrete curb shall be installed through the entire width of the pavement or curb-to-curb. Asphalt concrete berm or curb is an acceptable alternative solution. Construction details of the improvements described under this sub-section must be shown on the Improvement Plans.

C.2.6.9 Temporary Turn Around

The temporary cul-de-sac at the end of Street 18, Ellis Drive and Middlefield Drive shall be enclosed with a wooden fence with chain link gate secured by a padlock. The temporary cul-de-sac shall be constructed with an asphalt concrete pavement (lesser pavement section/ thickness), and temporary asphalt concrete berm. The Subdivider shall be responsible for obtaining permission to construct, use, repair and maintain the temporary cul-de-sac from the involved property owner(s) and shall also be responsible for repairing and maintaining the temporary cul-de-sac. Construction details of the temporary turn around shall be shown on the Improvement Plans. The Subdivider's obligations towards the repair and maintenance of the temporary turn around shall be guaranteed in the DIA.

C.2.6.10 Ellis Drive, Middlefield Drive and Other In-tract Streets

The Subdivider shall dedicate all rights-of-way that are necessary to construct Ellis Drive, Middlefield Drive and all the in-tract streets based on their respective cross sections shown on the Ellis SP once improvements are complete for

the given street. The width of travel lanes, street median, landscaping strip and sidewalk shall be in accordance with the Ellis SP. Design and construction details of the in-tract streets such as asphalt concrete pavement, curb, gutter, sidewalk, street light, water main, fire hydrant, landscaping with automatic irrigation system (Motorola), storm drain, catch basin and drop inlets, sanitary sewer main and lateral, water main, individual water service and meter, pavement marking and striping, traffic sign, driveway, handicap ramp and other street improvements shall be consistent with the Ellis SP and shall be shown on the Improvement Plans.

C.2.7. Undergrounding of Overhead Utilities

C.2.7.1 Public Utility Easement

All private utility services to serve Project such as electric, telephone and cable TV to the building must be installed underground, and to be installed within dedicated Public Utility Easement (PUE) and at the location approved by the respective owner(s) of the utilities. The Subdivider shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are to be installed under the sidewalk or within the 6 feet wide Public Utility Easement (PUE) within the Property. The Subdivider shall complete the necessary coordination work with the respective owner(s) of the utilities for the design of these underground utilities and to ensure it can be constructed under the sidewalk or within the 6 feet wide PUE, and for additional space if the 6 feet PUE is inadequate as determined by the utilities owner(s), prior to the approval of the Final Map.

C.2.7.2 Pavement cuts or utility trench(s) on existing street(s) for the installation of electric, gas, cable TV, and telephone will require the application of 2" asphalt concrete overlay and replacement of pavement striping and marking that are disturbed during construction. The limits of asphalt concrete overlay shall be 25 feet from both sides of the trench, and shall extend over the entire width of the adjacent travel lane(s) if pavement excavation encroaches to the adjacent travel lane or up to the street centerline or the median curb. If the utility trench extends beyond the street centerline, the asphalt concrete overlay shall be applied over the entire width of the street (to the lip of gutter or edge of pavement). Construction details and limits of asphalt concrete overlay shall be shown on the Improvement Plans.

C.3 Mini/Neighborhood and Community Parks

- C.3.1 The Subdivider or Owner shall offer for dedication Parcel "A" (approximately 3.06 acres) for park purposes as required by sub-section 1.15(a) of the Ellis DA, the Ellis SP and Applicable Law on the first Final Map. The Subdivider shall design and construct the neighborhood park improvements consistent with the Ellis SP and Applicable Law. The Subdivider is entitled to neighborhood/mini park fee credits, if the Subdivider complies with Applicable Law.
- C.3.2 The Subdivider shall submit park improvement plans, signed and notarized improvement agreement ("Park Improvement and Reimbursement Agreement or PI&RA"), and Improvement Security in the amount and type specified in the Applicable Law prior to final inspection (except for up to twelve model homes). The timing of completion of the neighborhood park improvements shall be in accordance with the Ellis SP, or as agreed by the Subdivider.

C.4 Grading and Encroachment Permit

No applications for grading and encroachment permits will be accepted by the City as complete until the Subdivider has provided documents to the reasonable satisfaction of the City Engineer, which may include the following:

- C.4.1 Permit(s), agreement(s) and approval of other public agencies that has jurisdiction over the required public facilities, if applicable.
- C.4.2 Three (3) copies of the Project's Geo-technical /Engineering Soils Report prepared or signed and stamped by a Geo-technical Engineer as required in Condition C.3.2.2, above.
- C.4.3 Three (3) sets of the Storm Water Pollution Prevention Plan (SWPPP) identical to the reports submitted to the State Water Quality Control Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Subdivider is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Subdivider. The Subdivider shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008 and any subsequent amendment(s), and Applicable Law.
- C.4.4 Reasonable written permission from irrigation district or affected owner(s), if applicable as required in Condition C.3.2.5, above. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Subdivider.

C.4.5 Written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), if applicable. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Subdivider shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection.

C.4.6 Payment of engineering review fees, pursuant to City's Master Fee Resolution, including but not limited to, plan checking, grading and encroachment permits and agreement processing, construction inspection, and testing fees as required by these Conditions of Approval and Applicable Law.

C.4.7 Pipeline Crossing Agreement with UPRR, for the installation of water main crossing on Corral Hollow Road, as required in Condition C.2.5.3, above.

C.5 Building Permit

The City will not approve any building permit within the Project boundaries until the Final Map is approved by the City Council and it is recorded, and the Subdivider demonstrates, to the reasonable satisfaction of the City Engineer, compliance with all the required Conditions of Approval, including, but not limited to, the following:

C.5.1 The Subdivider has submitted payment of development impact fees and all other applicable fees as determined and required on Ellis FIP and all subsequent amendments to the Ellis FIP.

C.6 Agreements and Improvement Security

C.6.1. Subdivision Improvement Agreement

Before the City's approval of the Final Map, the Subdivider shall execute a Subdivision Improvement Agreement (for the public facilities required to serve the real property described by the Final Map), post all required improvement security in accordance with Applicable Law.

C.6.2 Deferred Improvement Agreement

Before the City's approval of the First Final Map, the Subdivider shall execute a Deferred Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all remaining public facilities (to the extent the public facilities are not included in the Subdivision Improvement Agreement), under the Applicable Law.

C.6.3 Improvement Security

The Subdivider shall provide improvement security for all public facilities, as required by the Subdivision Improvement Agreement and the Deferred Improvement Agreement. The form of the improvement security may be a surety bond, letter of credit or other form in accordance with Applicable Law. The amount of the improvement security shall be as follows:

- C.6.3.1 Faithful Performance (100% of the estimated cost of constructing the public facilities),
- C.6.3.2 Labor & Material (100% of the estimated cost of constructing the public facilities), and
- C.6.3.3 Warranty (10% of the estimated cost of constructing the public facilities)
- C.6.3.4 Monumentation (\$500 multiplied by the total number of street centerline monuments that are shown on the Final Map)

C.7 Benefit District

The Subdivider may make a written request to the City for the formation of a Benefit District only if the written request is made before the approval of the Final Map for which the public facilities are required, and in accordance with these Conditions of Approval, and Applicable Law.

C.8 Final Building Inspection

The City will not perform final building inspection until after the Subdivider provides documentation which demonstrates, to the reasonable satisfaction of the City Engineer, that:

- C.8.1 Prior to the final building inspection of the 65th residential building, the Subdivider has constructed two (2) vehicular access points (one of which may be temporary) from Corral Hollow Road for use by fire and emergency vehicles, consistent with the construction phasing of the Project, to the reasonable satisfaction of the Fire Code Officer, and as required by these Conditions of Approval. The temporary access may be a permanent parking lot (or parking aisle) or a temporary road, and if it is a temporary road, it shall not be less than 20 feet in width and shall be paved with 3 inches thick asphalt concrete and not less than 10 inches aggregate base. If the access is a temporary access road, the Subdivider shall remove the temporary access road within 60 calendar days from the date of written notification from the Fire Code Officer. The Subdivider shall be solely responsible for the costs of constructing and removing the temporary access road including signing and striping, and the City shall not be responsible for any reimbursement therefor. Design and construction details of the improvements required under this sub-section shall be shown on the Improvement Plans.

C.8.2 The Subdivider has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested or a final building inspection has to be performed. Unless specifically provided in these Conditions of Approval, or the Applicable Law, the Subdivider shall take all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.9 Acceptance of Public Improvements

Public improvements will not be considered for City Council's acceptance until after the Subdivider demonstrates to the reasonable satisfaction of the City Engineer, completion of the following:

C.9.1 All the public improvements shown on the Improvement Plans are completed and all the deficiencies listed in the deficiency report prepared by the assigned Engineering Inspector are all corrected.

C.9.2 Subdivider has completed the 90-day public landscaping maintenance period.

C.9.3 Subdivider has submitted Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Subdivider, the City shall temporarily release the originals of the Improvement Plans to the Subdivider so that the Subdivider will be able to document revisions to show the "As Built" configuration of all improvements.

C.10 Release of Improvement Security

C.10.1 Improvement Security for Faithful Performance, Labor & Materials, and Warranty will be immediately released to the Subdivider pursuant to Section 12.36.080(d) of the Tracy Municipal Code.

C.10.2 Monumentation Bond will be immediately released to the Subdivider after City Council's acceptance of the public improvements and all the street centerline monuments shown on the Final Map are installed and tagged by a Land Surveyor licensed to practice in the State of California.

C.10.3 Unused portion of the storm drainage cash deposit specified in Condition C.2.3.6, above, will be immediately released to the Subdivider after the removal of the off-site or on-site temporary storm drainage retention basin and in accordance with the DIA.

Ellis – Tentative Subdivision Map
Application Number TSM11-0002
August 12, 2015
Page 23

C.11 Special Conditions

- C.11.1. Nothing contained herein shall be construed to permit any violation of Applicable Law. Subject, however, to Applicable Law, this Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the final map, improvement agreements, and improvement plans, prior to the City Engineer's signature on the final map and improvement plans, if the City Council finds it necessary due to public health and safety reasons. The Subdivider shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City. Costs may be applicable to the Ellis FIP as credit. Health and Safety findings shall be made by the City Council under the terms of a City wide review of the Health and Safety related issue.

Nothing in these Conditions of Approval are intended or may be interpreted to limit or interfere with any of the vested rights provided in the Ellis Development Agreement. In the event of any conflict between any provision of these Conditions of Approval and the Applicable Law, the Applicable Law shall control.

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
PAGE 10 of 10**

**CITY OF TRACY
DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT**

EXHIBIT "C"

[insert description of Deferred Improvements]

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
EXHIBIT "C"
Page 1 of 3**

I. Work: Time for Commencement and Performance

The work described in this Exhibit "C" (hereinafter "Deferred Improvements") shall be completed within the timelines as specified in this Exhibit "C" of this Agreement, and in accordance with the Conditions attached as Exhibit "B" to the Subdivision Improvement Agreement for Ellis Phase 1A. The references in this Exhibit "C" of this Agreement to "Ellis Place", "Middlefield Road", "Parcel A", "Parcel B", "Parcel C", "Parcel D", "Parcel E", "Parcel F", and "Parcel G" shall be as defined in the Final Map. The City shall have no obligation to construct or complete the Deferred Improvements.

II. Description of Work

The Subdivider shall perform the Deferred Improvements and satisfy the following requirements, or enter into a Subdivision Improvement Agreement with the City, and submit improvement security in the amounts and forms as specified in section 3 of this Agreement, to guarantee completion of the required improvements.

- A. Prior to the approval of the second Final Map within the Tentative Subdivision Map area (hereinafter "Ellis Phase 1B Final Map"), the Subdivider shall satisfy the following requirements, or enter into a Subdivision Improvement Agreement with the City for completion of the improvements.

1) The Subdivider shall design, prepare improvement plans, and construct intersection widening improvements including the traffic signal at the intersection of Corral Hollow Road/Ellis Drive and Corral Hollow Road/ Middlefield Drive (hereinafter "Intersection Improvements"). The timing of completion of construction of the Intersection Improvements shall be as determined by a traffic analysis to be performed by the City (or consultant hired by the City). The traffic analysis shall include a traffic signal warrant study. Prior to the issuance of 200th building permit (counting all building permits issued in the area covered by the Tentative Subdivision Map), the Subdivider shall deliver to the City a cash deposit in the amount of \$28,000, to cover the cost of traffic analysis.

Prior to starting construction work on the Intersection Improvements, the Subdivider shall sign an improvement agreement and submit improvement security in the amount approved by the City Engineer and in accordance with section 12.36.080 of the Tracy Municipal Code.

2) The Subdivider shall design, construct and dedicate neighborhood park described as Parcel A approximately 2.85 acres (hereinafter "Ellis Neighborhood Park"), in accordance with the City's Design Documents as defined in the Subdivision Ordinance, Section 12.08.010, and as approved by the Parks and Community Services Commission, the Ellis DA, the Ellis SP, and to the satisfaction of the City Engineer. The Subdivider shall submit final park improvement plans, specifications and cost estimates and signed and notarized improvement agreement (hereinafter "Park Improvement and Reimbursement Agreement" or "PI&RA"), and submit

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
EXHIBIT "C"
Page 2 of 3**

improvement security in the amounts and form specified in the PI&RA, prior to final inspection of the first residential or commercial building to be constructed within the Property.

The Ellis Neighborhood Park improvements shall be completed by the Subdivider in accordance with the time set forth in the PI&RA. The Subdivider shall pay the City plan check, grading, agreement processing, and inspection fees, prior to the approval of the PI&RA. Park improvement plans must be signed by the City Engineer prior to starting construction of the Ellis Neighborhood Park improvements. The Subdivider will be entitled to fee credits or reimbursements for the park program portion of the costs of the Ellis Neighborhood Park improvements, if the Subdivider complies with the requirements of the City's Impact Fee Ordinance (Tracy Municipal Code, Title 13).

- B. Within ninety (90) calendar days from the date of written notice from the City Engineer, the Subdivider shall remove the emergency vehicle turnaround improvements at the western end of Ellis Drive that are located within the adjacent property described as Parcel 2 of that certain parcel map recorded in Book 18 of Parcel Maps, at Page 167 of the San Joaquin County Records, to the satisfaction of the property owner(s) and the City Engineer, all at the Subdivider's sole cost and expense.
- C. Within one hundred twenty (120) calendar days from the date of written notice from the City Engineer, the Subdivider shall remove the temporary offsite storm drainage retention basin and the excavated material stockpile that are located within the adjacent property described as Parcel 2 of that certain parcel map recorded in Book 18 of Parcel Maps, at Page 167 of the San Joaquin County Records, and re-grade the site to the satisfaction of the property owner(s) and the City Engineer, all at the Subdivider's sole cost and expense. Prior to starting the work, the Subdivider shall obtain a grading permit from the City, and pay grading permit and inspection fees.
- D. Within ninety (90) calendar days from the date of written notice from the City Engineer, the Subdivider shall remove the temporary sewer connection to the Edgewood Subdivision by plugging the sanitary sewer manhole located at the intersection of Corral Hollow Road/ Ellis Drive. Prior to starting the work, the Subdivider shall obtain an encroachment permit from the City, and pay permit, engineering inspection, and testing fees.
- E. Complete the design and construction of the permanent sewer main and roadway improvements on Corral Hollow Road from Peony Drive to the existing sewer manhole on Parkside Drive not later than October 31, 2018 as required in Condition C.2.4.3., if said design and construction has not been completed by others. Prior to starting construction of the work described under this sub-section, the Subdivider shall submit improvement plans if such have not already been completed that shows the design of the permanent sewer main and all associated roadway improvements, and sign an improvement agreement with surety, to guarantee completion of these improvements. The Subdivider shall obtain right-of-way and/or permanent and/or

**CITY OF TRACY - DEFERRED IMPROVEMENT AGREEMENT
MODIFIED ELLIS PROJECT
EXHIBIT "C"
Page 3 of 3**

temporary easements and permit(s) that are necessary to construct these improvements. Prior to the approval of the improvement agreement, the Subdivider shall pay the plan checking, agreement processing, permit, engineering inspection, testing, and program management fees.

- F. Subdivider shall install the water main on Middlefield Road and its connection with the existing water distribution on Corral Hollow Road as described in the Technical Memorandum dated August 13, 2015 titled "Ellis Specific Plan Water System Analysis – Phase 1" prepared by West Yost Associates of Davis, California. Prior to starting the work described under this sub-section, the Subdivider shall design, and submit improvement plans for the water main on Middlefield Road, and sign an improvement agreement with the City. The water main on Middlefield Road and its connection to the existing water distribution line on Corral Hollow Road shall be completed and made functional, prior to the issuance of temporary or final certificate of occupancy of the first building to be constructed on any of the commercial lots on the Property.
 - G. Subdivider shall install necessary water line improvements to serve the future residential and commercial phases of the Modified Ellis Project as identified in the Technical Memorandum dated August 13, 2015 titled "Ellis Specific Plan Water System Analysis – Phase 1" prepared by West Yost Associates of Davis, California. Prior to starting the work described under this sub-section, the Subdivider shall design, and submit improvement plans for the water line improvements, sign an improvement agreement with the City, and post improvement security in the amounts approved by the City Engineer and form acceptable to the City Attorney. The Subdivider shall also pay plan checking, inspection, agreement processing, permit, testing, and program management fees. The timing of completion of the water line improvements will be specified in the improvement agreement.
 - H. Subdivider shall complete the design and construction of the storm water treatment component of the future Storm Drainage Detention Basin 3A (DB #3A), including but not limited to fore bay with adequate retention capacity and spillway as approved by the City Engineer.
- III. Complete improvement plans for each unit or phase shall be submitted by the Subdivider in conjunction with the processing and approval of the Final Map for each unit or phase.
- IV. Prior to City's approval of each final map which deferred improvements are required, the Subdivider shall comply with all the Tentative Subdivision Map Conditions of Approval for Ellis Modified Project (as defined in Recital B of this Agreement) and the Subdivider shall furnish improvement security in the amounts and forms specified in Section 3 of this Agreement.

07-071515cm
Rev 8/20/2015

AGENDA ITEM 3

REQUEST

UPDATE AND DISCUSS RESPONSE TO COUNCIL'S REQUEST REGARDING THE HOMELESS ISSUE IN THE CITY OF TRACY

EXECUTIVE SUMMARY

This report is in response to Council's request for information regarding homelessness in the City of Tracy. This report further outlines what homelessness is in the City of Tracy, factors associated with homelessness, staff's outreach strategy, implementation, and future expansion of existing outreach efforts.

DISCUSSION

The federal Department of Housing and Urban Development (HUD) requires Continuums of Care conduct a count of sheltered, unsheltered homeless persons every other year (odd numbered years). This count, also known as the Point-in-Time (PIT) count is a count of sheltered and unsheltered homeless persons on a single night in January. These counts provide HUD with data of people living in places unfit for human habitation (such as an abandoned building, park, and other uninhabitable locations) for the purpose of funding housing and other supportive homeless services. Each jurisdiction's count is planned, coordinated, and carried out locally in cooperation with the San Joaquin County Community Development Department and the not-for-profit organization, Central Valley Housing. On January 27, 2015, the Point in Time count for Tracy was conducted. This event involved outreach to the homeless population within the City of Tracy, which included the offering of a comprehensive array of services available on a state and local level. There were 122 homeless individuals in Tracy during the count in January. The count also involved more stakeholders that yielded a better count than in previous years. Because of the count methodology, it cannot be determined to what degree Tracy's homeless have increased since the last count.

Who Are The Homeless In The City Of Tracy?

Tracy is home to many of the County's homeless population. Because the City of Tracy is a safe community, it has become a lure for homeless individuals seeking refuge in a place that is relatively free from crime and danger.

There are three types of homeless in the City of Tracy:

- Situational or Transitional. This is when an individual is forced into homelessness due to uncontrollable circumstances such as loss of employment, loss of a living unit due to fire or other natural disaster, loss of the family's main financial provider (father, husband, wife) etc. Typically, individuals in this category have a strong personal resolve and a strong support group to help them out of their circumstance.
- Intermittent or Cyclical. This type of homelessness occurs when a person repeatedly falls in and out of homelessness. This is often the case with drug or alcohol addiction and/or those

experiencing mental health issues, as well as those who may experience episodes of severe depression and fall back in homelessness when these episodes occur. Individuals struggling with drug abuse may be able to stop consuming long enough to get off the street for a certain period, while being at high risk of falling back into homelessness because of relapsing into drug or alcohol addiction.

- Chronic. Chronic homelessness occurs when an individual is on the street for an extended period with little or no resources at their disposal to help them modify their lifestyle. Individuals in this category often suffer from physical and/or mental disabilities and are unable to modify their situation without the support and assistance of family, friends, or mental health service providers.

What Is Currently Being Done To Address Homelessness In The City Of Tracy?

Homelessness is an epidemic afflicting most cities across the nation. Although staff does not expect to solve the homeless crisis in Tracy, the following processes have been implemented to help change the circumstances of homelessness by bringing social service agencies to those in need.

1. Operation Helping Hands

In response to citizen concerns associated with homelessness, a team of City staff, identified as "Operation Helping Hands" (OHH) was formed to continue the dialogue established during the PIT count survey. This team initially consisted of Tracy Police Neighborhood Resource Officers and Code Enforcement staff. After rolling out the project, the team discovered that, in order to best serve this segment of the community, the OHH must expand the program and transformed the team into a multi-agency partnership to increase street-level collaboration of service providers. These providers include the San Joaquin County Homeless Social Worker Division, two paramedics representing San Joaquin County Human Services Agency, and a representative from Central Valley Housing.

The homeless population is particularly vulnerable, typically having the greatest needs, including mental health problems, substance abuse, trauma, and other disorders, but the least likely to seek services. The OHH's outreach team focused on making personal contacts with these individuals, putting names to faces, and building relationships based on trust and mutual respect. Concentrating on the "hardest-to-reach" and "service-resistant" chronically homeless population, the OHH comes together on a monthly basis to perform site visits to the various locations where the unsheltered gather, to share information on available services and to determine eligibility of other state and/or federal programs that may be available to qualifying individuals. These outreach efforts are not intended for enforcement purposes, but rather, to provide valuable information regarding social services, such as free medical clinics, social security and medical benefit eligibility, driver's license renewals, overnight shelter locations and other temporary housing options, as well as long-range assistance, including residential rehabilitation treatment facilities. During these visits, County social workers also perform mental health screening and are able to provide on-the-spot hospital transport service for individuals requiring immediate medical or mental health care.

2. Food Distribution in Local Parks

While many cities are imposing restrictions on groups that share food with homeless individuals in public locations, the City of Tracy has pursued a more productive approach to help not-for-profit agencies continue their homeless feedings with less impact to the community. *In the latter part of 2014, the OHH organized church groups who participated in providing meals to individuals within the community to meet and discuss* current homeless trends, as well as suggestions on improving their service delivery processes with the least impact on the community, while effectively carrying out their mission. These discussions successfully resolved a once disjointed food sharing system to a more systematic approach, with service providers agreeing to rotate the majority of their feedings to their local church locations rather than in City parks.

The primary goal of the OHH is to act as an intermediary between those who want to change their current situation and service providers. This approach takes into consideration the underlying causes of homelessness for more permanent solutions rather than temporary fixes, in the hopes that a more self-sustaining lifestyle may be achieved.

To date, the OHH has successfully encouraged six individuals to enter treatment facilities provided by local church organizations.

In addition, the City has received inquiries from other cities regarding the OHH process; most recently from the City of Turlock. Tracy is garnering the attention of other local jurisdictions in its outreach efforts and earning a reputation of being progressive and forward thinking in its work towards uniting services and the homeless through the work of OHH.

3. Homeless Encampments on Public Property

Conditions surrounding homeless encampments can be dangerous to personal health. Garbage attracts rodents and other vermin. Food cannot be stored, and dishes cannot be washed properly, facilitating the spread of food-borne diseases. Lacking proper restroom facilities, some residents use makeshift toilets or public facilities; however, most are likely to use an outdoor location. Public intoxication and drug use is a common behavior in these encampments. Poor hygiene and the potential spread of disease is of particular concern. Other environmental hazards, such as batteries and fuels often used for heating and cooking are commonly used in encampments. Crimes against the homeless, such as assaults, robbery, are also of significant concern. Assaults and violence against the homeless is also present in these encampments.

Current state and local laws prohibit homeless encampments on private property; however, until recently, the City had no formal policy or procedure on how to address these encampments located on City property.

In February, 2015, the City formulated an effective strategy for proper abatement of these encampments in the form of a standard operating procedure. This procedure, titled "Operation Dignity", mandates the steps required for posting the property as substandard, removal and

storage of personal property left behind, and addressing litter and debris. This policy covers all City property - public right-of-way, City facilities, and parks.

Potential New Strategies

Homelessness, as a condition, is not a crime; however, conduct and behavior detrimental to community, health and environment are areas of concern (i.e., lack of sanitation, degradation of City open spaces, streets and parks), and not necessary behaviors that revolve around only the homeless. Therefore, for the health and well-being of the unsheltered, as well as for the community, staff is considering establishing a higher level of action to address the most commonly reported nuisances associated with these behaviors:

1. Communication Strategy - Community Outreach and Education

- Financial Donations

Giving money to the homeless is an economic crisis of the heart; a personal struggle between the instinct to give to alleviate perceived suffering and the knowledge that a donation might encourage, rather than relieve, the anguish of the individual. In a 2014 report by the Department of Housing and Urban Development, statistics show that giving money to solicitors induces adverse, long-term incentives and causes solicitation to multiply. Donating provides a sense of relief to the donor rather than a lasting solution to the structural problem of homelessness.

In this spirit, the City will begin its launch of an awareness campaign to discourage people from handing out money to panhandlers in the community. The "Better Ways to Give" campaign will use public service announcements, as well as signs and posters stating: "It's OK to Say No." As part of this campaign, City staff will provide service agency information cards, free of charge, to the community and businesses to hand out to solicitors in place of financial assistance. These cards will contain information regarding medical assistance, temporary housing, long-term residential rehabilitation and other social services and other long-term local support provided by the County and not-for-profit agencies.

As an additional alternative to donating money to the homeless, staff suggests tax-deductible donations to organizations that work with individuals experiencing homelessness, such as food banks, churches that provide services, drug and/or alcohol addiction or domestic violence shelters.

- Job Placement Services

Conversations with the homeless highlight the need for something more than money as a solution. Many of the homeless population want overall personal improvement, direction, a job, and a roof over their head. The U.S. Department of Health and Human Services Strategic Action Plan on Homelessness dated July 2014, polled the homeless about what they needed most: 42% said help finding a job; 38% said finding housing; 30% said paying rent or utilities; 13% said training or medical care.

Meaningful and sustainable employment is the key to creating and maintaining housing stability. Individuals experiencing homelessness face obstacles to finding and maintaining employment. Connecting people experiencing or at-risk of experiencing homelessness, with job training and placement programs is critical to ensure they have the tools they need for long-term stability and success. Facilitating access to work supports can help increase the likelihood that individuals will be able to retain employment.

To this end, the OHH is looking to develop an intermediary role with local employment agencies, job services and private employers for potential job opportunities for the homeless.

2. Code Revisions to Address the Nuisances Associated with Homelessness

- **Aggressive Panhandling**

Within the past several months, Tracy Police has reported an increase of individuals soliciting financial assistance (panhandling), primarily at major arterial intersections of Tracy. Contrary to what most believe, however, these panhandlers are *not* part of the local homeless population. This information was founded based on contact with individuals who were soliciting during an OHH effort. The panhandlers have been reported to arrive in Tracy from areas such as Stockton, Manteca, and other parts of San Joaquin County, as well as from the Dublin-Pleasanton area. The recent ordinance changes in these respective cities have changed the offense of panhandling from an infraction to a misdemeanor offense. As a result, these ordinance amendments have prompted the influx of panhandlers into the City of Tracy. Overall, these solicitors are spending six to eight hours per day seeking donations. These individuals have discovered, from prior court appearances for panhandling, that the judicial system does not deem advertising the need for “help” as panhandling. This group, consisting of 10-12 people, has found their solicitation for “help” within Tracy to be less dangerous and more profitable than soliciting in Stockton. The average earnings for these individuals ranges between \$35 and \$80 per day in monetary “help”.

In response to this problem, staff is currently reviewing existing policy relative to panhandling with the intent on revising the Tracy Municipal Code to make aggressive solicitation a misdemeanor violation.

- **Overnight Camping in Public Parks**

Tracy Municipal Code (TMC) section 4.16.190 prohibits persons from remaining in any City park that has posted closing times between dusk and dawn. Currently, violations of this section are infractions with an initial fine of \$100 (which increases substantially by court penalty assessments and fees). Unfortunately, this has not been a sufficient deterrent to individuals going into City parks at night. Due to the concerns cited in this report, Tracy Police Department is recommending that violations of TMC section 4.16.190 be subject to misdemeanor prosecution, to deter violators and to provide

Officers with the necessary tools to encourage compliance from individuals discovered in City parks after dark.

Tracy Police Officers often catch individuals in the park after dark and issue citations for violations of TMC section 4.16.190. However, the issuance of these citations, which are infractions and only result in a fine, has not been a sufficient deterrent to those who improperly use and often destroy park property at night. Moreover, if the individual does not have a proper address, a citation cannot be issued, since Stockton Superior Court requires an address to provide Notice to Appear dates to the persons cited.

As a result, staff is considering amending Tracy Municipal Code Section 4.16.190 to make the above violations subject to a misdemeanor prosecution. This will allow Tracy Police Officers to arrest individuals found in the park after dark. As with all TMC misdemeanor violations, the City Attorney has discretion to downgrade a misdemeanor citation to an infraction if the circumstances so warrant.

STRATEGIC PLAN

The efforts outlined in this report align with the following Public Safety Plan Goals:

Goal 1: Partner with and engage residents to address public safety concerns.

Goal 2: Promote public health, safety, and community welfare by responding and addressing unsafe, unhealthy or blighted conditions in homes, neighborhoods and the entire community.

FISCAL IMPACT

A significant portion of code enforcement's time is currently being expended on the OHH's current efforts. Implementation of any additional strategies, programs, etc., will have an impact on staff; therefore, additional resources will be needed.

RECOMMENDATION

Staff recommends City Council approve the continuation of the OHH's outreach efforts, bringing together service providers and not-for-profit agencies to the homeless for long-term assistance. Staff further recommends Council provide direction relative to the potential strategies highlighted in this staff report dated July 21, 2015, to include a Communications Strategy, Job Placement Services, and Code Amendments Addressing Nuisances Associated with behaviors that negatively affect the health and safety of the community.

Agenda Item 3
September 1, 2015
Page 7

Prepared by: Ana Contreras, Community Preservation Manager

Reviewed by: Bill Dean, Interim Development Services Director
Andrew Malik, Interim Assistant City Manager
Gary Hampton, Police Chief
Scott Muir, Police Corporal
Mark Duxbury, Police Captain

Approved by: Troy Brown, City Manager

ATTACHMENTS

Attachment A - 2015 Point in Time Count

Attachment B - Operation Dignity SOP dated February, 2015

Ana Contreras

From: Ana Contreras
Sent: Wednesday, March 18, 2015 3:41 PM
To: Andrew Malik
Cc: Vanessa Carrera; Maria Hurtado; Troy Brown; Scott Muir; Brian Wilmshurst
Subject: 2015 Point-In-Time Homeless Report
Attachments: Final Unsheltered Report 03-16-15.docx

As a requirement to maintain federal funding received by San Joaquin County from the Department of Housing and Urban Development (HUD), every two years during the last ten days during the month of January, San Joaquin County must undertake a census of the local homeless population, known as the Point-in-Time Count. The information gathered from this count is used by HUD and other government agencies to provide and improve housing and supportive services.

The County's 2015 homeless count (sheltered and unsheltered) was conducted during the week of January 26-28, 2015. The attached report submitted by the Central Valley Low Income Housing Corporation (CHLIVC), reflects these statistics. The analysis and breakdown of the number of *sheltered* homeless is not included in the report due to the minimal number of shelters in Tracy. However, statistics gathered from sheltered homeless at McHenry House during the time of the census resulted in a count of 19 people (one-third adults, two-thirds children). At the time of preparing this email, it is unknown whether or not residents of the Emerson House were counted, although City staff has confirmed that, to date, the 12 bed facility is at capacity.

Individual city data from the 2013 count is unavailable; therefore statistical comparisons between the 2013 and 2015 counts cannot be provided.

If you have any questions regarding this report, please feel free to contact me at (209) 831-6416 or Jon/Bill Mendelson at (209) 472-7200.

Ana Contreras
Community Preservation Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376
(209) 831-6416 (Direct Line)
(209) 814-8054 (Cellular)

Attachment

San Joaquin County 2015 Point-in-Time Unsheltered Homeless Count Report

Introduction

San Joaquin County undertook a count of the unsheltered homeless persons within its borders during the final week of January 2015 as part of an overall assessment of homelessness within the jurisdiction. The count was conducted according to congressional direction given to the federal Housing and Urban Development Department — a contractual obligation on the part of the county incurred by receiving certain funds to assist homeless individuals and families.

To conduct the count, the county's Community Development Department and Central Valley Low Income Housing Corp. partnered with county-based nonprofit organizations that provide emergency shelter, housing, and other support services to homeless individuals and families. Public officials in Stockton, Tracy, Manteca, and Lodi, as well as private businesses and faith-based organizations, appreciatively contributed to the effort!

The following report describes the method and results of the count, as well as the significance of the findings for San Joaquin County and its included cities.

Method

Unsheltered homeless families and individuals were encouraged to gather at Homeless Connection events hosted in the major San Joaquin County cities — Stockton, Tracy, Lodi, and Manteca — to access support services and to be counted. Surveys were only conducted for those who self-identified as meeting the HUD definition of unsheltered homeless — those who were actively staying in a car, tent, condemned building, under an overpass, or in another place otherwise unfit for human habitation — the night before the count. Those staying in homeless shelters, transitional housing for the homeless, doubled-up with friends or family members, or those who are housed thanks to a government subsidy such as Section 8, VASH, or General Relief were not included in this count.

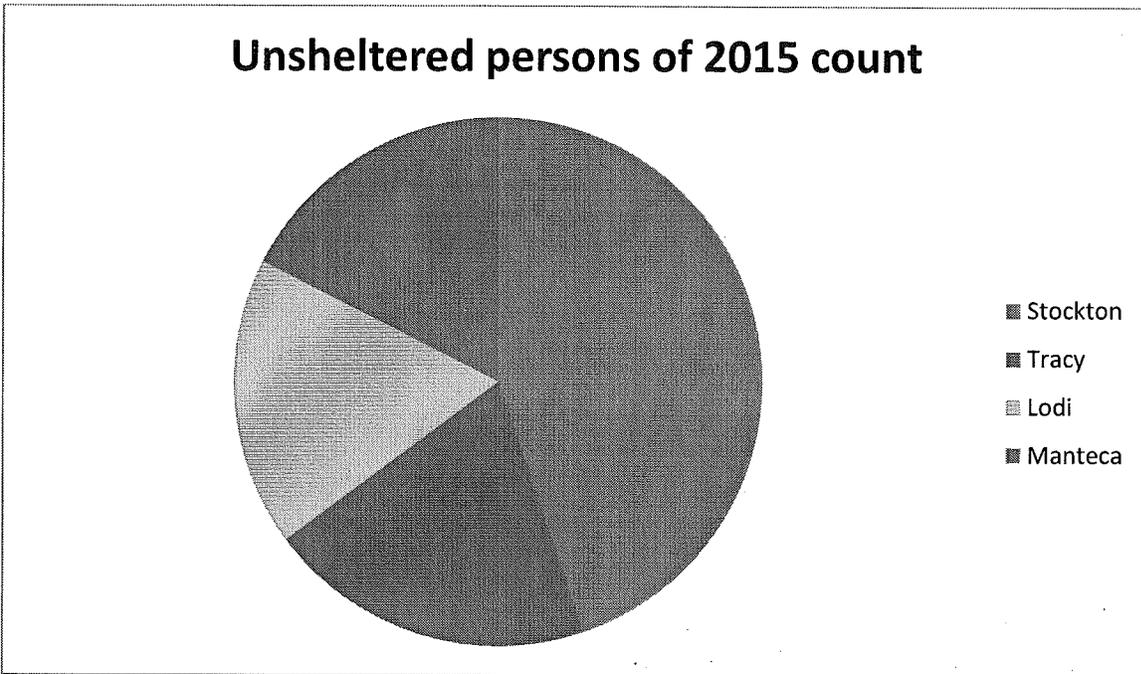
Those who attended the events and were identified as meeting the definition of unsheltered homeless were interviewed using a one-page survey seeking basic demographic information, including age, race, and veteran status. Individuals were also asked for identifying information such as a name and birth date to avoid duplication.

Support service providers, churches, police departments, and other charitable organizations that have routine contact with unsheltered homeless conducted extensive outreach in the months leading up to the count to ensure as many people as possible were made aware of the events. Teams that have experience working with homeless individuals also were sent into the community on the day of the event to gather information regarding those who did not attend the Homeless Connection

events. Churches and charitable organizations that have contact with the homeless during the time of the count were also provided surveys so they could interview those individuals and families.

All completed surveys were gathered by CVLIHC, which provides homeless housing services throughout the county. CVLIHC debriefed volunteers and volunteer organizations to ensure the count was conducted appropriately, and the surveys were tallied and cross-referenced to prevent duplicate counting of individuals.

Numbers



Stockton = 218 adults, 12 children

Tracy = 122 adults, 12 children

Lodi = 87 adults, 4 children

Manteca = 88 adults, 2 children

Total = 515 adults, 26 children

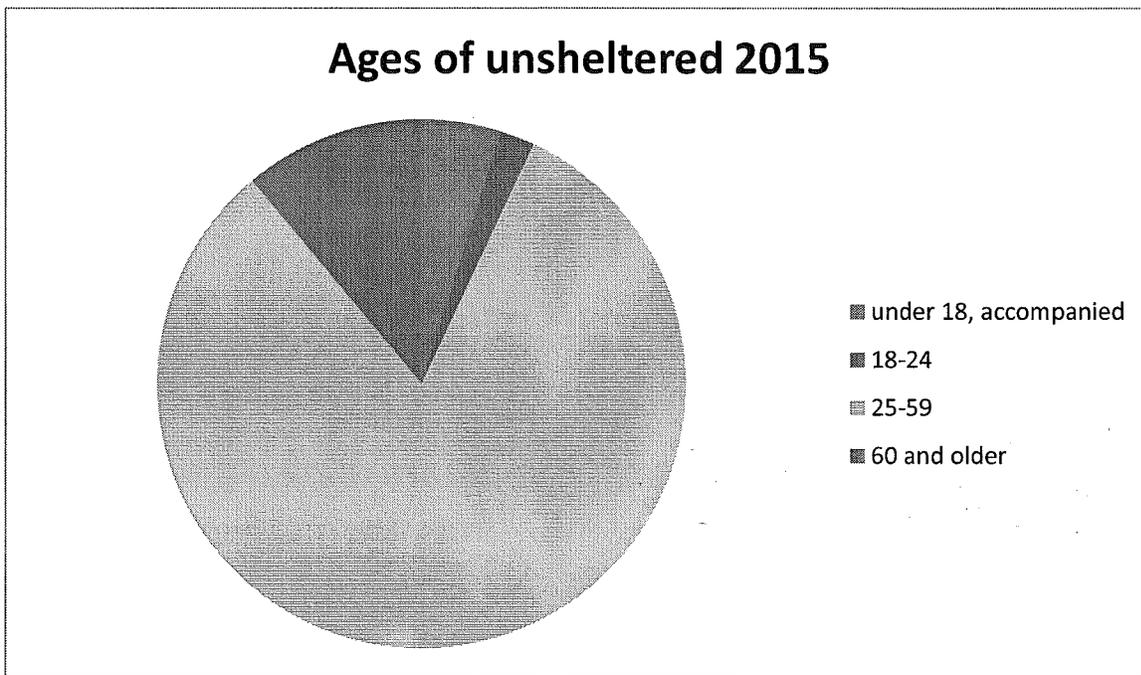
Overall, more unsheltered homeless individuals were counted in 2015 than in any previous year. In 2015, 541 people were counted, while those numbers were 263 in 2013 and 247 in 2011, years in which a similar method for the count was employed. While it is possible that the 2015 results reflect an increase in the number of people without shelter in San Joaquin County, it is much more plausible that the dramatic increase in unsheltered individuals is the result of a more robust, improved effort to count this population. Increased community participation as well as stronger outreach efforts are the likely primary causes of the rise.

The number of homeless sheltered individuals continues to demonstrate a continued downward trend. In January 2011, there were 1,516 people who were staying in emergency shelters or

transitional housing reserved for homeless individuals and families. In 2013, the total number of sheltered homeless individuals recorded the first week in January dropped to 1,278, and in 2015, the number declined to 1,209.

In 2015, the highest concentration of unsheltered homeless individuals was found in Stockton — a full 43 percent of the unsheltered persons counted in San Joaquin County were living within Stockton city limits. This is consistent with the findings of previous unsheltered homeless counts, which show Stockton as the center for the local unsheltered homeless population.

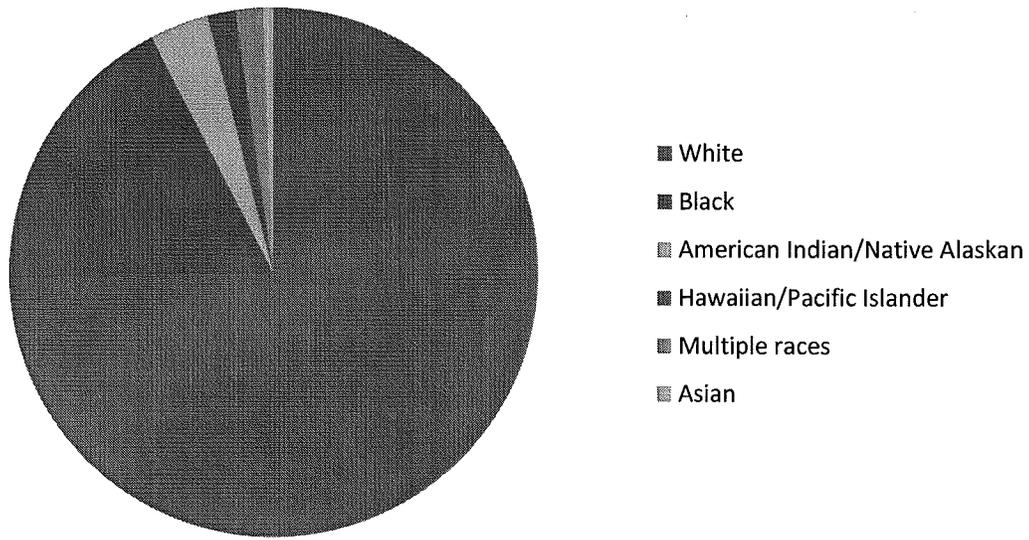
The number of people counted in Manteca and Lodi were nearly identical to each other, though a lack of community participation in the unsheltered homeless count in those two cities outside of the Homeless Connection events likely suppressed those numbers. Increased community participation in Tracy outside of the Homeless Connection events led to a larger-than-expected number of unsheltered homeless persons identified there.



Under 18 = 25
18-24 = 11
25-59 = 422
60 and older = 57

The vast majority of unsheltered individuals fall within the “middle age” category of 25 to 59 years of age. There were no unaccompanied minors recorded by the count. Of the 461 households that were counted in 2015, 16 included children younger than 18.

Racial demographics of unsheltered 2015



White = 351

Black = 83

American Indian/Native Alaskan = 17

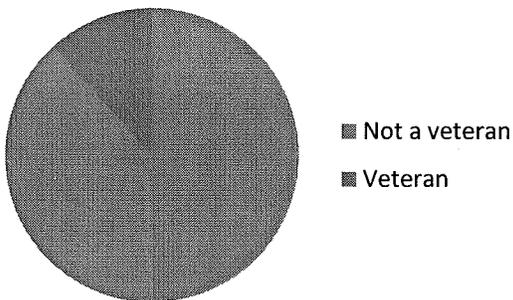
Hawaiian/Pacific Islander = 8

Multiple Races = 8

Asian = 3

Ethnicity = 130 of those counted — or 24 percent — identified as Hispanic.

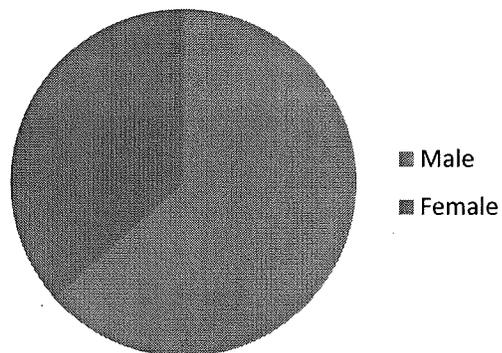
Military veterans of unsheltered 2015



Not a veteran = 454 (of 515 adults)

Veteran = 61

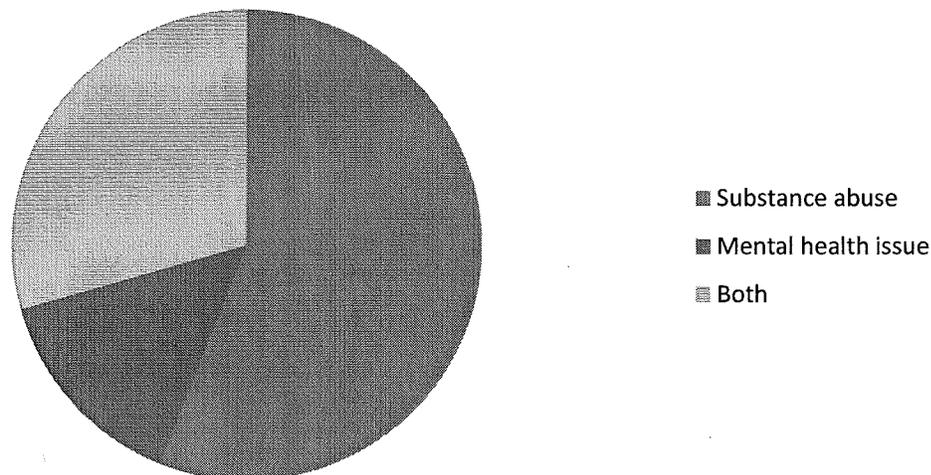
Gender of unsheltered 2015



Male = 328

Female = 190

Self-reported impairments of unsheltered 2015



Substance abuse only = 158

Mental health issue only = 41

Substance abuse AND mental health issue = 83

Nearly 40 percent of all adults surveyed in the unsheltered count reported dealing with a substance abuse problem, mental health issue, or both. It is likely that the number of homeless individuals dealing with these types of conditions is greater than what is reported here, as some individuals refused to answer this question, and it is typical that substance abuse and mental health issues are under-reported when gauged by self reporting. While this should serve to highlight the significant portion of the unsheltered homeless population that deals with either substance abuse or mental health issues, it is unknown if these issues rise to the level of being a “permanent disability” that would impact the estimates of the county’s chronically homeless population. (Chronic homelessness being defined as having a permanent disability AND experiencing homelessness for more than a year straight OR having four or more episodes of homelessness during a three-year period.¹¹)

Results

According to the 2015 unsheltered homeless count, the typical unsheltered homeless individual in San Joaquin County is a single, white male between the ages of 25 and 59, lives somewhere in Stockton, and has a substance abuse and/or mental health issue. This is a trend that is consistent across the unsheltered counts conducted in 2007, 2009, 2011, and 2013.

Other demographic trends that remain consistent across the point-in-time counts are the age of unsheltered homeless individuals — most are between the ages of 25 and 60 — and the general percentage of unsheltered homeless individuals identifying with a certain race or ethnicity.

The percentage of unsheltered homeless adults in San Joaquin County who are veterans is sizeable — 13 percent — but does not represent a significant departure from the national rate of 12 percentⁱⁱⁱ. The rates of substance abuse and mental health issues reported in the count are similar to the rates of those issues reported by chronically homeless individuals in national data reviews^{iv}.

One surprising finding: 21 percent of those interviewed reported cash income of some type, including SSI, SSA, unemployment, earned income, and other cash aid. Another 14 percent reported that they receive food stamps.

The count conducted in January 2015 tallied far more unsheltered homeless individuals than previous surveys. This increase is most likely attributable to the improved outreach undertaken in advance of the Homeless Connection events, as well as increased participation of agencies and volunteers in the field. Despite the jump in numbers, it is a certainty that the 2015 effort undercounts the number of unsheltered homeless individuals who live in San Joaquin County.

Given the difficulty of contacting and reaching homeless individuals, the rural nature of San Joaquin County, the limits imposed on the count timeframe by HUD, and the limited number of participating agencies and volunteers, it is certainty that there are more unsheltered homeless persons in the county than tallied through the 2015 survey. However, it is not possible to responsibly or accurately extrapolate how many truly homeless individuals there are in the county.

It should also be noted that this count does not include the vast number of people receiving some type of voucher or assistance who would likely be homeless if not for that assistance. The count also does not include migrant workers or laborers.

Analysis

The data and results of the 2015 point-in-time unsheltered homeless count demonstrate there is a significant need for more resources in San Joaquin County to address the issue of homelessness. At any given time, hundreds of people are living on the streets, in cars, under freeway overpasses, and in other places not meant for human habitation.

Outreach to these populations is difficult under the best of circumstances, and efforts to connect them with services such as mental health care, substance abuse treatment, medical care, food distribution, and emergency shelter are hampered by a lack of resources.

Addressing the needs of the homeless population will take a multifaceted approach. A successful strategy will include efforts that also benefit the global population, such as improving education and economic opportunities. Specific, immediate efforts to improve the chances that homeless individuals will become stably housed and self-sufficient also will require multiple avenues of

effort, including but not limited to improved medical care, mental health care, substance abuse treatment, education, access to clothes and food, counseling, and transportation or in-the-field outreach so that the homeless can actually access these services.

However, the availability of emergency shelters and affordable housing remains the short-term key to getting unsheltered homeless individuals and families off the streets. It is also the key to self-sufficiency, as individuals are unlikely to succeed in the steps necessary to maintain mental wellness or sobriety, or hold a job, without some sort of stable housing situation. This is sometimes called the Housing First model, and it has been employed successfully by communities that have dedicated the resources to the approach.

Housing First seeks to reduce barriers homeless people often face when it comes to obtaining housing, such as lack of income, lack of sobriety, or a lack of connection with support services. Housing First-oriented programs help people achieve and sustain housing as quickly as possible without time limits, deliver a variety of services that promote housing stability, and employ a standard lease agreement between the property owner and tenants^v.

Unfortunately, the current resources dedicated to housing the homeless in San Joaquin County are not sufficient to address the need. Emergency shelters are often full, or the clients do not meet the criteria for assistance. Furthermore, true emergency shelters do not exist in every city within San Joaquin County, resulting in massive gaps in resources in some areas. Transitional programs that help homeless people move from shelters into more stable housing operate with waiting lists. Permanent supportive housing programs for disabled and homeless people are also impacted, and operate with significant waiting lists. Expansion of these efforts to meet the documented need would require identifying additional resources, as would establishing a new Housing First project.

It is also extremely difficult for local unsheltered homeless individuals and families to find housing that is affordable without subsidies. Federal standards for affordable housing state that no more than 30 percent of a household's income should be spent on housing^{vi}. By this measure, an individual or family relying on an individual's Social Security disability benefit for income should spend no more than \$267 a month on housing^{vii}. A family of one adult and two children that depends on Temporary Assistance for Needy Families (also known as welfare) should spend no more than \$205 a month on housing^{viii}. Such housing options are either extremely difficult or impossible to find within San Joaquin County, and wait lists for housing assistance programs such as Section 8 stretch thousands of people long.

Local efforts to address homelessness should therefore be focused on expanding resources for programs that assist the homeless — specifically those related to providing truly affordable housing for those coming off the streets.

ⁱ Participating agencies include: Central Valley Low Income Housing Corp., San Joaquin County Community Development Department, San Joaquin County Behavioral Health Services, City of Stockton, Stockton Police Department, Stockton Unified School District, City of Tracy, Tracy Code Enforcement Department, City of Lodi, City of Manteca, Manteca Police Department, California Highway Patrol, Veterans Services Office, Veterans Affairs, Department of Motor Vehicles, the office of Assemblywoman Susan Eggman, St. Mary's Dining Room, Stockton Shelter for the Homeless, PATH, Inner City Action, CareLink, Gleason House, New Directions, Gospel Center Rescue Mission, Westcare, Catholic Charities, Haven of Peace, Women's Center/Youth and Family Services, Tracy Interfaith Ministries, McHenry House Family Shelter, Healthy Connections, Love Inc., Salvation Army of Lodi, Calvary Church of Manteca, St. Vincent de Paul Society of Manteca, Grace Church of Tracy.

ⁱⁱ National Alliance to End Homelessness — Chronic Homelessness:

http://www.endhomelessness.org/pages/chronic_homelessness

ⁱⁱⁱ National Coalition for Homeless Veterans — Background and Statistics:

http://nchv.org/index.php/news/media/background_and_statistics/

^{iv} Substance Abuse and Mental Health Administration — Current Statistics on the Prevalence and Characteristics of People Experiencing Homelessness in the United States:

http://homeless.samhsa.gov/ResourceFiles/hrc_factsheet.pdf

^v National Alliance to End Homelessness — Housing First: http://www.endhomelessness.org/pages/housing_first

^{vi} Housing and Urban Development — Affordable Housing:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/affordablehousing/

^{vii} Calculation based on Supplemental Security Income (SSI) in California: <http://www.ssa.gov/pubs/EN-05-11125.pdf>

^{viii} Calculation based on CalWORKs Maximum Grant Levels: http://ca.db101.org/glossary_item.aspx?item-id=6521



STANDARD OPERATING PROCEDURE

<u>Date of Implementation:</u> February 5, 2015	<u>Procedure:</u> Illegal Encampments OPERATION DIGNITY
--	---

SUBJECT:	Policy for Removal of Illegal Encampments in the public right-of-way and on City owned property.
INTENT:	To remove litter and debris generated by the illegal campers from the public right of way.
RESPONSIBLE DEPARTMENTS:	Public Works Superintendent Code Enforcement Manager
CRITICAL TIMING:	Year round
INVOLVED INDIVIDUALS:	PW Call center, PD Call Center, Code Enforcement Call center
OBJECTIVES:	To provide a safe and esthetically pleasing community
REVIEW:	Review annually

Background

In an effort to keep The City of Tracy clean, attractive and safe, litter and debris generated by illegal campers in parks and public right-of-ways must be removed from as discovered.

However, before any items can be removed from any public place, the following steps must be taken to comply with mandates regarding illegal campers and their property, as set forth in this Standard Operating Procedure for removing illegal encampments in the public right of way and in City facilities, including parks, detention basins and City-owned property.

Procedure

- When an illegal encampment is reported to the Public Works Center, a service request is generated and forwarded to the Code Enforcement Manager.

- The Manager or his/her staff will visit the site and determine if the encampment is on private or public property.
- If the encampment is on private property, a Code Enforcement officer will report the infraction to the property owner and issue a Violation Notice. This begins the official enforcement process.
- If the encampment is on public property or in the public right-of-way, the Manager or his/her representative must notify Public Works of the illegal encampment immediately after verification of responsibility.
- Code Enforcement will attempt to contact the occupant(s) of the illegal encampment to explain the violation and outline the necessity to vacate. A Violation Notice will be issued to the illegal camper (if found).
- Code Enforcement will post the area with a 24-hour vacate order. All items, including personal possessions, must be removed by the camper(s) within the 24-hour period prior to vacating. The posting must also inform the illegal camper that any property remaining at the site following the 24-hour vacate period will be considered found property and shall be stored by the City. The posting must provide the camper with information on where to claim their personal belongings, including the address, phone number, and business hours of the location storing these items.
- The designated Public Works Superintendent will create a work order and submit it to the appropriate crew for abatement of the illegal encampment to take place after the 24-hour time period has lapsed.
- Prior to the cleanup, the Tracy Police Department will verify all occupants have left the encampment, or will have the remaining individuals leave.
- Public Works will dispose of trash and debris left behind at the encampment after the 24-hour time period has lapsed. Any personal items remaining at the site that have a value of \$3.00 or higher must be identified and catalogued as found property and stored at the City's Corporation Yard (Boyd Service Center) for a period of thirty (30) days. Any items not claimed after thirty (30) days will be deemed abandoned and discarded.
- If the City's Public Works crews find hazardous materials at the illegal encampment site, they must contact the Fire Departments Hazmat Call Center and report their findings. Public Works shall make the area safe when possible, and ensure the hazmat team performs the proper clean up of the area prior to leaving the site. Upon abatement of the encampment, the crew will complete the service request and submit to the designated superintendent as complete.
- The Superintendent will review the completed work order, ensuring the correct data is entered, and close the work order.

- The Public Works Call Center will contact the Fire Department to confirm the removal of the hazardous materials.
- Code Enforcement will notify agencies such as Caltrans and Union Pacific Railroad of illegal encampments on their property.

Date Issued: February 5, 2015

Mike Contreras
Public Works Superintendent

Ana Contreras
Code Enforcement Manager

Review Dates: Annually in February

AGENDA ITEM 4

REQUEST

ACCEPT THE REPORT OF THE CITY CLERK DECLARING SUFFICIENCY OF ADULT RESIDENTIAL ALLOTMENT INITIATIVE PETITION; AND DISCUSS AND PROVIDE DIRECTION ON WHETHER TO: (1) PREPARE AN INFORMATIONAL REPORT ON THE PROPOSED INITIATIVE MEASURE AND, IF THE DIRECTION IS TO PREPARE THE REPORT, APPROPRIATE \$20,000 FROM THE CITY'S GENERAL FUND; OR (2) ORDER A SPECIAL ELECTION AND APPROPRIATE \$275,776 FROM THE CITY'S GENERAL FUND AND, IF THE SPECIAL ELECTION IS ORDERED, DIRECT THE CITY ATTORNEY REGARDING PREPARATION OF AN IMPARTIAL ANALYSIS, SET THE DATES FOR SUBMITTAL OF BALLOT ARGUMENTS, AND DETERMINE WHETHER TO ALLOW REBUTTAL ARGUMENTS

EXECUTIVE SUMMARY

On June 4, 2015, a Notice of Intent to Circulate Petition was filed with the City. The purpose of this agenda item is to: accept the report of the City Clerk declaring the sufficiency of the initiative petition; and to allow the City Council to discuss and provide direction on whether to order an informational report on the proposed initiative measure or order a special election.

DISCUSSION

I. BACKGROUND

On June 4, 2015, a Notice of Intent to Circulate Petition was filed with the City, which is attached as Attachment A. Generally, the proposed initiative measure would: (1) establish a new Active Adult Residential Allotment Program; (2) exempt the Adult Residential Allotment Program from the City's Growth Management Ordinance; and (3) allocate 600 Adult Residential Allotments to property located at the southeast corner of Corral Hollow and Valpico Roads.

Pursuant to the state Elections Code, the City Attorney prepared a title and summary of the proposed measure, which is attached as Attachment B. The proponents of the proposed measure have circulated the petition among the voters of the City for signatures and have filed the petition with the City Clerk.

The total number of Random Sample signatures verified by the San Joaquin County Registrar of Voters was 500 and the total number of sufficient signatures was 397 (79.400%), valid signatures percentage required for Sample Verification was 67.524%. The minimum number of 5,087 (61.38.5%) signatures required to call a special election was met. A copy of certification from the Registrar of Voters Office is attached as Attachment C. A copy of the City Clerk's Certificate of Sufficiency of Initiative Petition is attached as Attachment D.

Pursuant to section 9214 of the Elections Code, upon certification of the sufficiency of signatures, the City Council must either:

- (a) Adopt the ordinance without alteration;
- (b) Immediately order a special election; or
- (c) Order that an informational report be prepared.

Provisions of the proposed initiative measure create an exemption from the City's Growth Management Ordinance, and therefore have an effect on parts of the Growth Management Ordinance that were adopted by the voters in 2000 (Measure A). Section 9217 of the Elections Code provides in relevant part that an ordinance that is adopted by the voters may only be repealed or amended by a vote of the people unless provision is otherwise made in the original ordinance. Because Measure A did not contain a provision allowing it to be amended by the City Council, the City Council may not adopt the initiative measure in lieu of ordering a special election.

Staff recommends that the City Council either order: (1) that an informational report be prepared; or (2) that a special election take place.

II. CITY COUNCIL OPTIONS

A. Prepare an Informational Report

Elections Code section 9212 provides, in relevant part, that before submitting a proposed initiative measure to a vote, the City Council may refer the proposed initiative measure to any city agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
- (2) Its effect on the internal consistency of the City's General and specific plans, including the Housing Element, the consistency between planning and zoning, and the limitations on City actions set forth in the Government Code relating to discrimination and the density bonus provisions of the Government Code.
- (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the City to meet its regional housing needs.
- (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
- (5) Its impact on the community's ability to attract and retain business and employment.
- (6) Its impact on the uses of vacant parcels of land.
- (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
- (8) Any other matters the City Council requests to be in the report.

An informational report prepared pursuant to section 9212 of the Elections Code must be presented to the City Council within the time prescribed by the Council, but no later than 30 days after the City Clerk certifies to the City Council the sufficiency of the petition.

Under the proposed measure, any property taking advantage of the Active Adult Residential Allotment Program would also be subject to a specific plan or to Planned Unit Development zoning. Such specific plans and Planned Unit Development zoning would require separate review under the California Environmental Quality Act ("CEQA"). Therefore, many of the matters addressed in section 9212 of the Elections Code would likely be addressed on a project-by-project basis as development projects are proposed.

However, staff believes that, if the City Council wishes to have an informational report prepared, one area it may be helpful to focus on is the statement in the proposed initiative measure that senior housing developments create fewer impacts than typical residential developments. For example, the proposed initiative would add a new section to the City's Growth Management Ordinance that would read in relevant part that:

Residential development on property that has obtained Active Adult Residential Allotments pursuant to Chapter 10.18 of the Municipal Code is unlike typical residential property in important ways. The senior housing development on such property generates fewer vehicular trips resulting in improved air quality over typical residential subdivisions, imposes fewer burdens on local public school systems and public services, creates lower demand for athletic fields, and has lower water and sewer demands. Such AAR communities are also recognized as providing a new source of skilled and experienced volunteers for civic organizations and nonprofits, as well as supporting local businesses and creating additional community benefits such as parks and other recreational amenities.

Staff estimates that it would cost approximately \$20,000 to have an independent report prepared that would evaluate the statements and assumptions identified above regarding the impacts of senior housing developments compared to other types of housing developments; and analyze how the proposed initiative would be consistent with applicable General Plan goals, objectives, and policies. If the Council desires such a report, staff recommends that the Council allocate \$20,000 from the City's General Fund to pay for it.

If the Council directs an informational report to be prepared, it need not order a special election at this time. In such a case, the Council would order the special election when the informational report is presented.

B. Order a Special Election

If the Council chooses not to order preparation of an informational report, then staff recommends that it order a special election.

Under the Elections Code, the special election must be held not less than 88 nor more than 103 days after the date of the order of election. Therefore, if the City Council orders a special election, the election would have to be held either on December 1, 2015 (91 days from tonight) or December 8, 2015 (98 days from tonight).

The cost of the election would be approximately \$274,776. Therefore, if the City Council orders a special election, staff is recommending that Council appropriate \$275,776 from the City's General Fund for the costs associated with verifying signatures and holding the special election.

If the Council orders a special election, it should also determine whether to direct the City Attorney to prepare an impartial analysis of the proposed initiative measure and establish the dates for submittal of ballot arguments.

1. Impartial Analysis

Pursuant to section 9280 of the Elections Code, when directed by the City Council, the City Attorney must prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The analysis must include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the City Council. The analysis must be printed preceding the arguments for and against the measure and may not exceed 500 words in length.

2. Ballot Arguments

The persons filing the initiative petition may file a written argument in favor of the ordinance, and the City Council may submit an argument against the ordinance. These arguments must be filed with the City Clerk no later than 14 days from the date of ordering the election (September 15, 2015 by midnight) and may not exceed 300 words.

If the Council chooses, it can also, by resolution, allow for rebuttal arguments of no more than 250 words. If rebuttal arguments are permitted, they must be filed with the City Clerk no later than 10 days after (September 25, 2015 by 5:00 p.m.) the final filing date for primary arguments.

If the City Council chooses to submit an argument against the measure, staff recommends that it: (a) form a subcommittee of the Council to draft a proposed argument for consideration by the Council as a whole at the next City Council meeting; or (2) schedule a special City Council meeting to consider the contents of such argument before the next City Council meeting.

STRATEGIC PLAN

This is a routine operational item and is not related to any of the Council Strategic Plans.

FISCAL IMPACT

If the City Council wishes to have an informational report prepared that focuses on the impacts of senior housing developments it would result in a cost of approximately

\$20,000 from the General Fund. If the City Council orders a special election, it would result in a cost of approximately \$275,776 from the General Fund.

RECOMMENDATION

That the City Council:

1. Accept the report of the City Clerk declaring the sufficiency of the initiative petition; and either
2. Adopt a resolution directing that an informational report be prepared pursuant to section 9212 of the Elections Code and appropriating \$20,000 from the City's General Fund for the costs associated with preparing the report; or
3. Adopt resolutions:
 - a. directing that a proposed ordinance be submitted to the voters at a special election to be held on December [1 or]8, 2015 and appropriating \$275,776 from the City's General Fund for the costs associated with verifying signatures and holding the special election; and
 - b. directing the preparation of an impartial analysis; and
 - c. providing for the filing of arguments and rebuttal arguments.

Prepared by: Nora Pimentel, City Clerk
Alan Bell, Senior Planner
Bill Dean, Interim Development Services Director
Daniel G. Sodergren, City Attorney

Reviewed by: Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENTS:

- A. Proposed Initiative Measure
- B. City Attorney's Title and Summary
- C. San Joaquin County Registrar of Voters Certification
- D. City Clerk's Certificate of Sufficiency of Initiative Petition
- E. Proposed Resolution Directing That an Informational Report be Prepared
- F. Proposed Resolution Ordering a Special Election
- G. Proposed Resolution Directing the Preparation of an Impartial Analysis
- H. Proposed Resolution Providing for the Filing of Arguments and Rebuttal Arguments

Date: June 4, 2015

RECEIVED
CITY CLERK'S OFFICE
2015 JUN -4 PM 1:44

Nora Pimentel, City Clerk
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

CITY OF TRACY
TRACY, CA

Re: Initiative Measure to be Submitted to Voters

Dear Ms. Pimentel:

Please find enclosed with this letter a proposed initiative measure and Notice of Intent to Circulate Petition for the City of Tracy. Please transmit the initiative measure to the City Attorney for a Title and Summary pursuant to California Elections Code Section 9203.

We are the proponents of this measure and are registered voters in the City of Tracy at the address shown on the attached, along with the signed proponent affidavit required by Section 9608 of the California Elections Code. Also enclosed please find a check in the amount of \$200.

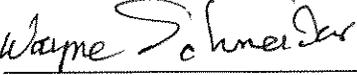
Should you have any questions or require additional information, please contact our attorney:

Michael Patrick Durkee
McKenna Long & Aldridge LLP
One Market Plaza
Spear Tower
24th Floor
San Francisco, CA 94105
Tel: (415) 356-4622
Fax: (415) 267-4198
mdurkee@mckennalong.com

Thank you.

Very Truly Yours,


Eugene Birk


Wayne Schneider


Carl Roy Hawkins

Notice of Intent to Circulate Petition

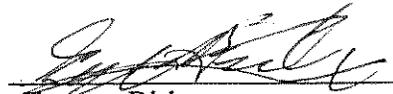
Notice is hereby given by the persons whose names appear hereon of their intention to circulate a petition within the City of Tracy for the purpose of amending the City of Tracy General Plan and Tracy Municipal Code to promote, encourage and regulate the building of housing and neighborhoods designed for adults age 55 and over ("Active Adults"). A statement of the reasons of the proposed action as contemplated in the petition is as follows:

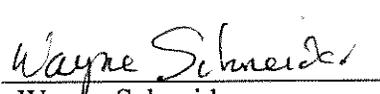
Seniors are one of the fastest growing segments of our community. Unfortunately, many seniors are leaving Tracy for other cities that provide this needed housing option. Successful Active Adult communities often include indoor and outdoor gathering spaces, community recreational/exercise facilities, walking paths, group activities, and other amenities designed to embrace the active lifestyles. Additionally, these neighborhoods often have fewer environmental impacts, increased energy conservation and water efficient design standards, little or no significant impacts on local schools, and substantially reduced traffic impacts on the surrounding community.

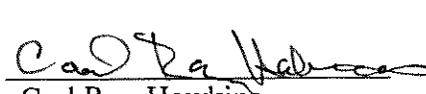
This initiative measure establishes a process whereby proponents of Active Adult Residential projects may obtain Active Adult Residential Allotments, only when all of the following take place: (1) the Active Adult Residential Allotments are approved (adopted) for a named property through a ballot measure, (2) City-involved planning decisions are made approving the project (with full City discretion), and (3) the project property is restricted by the property developer to Active Adult residents only.

The initiative measure also creates a new Area of Special Consideration in the Tracy General Plan for the development of an Active Adult Residential ("AAR") project ("Tracy Village"), and amends the General Plan land use designation for Tracy Village to Residential Low to facilitate development of an AAR project. Finally, this measure provides the appropriate allotments for development of Tracy Village as an AAR project if the property receives City of Tracy city council approval of a Specific Plan for an AAR project and the property developer appropriately restricts the use of the property to AAR uses that promotes a lifestyle, a "place," and welcoming community for Active Adults, with corresponding Tracy Municipal Code revisions.

We believe this initiative measure will be a positive step toward supporting a part of our community that is currently not served by the Tracy housing market.


Eugene Birk


Wayne Schneider


Carl Roy Hawkins

AFFIDAVIT

I, Carl Hawkins, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Signed:

Carl Roy Hawkins Dated this 9 day of June, 2015
Carl Roy Hawkins
1524 East Street
Tracy, CA 95376

AFFIDAVIT

I, Eugene Birk, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Signed:



Dated this 4th day of JUNE, 2015

Eugene Birk
475 Peerless Way, Unit 7
Tracy, CA 95376

AFFIDAVIT

I, Wayne Schneider, acknowledge that it is a misdemeanor under state law (Section 18650 of the Elections Code) to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot. I certify that I will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

Signed:

Wayne Schneider Dated this 4th day of June, 2015

Wayne Schneider
1301 Michelle Avenue
Tracy, CA 95376

RECEIVED
CITY CLERK'S OFFICE

2015 JUN -4 PM 1:44

CITY OF TRACY
TRACY, CA

We, the People of the City of Tracy, do hereby find, determine, resolve, adopt and ordain as follows:

SECTION 1. Purpose, Intent, Findings and Declarations.

(a) We, the undersigned, registered, qualified voters of California, residents of the City of Tracy, hereby propose resolution, ordinance and related actions relating to active adult residential development, and petition you to immediately submit this Initiative Measure to the City Council for submission to the voters of the City of Tracy at a special election pursuant to Elections Code section 9214, or the next regular municipal election for which it qualifies.

(b) For individuals aged 55 and older, very few residential opportunities currently exist in Tracy with on-site amenities, the ability to connect with peers in a social setting and a recreation-at-home lifestyle. This Initiative Measure is intended to facilitate the development of quality, safe, senior / active adult housing (also referred to in this Initiative Measure as "Active Adult Residential" or "AAR") communities within Tracy, which will promote a lifestyle, a "place," and welcoming community for those older individuals encompassed by the protections of California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations (hereinafter referred to as "Active Adults"). This Initiative Measure also amends the General Plan, Tracy Municipal Code and other controlling local laws to adopt a process whereby proponents of Active Adult Residential projects (the property) may obtain Active Adult Residential Allotments, separate from the City's Growth Management Ordinance, but only when all of the following take place: (i) the Active Adult Residential Allotments are approved (adopted) through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222) for a particular piece of property, (ii) City-involved planning decisions are made approving the project (with full City discretion), and (iii) the project is restricted by the property developer to Active Adult residents. Finally, this Initiative Measure reclassifies a vacant property, known as Urban Reserve 9, as an Area of Special Consideration under Tracy's General Plan intended for low-density residential uses, and sets up a program by which a limited number of Active Adult Residential Allotments could be issued to this area if: (i) Approval by the City of a specific plan for the property (with the City retaining full discretion and authority over that specific plan process and approval) takes place; and (ii) Restriction of the property by the owner to Active Adult development, as encompassed by California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations, takes place.

(c) The growing number of older citizens present a unique and important housing opportunity for any community: Many are still active in the workplace, some are retired, and some are employed but not part of traditional work patterns (including traditional workforce commute patterns). This diversity of retirement timelines has caused significant housing shifts from patterns established by previous generations. Active Adult communities often have a population density (occupants per dwelling unit) of approximately half that of typical, market-rate, single family detached residential subdivisions. Consistent with such higher retirement levels and reduced population counts, these communities generally have fewer vehicular trips (particularly during peak employment-related commute periods), and hence create fewer impacts on traffic and the local transportation network. Likewise, such communities generally do not have resident school-aged children and therefore impose fewer burdens on local public school systems. Further, these age-restricted developments have lower water and sewer demands, and overall lower impacts on public services and facilities. In short, Active Adult communities do not result in the same impacts as typical residential subdivisions. Finally, Active Adult communities create positive benefits for the community, including providing new sources of skilled and experienced workers for local businesses, volunteers for civic organizations and nonprofits, and new consumers desirous of supporting local businesses.

(d) Consistent with controlling law, promoting Active Adult housing will help to satisfy projected regional housing needs. In the future, qualifying senior/Active Adult Residential projects could be developed as small, medium or large master planned communities which may consist of a mix of residential densities and housing types at low, medium and high densities, or residential mixed-use developments. This measure is intended to facilitate planned residential developments at a range of affordability and housing type levels in order to accommodate the growing housing needs of older citizens, and provide new land for open space, trails, and recreational amenities. It also ensures that the development of AAR communities occurs in an approved and orderly fashion by limiting the number of Active Adult Residential Allotments that can occur separate from the City's Growth Management Ordinance.

(e) Under this Initiative Measure, new development on the property within the area formerly known as Urban Reserve 9, as well as future properties that qualify for Active Adult Residential Allotments through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222), will be subject to environmental review under the California Environmental Quality Act, will be subject to discretionary processes under Planning and Zoning law, the Subdivision Map Act, and all other controlling federal, state and local law, will require developer restriction on the property comprising the residential development to Active Adult in order to operate separate from the City's Growth Management Ordinance, will require public review and input, and involve and require discretionary City consideration through the City's normal entitlement and approval processes.

(f) This Initiative Measure is not intended to impede the provision of new Active Adult housing on property that does not wish to secure Active Adult Residential Allotments, is not intended to provide the exclusive means of providing new Active Adult housing, and shall not be construed as imposing any new restrictions or requirements on the development of senior housing that is otherwise conforming to California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations, the City's General Plan, Municipal Code, Growth Management Ordinance and all other applicable rules and regulations. In other words, this Initiative Measure only seeks to facilitate generally the development of property for communities for Active Adults within Tracy, to reclassify a specific identified piece of vacant property as an Area of Special Consideration where Active Adult development could be encouraged, and establishes a program by which a limited number of Active Adult Residential Allotments could be issued to the property comprising this area if a Specific Plan for development of that property is approved by the City and the property and its development are age-restricted by the property developer. This Initiative Measure does not change the status quo for other properties or for developers of other types of age-qualified housing on other properties in Tracy, which shall remain regulated by the City's Growth Management Ordinance.

SECTION 2. General Plan Amendments.

(a) We, the people of the City of Tracy, do hereby amend the City of Tracy General Plan, as set forth in this Section 2. This Initiative Measure neither amends nor deletes existing General Plan text by implication; all amendments are made expressly as follows: when new text is added to the General Plan by this Initiative Measure, that new text is shown as underscored (i.e., new text). When existing General Plan text is deleted by this Initiative Measure, that deleted text is shown as struck through (i.e., ~~deleted text~~). Additionally, amendments to the General Plan effectuated by this Initiative Measure are cited by Element or other relevant major section of the General Plan, and then the particular Exhibits, Figures, Objectives, Goals, Policies, and/or Actions that are being added, deleted or revised, and the approximate page in the existing General Plan where the text before revision resides. Inaccuracies in citation shall not nullify the amendments effectuated by this Initiative measure.

(b) The following amendments are hereby made to the City of Tracy General Plan:

(1) The first paragraph of Section A.2 of the Land Use Element at page 2-9, "Growth Management Ordinance," is hereby amended to read as follows:

The City of Tracy adopted a residential Growth Management Ordinance (GMO) in 1987, which was amended in 2000 by the voter-initiated Measure A. In general terms, the goal of the GMO is to achieve a steady and orderly growth rate that allows for the adequate provision of services and community facilities, and includes a balance of housing opportunities. Under the GMO, builders must obtain a Residential Growth Allotment (RGA) in order to secure a residential building permit. The GMO limits the number of RGAs and building permits to an average of 600 housing units per year for market rate housing, with a maximum of 750 units in any single year. There are exceptions for affordable housing.¹ The GMO shall not apply to Active Adult Residential (AAR) property that has secured "Active Adult Residential Allotments" through a ballot measure, in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222, and pursuant to Chapter 10.18 of the City's Municipal Code. The initiative measures that sets such Active Adult Residential Allotments for a particular property may set the annual number of building permits that may be issued for such particular property, thereby setting the maximum annual rate of potential development of such property's senior housing that is otherwise conforming to California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations and the City's General Plan. Active Adult development that does not seek Active Adult Residential Allotments pursuant to Chapter 10.18 of the Municipal Code shall be subject to the GMO.

Implementation of the GMO to meet the goals and policies of the General Plan, including concentrated growth, infill development, and affordable housing as high priorities, is through the Growth Management Ordinance Guidelines, which are adopted by resolution of the City Council. The GMO Guidelines include a map that establishes an "RGA Eligibility Area" showing the area where property owners are eligible to apply for RGAs. The Guidelines also include specific qualitative and quantitative criteria for the allocation of RGAs with said criteria periodically updated as provided by the resolution.

(2) Section A.2 of the Land Use Element at page 2-9, "Growth Management Ordinance," footnote 1, second paragraph, is hereby amended to read as follows:

[FN1] Through implementation of this General Plan and the GMO, Tracy is projected to have a population of approximately 109,000 people in the year 2025. This number is based on an estimate of the number of residential units allowed per year multiplied by the number of years multiplied by the

number of people per residential unit (units x years x people per unit), and adding that to the population of Tracy in 2000, which was approximately 57,000 people, according to the US Census.

Between the years 2000 and 2025, the number of residential units allowed under the City's Growth Management Ordinance is 15,000 units (600 per year times 25 years). Exceptions to allow for additional affordable housing ~~is~~ are included. The General Plan Housing Element also has a target of 1,200 affordable units during this same time period, which in addition to the number of units allowed under the Growth Management Ordinance would bring the total number of units to 16,200, resulting in an additional 52,000 people (using a multiplier of 3.21 persons per household), or a total population of 109,000 in the year 2025. Finally, the General Plan recognizes and authorizes Chapter 10.18 of the City's Municipal Code to exempt from the Growth Management Ordinance Active Adult Residential property that has received Active Adult Residential Allotments through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222). Because Active Adult Residential units are generally of lower density than non-Active Adult market-rate housing (to be conservative, an assumption of 2.0 persons per household is used) and because currently 600 Active Adult Residential Allotments have been authorized through a ballot measure for the property/area formerly known as Urban Reserve 9 (and is now referred to as the Tracy Village property), which is designated "Residential Low" under the General Plan, these additional units would result in an additional 1,200 people, for a total projected population of 110,200 in the year 2025.

(3) Table 2-2 of the Land Use Element at page 2-14, "General Plan Land Use Designations (City Limits and SOI)" is hereby amended to re-designate land from Urban Reserve to Residential Low as follows:

Table 2-2 **General Plan Land Use Designations (City Limits and SOI)**

Land Use Designation	City Limits (Acres)	SOI (Acres)	Total
Residential Very Low	193	266	459
Residential Low	3,583	296,430	3,879,013
Residential Medium	1,503	29	1,532
Residential High	217	31	248
TR – Ellis	-	287	287
Commercial	766	498	1,263
Office	544	--	544
Downtown	116	--	116
Village Center	123	8	131
Industrial	2,282	1,733	4,015
Urban Reserve	172	3,872-3,738	4,044-3,910
Public Facilities	990	66	1,057
Park	251	516	767
Open Space	81	3,469	3,551
Aggregate	10	163	172
Agriculture	-	916	916

1. Acreages have been rounded.
2. Information about the land use mix envisioned for areas with Urban Reserve designations are provided in the descriptions and statistical profiles on pp. 54-87.
3. Table has been updated under Amendment.

(4) Figure 2-2 of the Land Use Element at page 2-15 (General Plan Land Use Designations) is hereby amended by this Initiative Measure to reflect the re-designation of "Urban Reserve 9" to "Residential Low." An enlarged portion of Figure 2-2 of the Land Use Element at page 2-15 (General Plan Land Use Designations), as amended by this Initiative Measure, is attached to this Initiative Measure as *Attachment A*, and is incorporated herein by this reference as if set forth herein in full, in order to show in diagram form the location and re-designation of "Urban Reserve 9" to "Residential Low."

(5) Section C of the Land Use Element at page 2-38 is hereby amended to add Policy P8 under Objective LU-1.4, as follows:

P8. The City shall encourage Active Adult communities to meet the needs of an aging population and to offer a variety of housing and recreational choices as part of its efforts to promote equal housing opportunities in the City's housing market for all age ranges.

(6) Figure 2-4 of the Land Use Element at page 2-52 (Areas of Special Consideration) is hereby amended by this Initiative Measure to include a new Area of Special Consideration No. 11, Tracy Village Specific Plan Area, located as more particularly shown on *Attachment B* to this Initiative Measure, which is attached hereto and is incorporated herein by this reference as if set forth herein in full.

(7) Section D of the Land Use Element (Areas of Special Consideration) at page 2-59 is hereby amended to include the following new Area of Special Consideration No. 11, Tracy Village Specific Plan Area, as follows:

11. Tracy Village Specific Plan Area.

The Tracy Village Specific Plan Area property is a single rectangular shaped parcel comprising approximately 134 acres located on Valpico Road just east of Corral Hollow Road, and is the area formerly known as Urban Reserve 9. The property is currently outside of the City's territorial limits, but is within its sphere of influence, and is adjacent to the City on two sides. The property is currently undeveloped and used for agricultural uses, and is surrounded on three sides by existing residential neighborhoods. The vision for this property is a low-density, master planned residential community. This property has the potential to facilitate and promote an "active adult" lifestyle, a "place" for our older citizens, a welcoming community for those individuals encompassed by the protections of California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations. It is anticipated that future development on the site will be governed by the Tracy Village Specific Plan (when adopted by City), which will establish specific zoning criteria and permitted uses, including the creation of park and recreational amenities, consistent with the goals and policies of the General Plan. This General Plan allows and encourages but does not require active adult development. The property was allotted six hundred (600) Active Adult Residential Allotments by initiative measure, subject to certain prerequisites. Two primary prerequisites to the availability and use of those 600 Active Adult Residential Allotments on the Tracy Village Specific Plan Area property set by that initiative measure are: (i) Approval by the City of a specific plan for the property (with the City retaining full discretion and authority over that specific plan process and approval); and (ii) Restriction of the property by the owner to active adult development encompassed by California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations. Pursuant to that initiative measure, if either of those prerequisites are not satisfied, the six hundred (600) Active Adult Residential Allotments shall not be available to the Tracy Village Specific Plan Area property, and instead the Tracy Village Specific

Plan Area property shall be subject to the City's Growth Management Ordinance (GMO). Additionally, that initiative measure set a maximum annual issuance of two-hundred (200) building permits for habitable structures.

(8) Section E.9 of the Land Use Element at page 2-78 is hereby amended to read as follows:

[The Urban Reserve 9 General Plan designation has been deleted and replaced with the "Residential Low" General Plan designation, as shown in Figure 2-2, General Plan Land Use Designations.]

9. Urban Reserve 9

This area, located to the east of Corral Hollow Road is approximately 130 acres. The land use envisioned for this area is predominantly residential at a mixture of densities with some neighborhood park uses. When development occurs, the following additional General Plan policies apply:

9a. The acreages assigned to land uses in the statistical profile for this Urban Reserve are intended as guidelines; the overall distribution and mixture of residential densities may change.

9b. Future development in this Urban Reserve should strive for a goal of creating neighborhoods that have a well-integrated mixture of housing types with an average density of six dwelling units per acre.

9c. Consideration should be given to the relationship between the location, intensity of land uses and site layout along the boundary shared by this Urban Reserve and adjacent areas, including the surrounding residential uses.

(9) Table 2-11 of the Land Use Element at page 2-79, "Statistical Profile: Urban Reserve 9," is hereby deleted in its entirety:

TABLE 2-11 STATISTICAL PROFILE: URBAN RESERVE 9

<u>Land Use Designation*</u>	<u>Acrees</u>	<u>Adjusted Gross Acrees</u>	<u>% of Total Land</u>	<u>Assumed Density^b</u>	<u>Approximate # of Homesites^c</u>
<u>Residential-Low</u>	<u>57</u>	<u>48</u>	<u>44%</u>	<u>4.35</u>	<u>210</u>
<u>Residential-Medium</u>	<u>43</u>	<u>37</u>	<u>34%</u>	<u>9</u>	<u>330</u>
<u>Residential-High</u>	<u>17</u>	<u>14</u>	<u>13%</u>	<u>18.75</u>	<u>260</u>
<u>Park</u>	<u>13</u>		<u>10%</u>		
<u>Total Acrees</u>	<u>130</u>	<u>110</u>			<u>800 du</u>

* Does not include land for Public Facility or Open Space designations. Distribution of land uses may change as a result. These uses will be determined at the time of a Zoning District, Specific Plan or PUD.

^b Assumed density (du/acre) is less than maximum allowed in a particular land use designation.

^c Dwelling units (du) numbers have been rounded to the nearest 10.

Note: Table has been updated under Amendment.

SECTION 3. Amendments to the City of Tracy's Municipal Code and Zoning Ordinance.

(a) We, the people of the City of Tracy, do hereby amend the City of Tracy's Municipal Code, as set forth in this Section 3. This Initiative Measure neither amends nor deletes existing City of Tracy Municipal Code text by implication; all amendments are made expressly as follows: when new text is added to the City of Tracy Municipal Code by this Initiative, that new text is shown as underscored (i.e., new text). When existing Municipal Code text is deleted by this Initiative that deleted text is shown as struck through (i.e., ~~deleted text~~). Additionally, amendments to the City of Tracy Municipal Code effectuated by this Initiative are cited by chapter, section and/or other relevant demarcation in the City of Tracy Municipal Code, and then the particular Exhibits, Figures, Objectives, Goals, Policies, and/or Actions that are being added, deleted or revised. Inaccuracies in citation shall not nullify the amendments effectuated by this Initiative Measure.

(b) We, the people of the City of Tracy, do hereby adopt the following new Section 10.12.021, added to Chapter 10.12, Residential Growth Management Plan, of the City of Tracy's Municipal Code, to read as follows:

10.12.021 – Exemption For Certain Active Adult Residential Uses.

(a) Residential development on property that has obtained Active Adult Residential Allotments pursuant to Chapter 10.18 of the Municipal Code is unlike typical residential property in important ways. The senior housing development on such property generates fewer vehicular trips resulting in improved air quality over typical residential subdivisions, imposes fewer burdens on local public school systems and public services, creates lower demand for athletic fields, and has lower water and sewer demands. Such AAR communities are also recognized as providing a new source of skilled and experienced volunteers for civic organizations and nonprofits, as well as supporting local businesses and creating additional community benefits such as parks and other recreational amenities.

(b) For these reasons, the development of property that has been allocated "Active Adult Residential Allotments" through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222) are not subject to this GMO or the GMO Guidelines and shall not require any residential growth allotment under the GMO. In addition, new AAR units constructed with Active Adult Residential Allotments shall not be counted against the annual residential growth allotment allotments under this chapter. Finally, the term "residential building permits" as set forth in section 10.12.110 of this chapter shall be construed as meaning only residential building permits for residential units which have not been allotted Active Adult Residential Allotments through the initiative process and chapter 10.18 of the Tracy Municipal Code.

(c) We, the people of the City of Tracy, do hereby adopt the following new Chapter 10.18, Active Adult Residential Allotments, to the City of Tracy Municipal Code, to read as follows:

Chapter 10.18. Active Adult Residential Allotments

Article I. General Provisions

10.18.010 - Authority and reference to chapter.

This chapter 10.18 of the Tracy Municipal Code may be referred to as "Active Adult Residential Allotments Ordinance" (also referred to as "AAR Allotments").

10.18.020 - Purpose.

The purpose and intent of this chapter is to facilitate the General Plan goal of developing Active Adult Residential communities within the City of Tracy by creating a process whereby Active Adult Residential Allotments (AAR Allotments) may be allocated to specific properties within the City of Tracy through the initiative process, separate from the City's Growth Management Ordinance.

10.18.030 – Definitions

Unless otherwise provided in this chapter, the definitions set forth in chapter 10.08 (Zoning Regulations), chapter 12.08 (Subdivision Ordinance), and title 9 (Building Regulations) of this Code shall apply to this chapter. In the event that the definitions or provisions of the Zoning Regulations, the Subdivision Ordinance, or the Building Regulations, or any other provisions of this Code conflict with any provisions of this chapter, then this chapter shall control to the extent necessary to administer and effectuate the purpose of this chapter.

Article 2. Active Adult Residential Allotments.

10.18.040 – Limitations

AAR Allotments shall be allocated in accordance with this chapter and through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222), as required by this chapter. Once allotted through such initiative process to a particular property, such AAR shall not be transferred to any other property.

Article 3. Implementation.

10.18.050 – Requirements

(a) An Active Adult Residential Allotment (or residential growth allotment, for projects which do not have Active Adult Residential Allotments) shall be required for any dwelling unit to be constructed on property as a condition of issuance of building permits. Prior to the issuance of building permits for the development of AAR units pursuant to this chapter, applicants shall demonstrate to the satisfaction of the City of Tracy's Director of Development and Engineering Services that such units are subject to a Specific Plan or Planned Unit Development Permit that establish dwelling unit and population density, design, and neighborhood compatibility standards, including but not limited to the following: (1) the maximum and minimum number of residential units allowed and the average number of people per unit; (2) the density ranges allowed in terms of dwelling units per acre, and the maximum and minimum numbers of each such residential housing type; (3) the criteria that will be used to establish the location/mix of residential design and housing types; and (4) the park and recreational uses. In addition, in order for a property awarded AAR Allotments through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222) to use such AAR Allotments pursuant to the AAR Allotment process set forth in this chapter, residential occupancy of said property shall be limited by the property developer (through deed restriction, condition of land development approval, lease, and/or other enforceable manner) to Active Adults (persons qualifying under California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, Title 24 of the California Code of Regulations, and related controlling law).

(b) "Active Adult Residential Allotments" is the phrase used to denote the approval through a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222) of a specific maximum number of AAR residential units allowed for a named property. Once such specific Active Adult Residential Allotments are approved through such initiative process, then such approved Active Adult Residential Allotments may be used only on the AAR property named through such initiative process. In other words, through such initiative process, the maximum number of Active Adult Residential Allotments shall be determined, and shall be assigned only to that property designated by such initiative measure. Because of such initiative-process-determined AAR Allotments, AAR properties that have received such Active Adult Allotments are not subject to the City's Growth Management Ordinance (GMO), as explained in the City's General Plan and Municipal Code, including without limitation, this chapter.

10.18.060 – Other Senior Housing

This Active Adult Residential Allotments Ordinance does not provide the exclusive means of providing new Active Adult housing, and shall not be construed as imposing any new restrictions or requirements on the development of senior housing that is otherwise conforming to California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations, the City's General Plan, Municipal Code, Growth Management Ordinance and all other applicable rules and regulations. This Active Adult Residential Allotments Ordinance only applies to those properties identified in a ballot measure (in accordance with the Elections Code, including without limitation, sections 9214, 9215, 9222) as being qualified to secure Active Adult Residential Allotments, if the requirements of the General Plan, this chapter, and said initiative measure are satisfied. This chapter provides for, and does not change the status quo for properties and developments of other types of age-qualified housing in Tracy. For those properties and developers who do not wish to avail themselves of the Active Adult Residential Allotments this chapter provides for, all of the other relevant controlling law shall apply, including without limitation California Civil Code Sections 51.2, 51.3 and 51.4, the Federal Fair Housing Act, and Title 24 of the California Code of Regulations, the City's General Plan, the Tracy Municipal Code, and the Growth Management Ordinance (GMO).

Article 4. Urban Reserve Area 9/ Tracy Village Specific Plan Area.

10.18.070 – Allocation of Active Adult Allotments.

(a) By a ballot measure (this Initiative Measure), Six hundred (600) Active Adult Residential Allotments are allocated to the property/area formerly known as Urban Reserve 9, now referenced as the Tracy Village Specific Plan property, located at the southeast corner of Corral Hollow and Valpico Roads. This Article 4 and its sections were included in a ballot measure (this Initiative Measure) and provide the details of that allocation of Active Adult Allotments to the Tracy Village Specific Plan property.

(b) An individual (one (1)) Active Adult Residential Allotment shall be required for each individual dwelling unit to be developed as an AAR residential unit on the Tracy Village Specific Plan property, and possession of such an Active Adult Residential Allotment shall be a condition of building permit issuance.

(c) No more than two-hundred (200) residential building permits may be issued by City for the Tracy Village Specific Plan property in any given calendar year.

10.18.080 – Exclusive Use/No Transfers of AAR Allotments Allowed.

(a) All or any part of said six hundred (600) Active Adult Residential Allotments allocated to the Tracy Village Specific Plan property by this Initiative Measure shall only be used on the Tracy Village Specific Plan property, and shall not be transferred (in whole or part) to any other project or property.

(b) Said six hundred (600) Active Adult Residential Allotments allocated to said Tracy Village Specific Plan property shall not expire.

10.18.090 – Application of Articles 1, 2, 3 and 4.

The general provisions of Articles 1, 2 and 3 of this Chapter 10.18, Active Adult Residential Allotments, shall apply to the six hundred (600) Active Adult Residential Allotments allocated to the Tracy Village Specific Plan property by this Article 4.

SECTION 4. Implementation.

(a) Nothing in this Initiative Measure shall be construed to preclude, prohibit or limit the City from complying with any requirements under state housing law. To the extent that any provision of this Initiative Measure can be read to conflict with state housing law, it shall be interpreted to allow for compliance with state housing law, consistent with the effectuation of all the purposes and provisions of this Initiative Measure.

(b) Once adopted by this Initiative Measure, and upon application by the then-relevant owner(s) of the property (or portion of property) in question, the General Plan amendment, zoning and pre-zoning provisions of this Initiative Measure may be revised by the City without a subsequent vote of the people of the City of Tracy, provided such proposed revision(s) is conducted pursuant to controlling California law, including without limitation the California Environmental Quality Act and the Planning and Zoning law.

(c) Additional approvals and permits outside of the scope of this Initiative Measure (e.g., subdivision maps, building permits, etc.) will be necessary or desirous to the development of the Tracy Village Specific Plan property. Such approvals and permits may be approved, issued, revised and otherwise acted upon without a subsequent vote of the people of the City of Tracy. Additionally, nothing in this Initiative Measure is intended to remove the legal requirement that the City and all responsible agencies fully comply with the California Environmental Quality Act, Planning and Zoning Law, the Subdivision Map Act, and any and all other relevant laws prior to taking action on such subsequent approvals and permits for the Tracy Village Specific Plan property.

(d) In accordance with the ruling in *L.I.F.E. Committee v. City of Lodi* (1989) 213 Cal.App.3d 1139, this Initiative Measure does not pass judgment on whether or not the annexation of the Tracy Village Specific Plan property to the City is required, and does not say "yea" or "nay" to such annexation. However, in order to effectuate the implementation of this Initiative Measure, we the people of the City of Tracy hereby express our desire that the City of Tracy take all steps necessary to process and submit requests to the San Joaquin County Local Agency Formation Commission ("LAFCO") (which steps include without limitation, CEQA compliance, pre-zoning and other pre-approvals for all related parcels) for LAFCO's action on, and approval of, the annexation of the Tracy Village Specific Plan property to the City of Tracy in order to effectuate the development of this property as proposed and authorized in this Initiative Measure. This Initiative Measure does not and cannot increase or decrease the discretion of the City and LAFCO to determine those actions. However, we the people absolutely desire that such actions take place, and trust that the City and LAFCO will consider our voices when they act.

(e) This Initiative Measure envisions and supports future City, LAFCO and other public agency actions that will implement this Initiative Measure (for example, annexation of the Tracy Village Specific Plan property to the City, etc.), including those actions that may result in future amendments to the General Plan, Tracy Municipal Code and all other local laws and approvals.

SECTION 5. Conflicting Measures.

(a) This Initiative Measure shall be deemed to conflict with any other initiative measure appearing on the same ballot if such other initiative measure(s) address(es) any of the following subjects, whether it does so by specific application or as a more general enactment that could otherwise be applied in a manner that addresses any of the following subjects: age-restricted development, active adult development, GMO inclusions and exclusions addressing age-restricted/active adult development.

(b) In the event that this Initiative Measure and any other initiative measure are approved by the voters at the same election, and this Initiative Measure receives a greater number of affirmative votes than any other such measure or measures, this measure shall control in its entirety and the other measure or measures shall be rendered void and without any legal effect. If this Initiative Measure is approved by a majority of the voters but does not receive a greater number of affirmative votes than any other conflicting initiative measure, this Initiative Measure shall take effect to the extent permitted by law.

SECTION 6. Construction.

(a) This Initiative Measure shall be liberally construed to effectuate its purposes.

(b) This Initiative Measure shall be interpreted so as to be consistent with all federal, state and City of Tracy laws, rules and regulations.

SECTION 7. Severability, Cure and Re-Approval.

(a) If any portion, section, phrase, sentence or word (collectively, "portion") of this Initiative Measure, or a portion's application to a particular situation, is held invalid by a court of competent jurisdiction, then that portion shall be considered severed from this Initiative Measure and the remaining portions of this Initiative Measure shall remain in legal force and effect. We, the people of the City of Tracy, declare that we would have adopted this Initiative Measure, and each portion of it, irrespective of the fact that any other portion, or application to a situation, be held invalid.

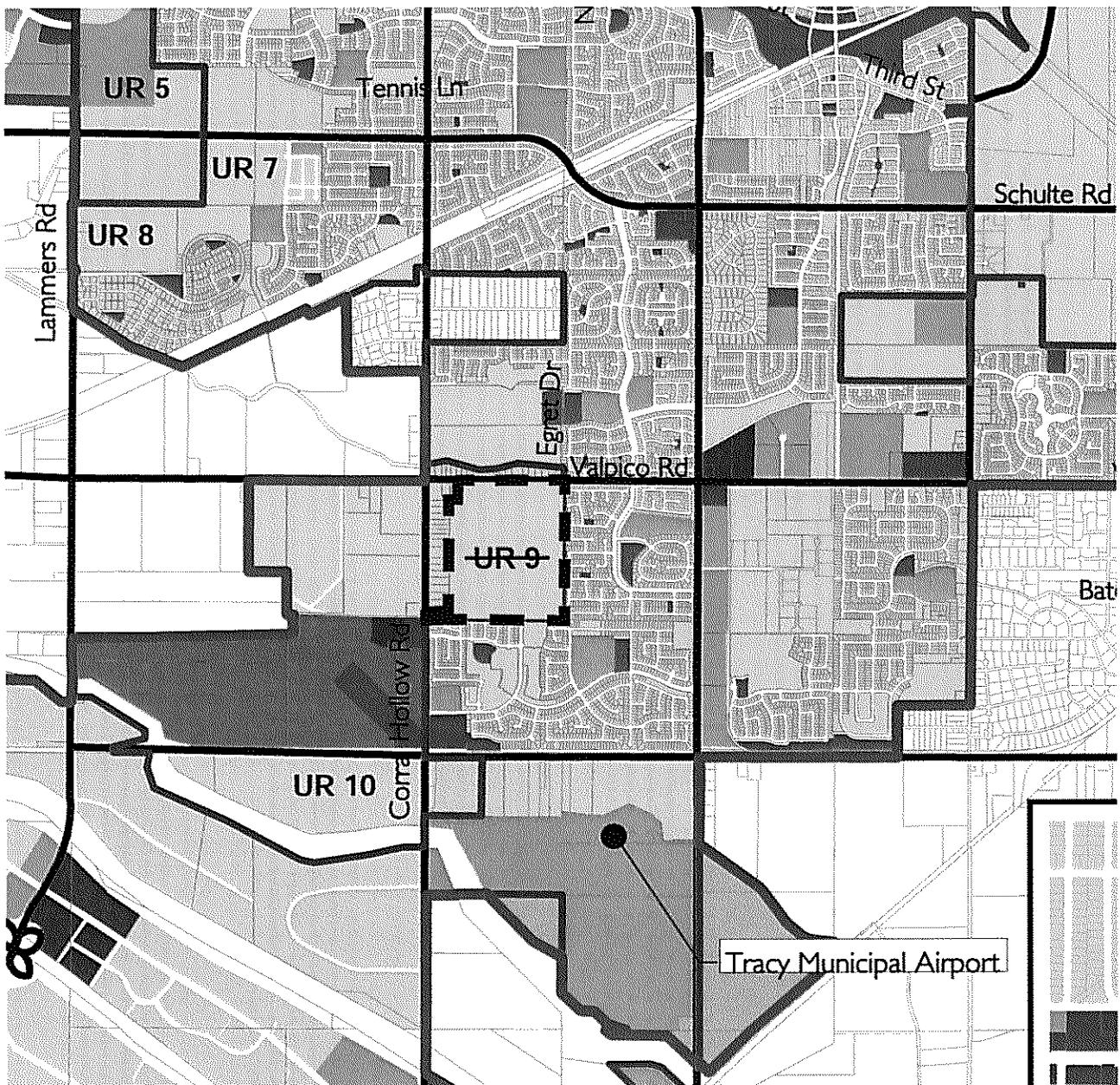
(b) If any portion of this Initiative Measure is held by a court of competent jurisdiction to be invalid, we the people indicate our strong desire that: (1) the City Council shall use its best efforts to sustain and reenact that portion; and (2) the Council shall implement this Initiative Measure by taking all steps possible to cure any inadequacies or deficiencies identified by the court in a manner consistent with the express and implied intent of this Initiative Measure.

SECTION 8. Adopted Date; Effective Date; Statute of Limitations.

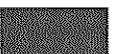
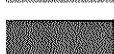
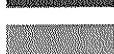
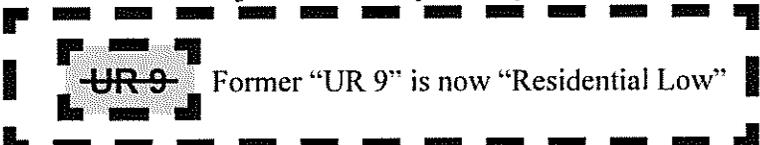
(a) If a majority of the voters vote in favor of this Initiative Measure, then this Initiative Measure shall be considered adopted, and shall be considered to go into effect, in accordance with the provisions of Elections Code section 9217. If, instead, this Initiative Measure is adopted without alteration by a majority of the City Council in accordance with the provisions of Elections Code sections 9214 or 9215, then this Initiative Measure shall be considered adopted and effective upon such date of adoption by such City Council majority.

(b) Unless a shorter statute is enacted by the State Legislature, all provisions of this Initiative Measure shall be deemed subject to Government Code Section 65009(c), and no action or proceeding challenging all or any part of this Initiative Measure shall be maintained unless commenced and service made upon the City of Tracy within 90 days of this Initiative Measure's adoption, either by the voters or by the City Council, as provided above.

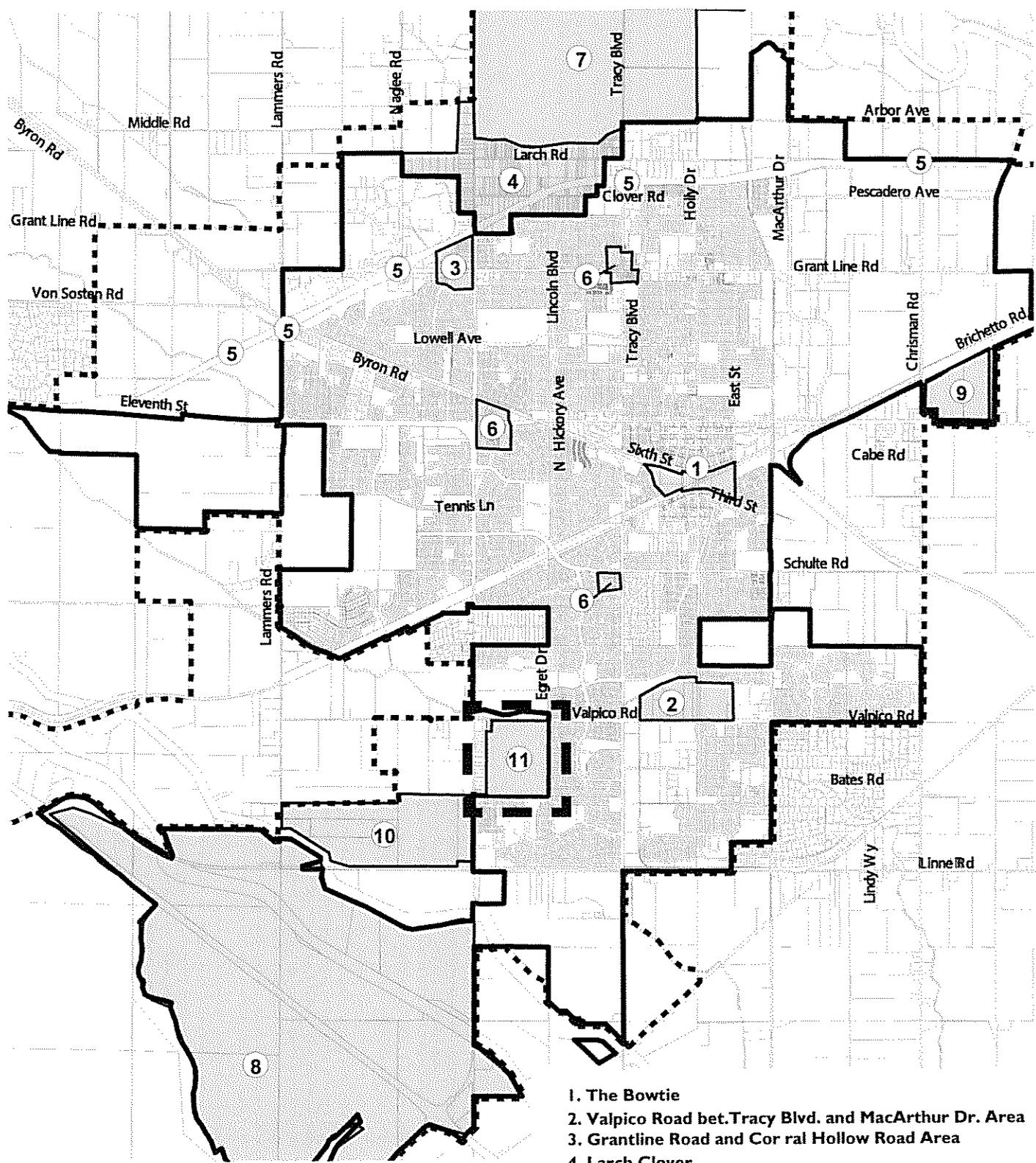
Attachment A: Tracy General Plan Land Use Designations, Figure 2-2



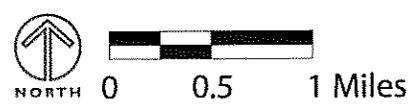
Legend

- | | | | |
|---|---------------------------------|--|--|
|  | Sphere of Influence |  | Downtown |
|  | City Limits |  | Village Center |
|  | Residential Very Low |  | Public Facilities |
|  | Residential Low |  | Park |
|  | Residential Medium |  | Open Space |
|  | Residential High |  | Agriculture |
|  | Traditional Residential - Ellis |  | Aggregate |
|  | Commercial |  | Urban Reserve |
|  | Office | | |
|  | Industrial | | |
| | |  | Major Arterial/Expressway/Boulevard |
| | |  | Former "UR 9" is now "Residential Low" |

Attachment B: Tracy General Plan Areas of Special Consideration, Figure 2-4



- 1. The Bowtie
- 2. Valpico Road bet. Tracy Blvd. and MacArthur Dr. Area
- 3. Grantline Road and Corral Hollow Road Area
- 4. Larch Clover
- 5. I-205 Entryways
- 6. Potential Village Centers
- 7. Holly Sugar Agricultural Area
- 8. Tracy Hills Specific Plan
- 9. Chrisman Road Property
- 10. Ellis/Tracy Airport Outer Approach Zone Property
- 11. Tracy Village



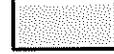
-  City Limits
-  Sphere of Influence
-  Areas of Special Consideration

FIGURE 2-4

AREAS OF SPECIAL CONSIDERATION

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Tracy City Attorney has prepared the following title and summary of the chief purpose and points of the proposed measure pursuant to California Elections Code section 9203:

A MEASURE ESTABLISHING A NEW ACTIVE ADULT RESIDENTIAL ALLOTMENT PROGRAM IN THE CITY’S MUNICIPAL CODE; EXEMPTING SUCH PROGRAM FROM THE CITY’S GROWTH MANAGEMENT ORDINANCE; AND ALLOCATING 600 ACTIVE ADULT RESIDENTIAL ALLOTMENTS TO PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CORRAL HOLLOW AND VALPICO ROADS

- Would Establish a New Active Adult Residential Allotment Program

The measure would add a new chapter to the City’s Municipal Code establishing an Active Adult Residential Allotment program. Under the program, Active Adult Residential Allotments (“AARAs”) would be allocated to specific property by ordinance adopted by initiative petition. After AARAs are allocated to a property, no building permits could be issued in reliance on those AARAs unless the property is subject to an adopted specific plan or planned unit development zoning designation establishing development standards. AARAs could only be used on property that is a senior citizen housing development under provisions of state law and is so restricted by deed restriction or other legal mechanism.

- Would Exempt the Active Adult Residential Allotment Program from the City’s Growth Management Ordinance

The City’s Growth Management Ordinance currently provides that the City may not allocate residential growth allotments (“RGAs”) or issue residential building permits in any calendar year in excess of either of the following: (1) an average of 600 RGAs or residential building permits; and (2) a maximum of 750 RGAs or residential building permits per year.

The measure would make the development of property with allocated AARAs not subject to the City’s Growth Management Ordinance.

- Would Allocate 600 Active Adult Residential Allotments to Property Located at the Southeast Corner of Corral Hollow and Valpico Roads

The measure would allocate 600 AARAs to property located at the southeast corner of Corral Hollow and Valpico Roads, referenced in the measure as the “Tracy Village Specific Plan” property (“Property”). The Property is located outside the City’s limits, but within the City’s Sphere of Influence, and is currently designated in the City’s General Plan as “Urban Reserve 9.”

The measure would prohibit any AARA allocated to the Property from being transferred to other property and would allow the City to issue no more than 200 residential building permits to the Property in any given calendar year.

The measure would make various clarifying amendments to the City's General Plan to reflect the allocation of 600 AARAs to the Property and would express the electorate's desire that the City take all steps necessary to pursue annexation of the Property.

- Would Allow for Certain Revisions to the Measure Without Voter Approval

State law provides that an ordinance proposed by initiative petition and adopted by the voters may not be repealed or amended except by a vote of the people, unless provision is otherwise made in the original ordinance.

The measure would allow the City to revise certain provisions of the measure without a subsequent vote of the people upon application by the then-relevant owner(s) of the property (or portion of property) in question.



AUSTIN G. ERDMAN
 REGISTRAR OF VOTERS
 (209) 468-8942

**COUNTY OF SAN JOAQUIN
 REGISTRAR OF VOTERS OFFICE**

44 NORTH SAN JOAQUIN ST., SUITE 350
 P.O. BOX 810
 STOCKTON, CA 95201

ATTACHMENT C



PHONE (209) 468-2885
 FAX (209) 468-2889
 www.sjcrov.org

August 21, 2015

Nora Pimentel, City Clerk
 City of Tracy
 333 Civic Center Plaza
 Tracy, CA 95376

Dear Ms. Pimentel:

Pursuant to your request, this office has completed the random verification of signatures submitted on the Tracy Active Adult Residential Allotment Program petition which was delivered to our office on July 21, 2015. Per your advice, a random sample verification method has been used to verify signatures on the petition.

Pursuant to Elections Code §9115, a total number of 500 petition signatures have been verified.

I hereby confirm the verification of the above named petition is as follows:

Proponents Raw Count:	8,235	
Number of Actual Signatures filed:	8,287	
Number of Signatures required:	5,087	61.385 %
Random Sample signatures verified:	500	
Number of signatures found sufficient:	397	79.400 %
Valid signatures percentage required for Sample Verification:		67.524 %

The statistical sampling shows that the number of valid signatures is higher than the range of 95 to 110 percent of the number of signatures of qualified voters needed to declare the petition sufficient. Therefore the petition is certified as sufficient.

Sincerely,

Austin G. Erdman
 Registrar of Voters

AGE:bn



Petition Result Breakdown

Tracy - Active Adult Residential Allotment Program
Active Adult Residential Allotment Program - Initiative Measure

Signatures Required	5087		
Raw Count	8,287		
Sample Size	500	Percent of	Percent of
Sigs Checked	500	Sigs Checked	Sample Size
Sigs Not Checked	0		0.0 %
Sigs Valid	397	79.4 %	79.4 %
Sigs Invalid	103	20.6 %	20.6 %
Duplicated	0	0.0 %	0.0 %
Non-duplicate Invalids	103	21.0 %	20.6 %

RESULT ABBR	RESULT DESCRIPTION		
Approved	Approved	397	79.4 %
OutOfDist	Out of District/County	14	2.8 %
CirDate	Circulator's date incorrect	5	1.0 %
NotReg	Not Registered	61	12.2 %
RegDiffAdd	Registered at a Different Address	17	3.4 %
RegLate	Registered Late	1	0.2 %
SigNoMatch	Signatures Don't Match	5	1.0 %



- #1499, Related to Senate Redistricting Maps
- #1512 Related to the Death Penalty
- #1530 Related to Three Strikes
- #1532 Related to Human Trafficking
- #1537 Related to State and Local Government
- #1541 Related to Healthcare
- #1544 Related to Marijuana
- #1550 Related to Taxes
- #1556, Related to Healthcare
- #1557, Related to Healthcare
- #1570 Related to Genetically Engineered Foods
- #1574 Related to Taxes
- #1578 Related To Taxes
- #1596 Related to Indian Gaming
- #1598, Related to Education
- #1604 Related to Marijuana
- #1606 Related to Medical Negligence
- #1613 Related to Medi-Cal
- #1637, Related to In-Home Supportive Sevices
- #1645 Related to Criminal Justice
- #1648 Related to Statehood
- #1660 Related to Plastic Bags
- #1669 Related to Education
- CITY OF LODI PETITION AGAINST ORDINANCE NO. 1812
- Lodi Sales Tax-Mar 2005
- Lodi Water Rate Reduction Initiative
- MOUNTAIN HOUSE RECALL - JASS SINGH
- North San Joaquin Water Conservation Dist.
- Petition to Recall Jose Morales
- Political Party: Americans Elect
- Recall Petition of Daniel Castillo
- Related to Taxes
- Stkn Res. Inspection/Anti-Blight Ordinance
- Tracy - Active Adult Residential Allotment Program**
- Tracy Term Limits

Petition Abbr:

Petition Name:

Status:

District:

Details | Statistics Summary | Statistics Detail | Management | Time Management

Filing Date: **Purge Date:**

Signatures Required: **Pages Submitted:**

Sample Method: 3% or 500 sigs **Signatures Submitted:**

Statewide Recall? Current Group Num:

Try for Inclusion with Election:

Secretary of State Num:

Proposition Number:

AG Petition ID Number:

Last Modified: |



- #1499, Related to Senate Redistricting Maps
- #1512 Related to the Death Penalty
- #1530 Related to Three Strikes
- #1532 Related to Human Trafficking
- #1537 Related to State and Local Government
- #1541 Related to Healthcare
- #1544 Related to Marijuana
- #1550 Related to Taxes
- #1556, Related to Healthcare
- #1557, Related to Healthcare
- #1570 Related to Genetically Engineered Foods
- #1574 Related to Taxes
- #1578 Related To Taxes
- #1596 Related to Indian Gaming
- #1598, Related to Education
- #1604 Related to Marijuana
- #1606 Related to Medical Negligence
- #1613 Related to Medi-Cal
- #1637, Related to In-Home Supportive Sevices
- #1645 Related to Criminal Justice
- #1648 Related to Statehood
- #1660 Related to Plastic Bags
- #1669 Related to Education
- CITY OF LODI PETITION AGAINST ORDINANCE NO. 1812
- Lodi Sales Tax-Mar 2005
- Lodi Water Rate Reduction Initiative
- MOUNTAIN HOUSE RECALL - JASS SINGH
- North San Joaquin Water Conservation Dist.
- Petition to Recall Jose Morales
- Political Party: Americans Elect
- Recall Petition of Daniel Castillo
- Related to Taxes
- Stkn Res. Inspection/Anti-Blight Ordinance
- Tracy - Active Adult Residential Allotment Program**
- Tracy Term Limits

Petition Abbr:

Petition Name:

Status:

District:

	Value	% of Raw	% of Req
Pages Processed	364	100.0%	
Total Checked	500	100.0%	9.8%
Uncorrected Valid	6579	79.4%	129.3%
Duplicate Adjustment	0		
Estimated Valid	6579	79.4%	129.3%

Minimum Required (95%) 4832.65

Minimum Required to Pass Based on Sample (110%) 5595.7



- #1499, Related to Senate Redistricting Maps
- #1512 Related to the Death Penalty
- #1530 Related to Three Strikes
- #1532 Related to Human Trafficking
- #1537 Related to State and Local Government
- #1541 Related to Healthcare
- #1544 Related to Marijuana
- #1550 Related to Taxes
- #1556, Related to Healthcare
- #1557, Related to Healthcare
- #1570 Related to Genetically Engineered Foods
- #1574 Related to Taxes
- #1578 Related To Taxes
- #1596 Related to Indian Gaming
- #1598, Related to Education
- #1604 Related to Marijuana
- #1606 Related to Medical Negligence
- #1613 Related to Medi-Cal
- #1637, Related to In-Home Supportive Sevices
- #1645 Related to Criminal Justice
- #1648 Related to Statehood
- #1660 Related to Plastic Bags
- #1669 Related to Education
- CITY OF LODI PETITION AGAINST ORDINANCE NO. 1812
- Lodi Sales Tax-Mar 2005
- Lodi Water Rate Reduction Initiative
- MOUNTAIN HOUSE RECALL - JASS SINGH
- North San Joaquin Water Conservation Dist.
- Petition to Recall Jose Morales
- Political Party: Americans Elect
- Recall Petition of Daniel Castillo
- Related to Taxes
- Stkn Res. Inspection/Anti-Blight Ordinance
- Tracy - Active Adult Residential Allotment Program**
- Tracy Term Limits

Petition Abb: Tracy - Active Adult Residential Allotment Program

Petition Name: Active Adult Residential Allotment Program - Initiative Measure

Status: **In Process**

District: City Of Tracy

Values

Raw	8287	Sigs Found Valld in Sample:	397
Sample	500	Sigs Withdrawn:	0
Num of Sigs	500	Dup Sigs Found:	0
Num Not Checked:	0	Other Invalid:	103
		Sigs Found Not Valid In Sample:	103

Calculations

Percent Of Valid = Number Found Valid/Number in Sample	79.4%
Uncorrected Total Valid = Raw Count * Percent of Valid	6579
Duplicate Signature Factor = Raw Count/Sample Size	17
Dup Sig Weight = Dup Sig Factor * (Dup Sig Factor - 1)	258
Dup Sig Adjustment = Dup Sig Weight * Number of Dup Sigs	0
Total Valid Based on the Sample = Uncorrected Total Valid - Dup Sig Adjustment	6579

Results

Total Valid Based on the Sample	6579
Required Valid	5087
Minimum Required (95%)	4832.65
Minimum Valid Required to Pass based on Sample (110%)	5595.7



CERTIFICATE OF SUFFICIENCY OF INITIATIVE PETITION

I, Nora Pimentel, City Clerk of the City of Tracy, County of San Joaquin, State of California, hereby certify that:

The petition entitled "Active Adult Residential Allotment Program" was filed with the City Clerk on July 20, 2015.

That attached to this petition at the time it was filed, were affidavits purporting to be the affidavits of the persons who solicited the signatures, and containing the dates between which the purported qualified electors signed this petition;

That each affiant stated his or her own qualification, that he or she had solicited the signatures upon that Section, that all of the signatures were made in his or her presence, and that to the best of his or her own information and belief, each signature to that section was the genuine signature of the person whose name it purports to be;

That after the proponents filed this petition; and, based on the County of San Joaquin Registrar of Voters' Signature Verification Certificate, I have determined the following facts regarding this petition:

1. Number of signatures filed by proponent raw count	8,235	
2. Number of signatures required	5,087	61.385%
3. Random Sample signatures verified	500	
4. Number of signatures found sufficient	397	79.400%
5. Valid signatures percentage required for Sample Verification		67.524%

Based on the above, the petition is deemed to be sufficient.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Tracy this 1st day of September 2015.

Nora Pimentel, City Clerk

RESOLUTION 2015-

DIRECTING THAT AN INFORMATIONAL REPORT BE PREPARED PURSUANT TO SECTION 9212 OF THE ELECTIONS CODE AND APPROPRIATING \$20,000 FROM THE CITY'S GENERAL FUND FOR THE COSTS ASSOCIATED WITH PREPARING THE REPORT

WHEREAS, on June 4, 2015, proponents Eugene Birk, Wayne Schneider, and Carl Roy Hawkins, filed in the City Clerk's Office a Notice of Intent to Circulate Petition for the purpose of adopting an initiative measure; and

WHEREAS, on July 20, 2015, the initiative petitions were filed in the Office of the City Clerk; the total number of raw signatures submitted by the proponents was 8,235; the total number of Random Sample signatures verified by the San Joaquin County Registrar of Voters was 500 and the total number of sufficient signatures was 397 (79.400%), valid signatures percentage required for Sample Verification was 67.524%; and

WHEREAS, the minimum number of 5,087 (61.385%) signatures required to call a special election was met; and

WHEREAS, section 9212 of the Elections Code provides in relevant part that, before taking action ordering a special election, the City Council may refer the proposed initiative to any city agency or agency for an informational report.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. The proposed initiative is referred to the City's Development Services Department for preparation of a report that: evaluates the statements and assumptions contained in the proposed initiative measure regarding the impacts of senior housing developments compared to other types of housing developments; and analyzes how the proposed initiative measure would be consistent with applicable General Plan goals, objectives, and policies.

SECTION 2. The City Council appropriates \$20,000 from the City's General Fund to pay for the estimated cost of preparing the informational report.

The foregoing Resolution 2015-, was passed and adopted by the Tracy City Council on the 1ST day of September, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

RESOLUTION 2015-

DIRECTING THAT A PROPOSED ORDINANCE BE SUBMITTED TO THE VOTERS AT A SPECIAL ELECTION TO BE HELD ON DECEMBER [1 OR 8], 2015 AND APPROPRIATING \$ 275,776 FROM THE CITY'S GENERAL FUND FOR THE COSTS ASSOCIATED WITH VERIFYING SIGNATURES AND HOLDING THE SPECIAL ELECTION

WHEREAS, on June 4, 2015, proponents Eugene Birk, Wayne Schneider, and Carl Roy Hawkins, filed in the City Clerk's Office a Notice of Intent to Circulate Petition for the purpose of adopting an initiative measure; and

WHEREAS, on July 20, 2015, the initiative petitions were filed in the Office of the City Clerk; the total number of raw signatures submitted by the proponents was 8,235; the total number of Random Sample signatures verified by the San Joaquin County Registrar of Voters was 500 and the total number of sufficient signatures was 397 79.400%, valid signatures percentage required for Sample Verification 67.524%; and

WHEREAS, the minimum number of 5,087 61.38.5% signatures required to call a special election was met; and

WHEREAS, on September 1, 2015 the City Council ordered a special election be held.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. A special election is ordered to be held on Tuesday, December [1 or 8], 2015, to submit the following question to the qualified electors of the City of Tracy:

Shall an ordinance be adopted establishing a new Active Adult Residential Allotment Program in the City's Municipal Code; exempting such program from the City's Growth Management Ordinance; and allocating 600 Active Adult Residential Allotments to property located at the southeast corner of Corral Hollow and Valpico Roads?	YES
	NO

SECTION 2. The proposed complete text of the ordinance submitted to the voters is attached as Exhibit A.

SECTION 3. The City Council appropriates \$275,776 from the City's General Fund to the City Clerk's election account to pay for the estimated cost of verifying signatures on the petitions and for holding the special election.

* * * * *

The foregoing Resolution 2015-, was passed and adopted by the Tracy City Council on the 1ST day of September, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

RESOLUTION 2015-

DIRECTING THE PREPARATION OF AN IMPARTIAL ANALYSIS

WHEREAS, on September 1, 2015, the City Council ordered a special election to be held on Tuesday, December [1 or 8], 2015, to submit the following question to the qualified electors of the City of Tracy:

Shall an ordinance be adopted establishing a new Active Adult Residential Allotment Program in the City's Municipal Code; exempting such program from the City's Growth Management Ordinance; and allocating 600 Active Adult Residential Allotments to property located at the southeast corner of Corral Hollow and Valpico Roads?	YES
	NO

WHEREAS, section 9280 of the Elections Code provides that the City Council may direct the City Clerk to transmit a copy of the measure to the City Attorney for preparation of an impartial analysis of the measure.

NOW, THEREFORE, BE IT RESOLVED that the City Clerk is directed to transmit a copy of the measure to the City Attorney for preparation of an impartial analysis of the measure.

The foregoing Resolution 2015- , was passed and adopted by the Tracy City Council on the 1ST day of September, 2015, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

Mayor

ATTEST:

City Clerk

RESOLUTION 2015-

PROVIDING FOR THE FILING OF ARGUMENTS AND REBUTTAL ARGUMENTS

WHEREAS, on September 1, 2015, the City Council ordered a special election to be held on Tuesday, December [1 or 8], 2015, to submit the following question to the qualified electors of the City of Tracy:

Shall an ordinance be adopted establishing a new Active Adult Residential Allotment Program in the City's Municipal Code; exempting such program from the City's Growth Management Ordinance; and allocating 600 Active Adult Residential Allotments to property located at the southeast corner of Corral Hollow and Valpico Roads?	YES
	NO

; and

WHEREAS, subsection (a) of section 9280 of the Elections Code provides that for measures placed on the ballot by petition, the persons filing an initiative petition may file a written argument in favor of the ordinance, and the City Council may file an argument against the ordinance; and

WHEREAS, section 9285 of the Elections Code provides in relevant part that, when an argument in favor and an argument against a measure have been selected to be printed in the ballot pamphlet, the City Council may allow for the submittal of rebuttal arguments.

NOW, THEREFORE, BE IT RESOLVED as follows:

SECTION 1. The deadline for submitting arguments (not to exceed 300 words) for and against the measure to the City Clerk for transmittal to the San Joaquin County Registrar of Voters is September 15, 2015, at 5:00 p.m.

SECTION 2. Rebuttal arguments may be filed only if the persons filing the initiative measure file a written argument in favor of the ordinance and the City Council files an argument against the ordinance.

SECTION 3. The deadline for submitting rebuttal arguments (not to exceed 250 words) to the City Clerk for transmittal to the San Joaquin County Registrar of Voters is September 25, 2015, at 5:00 p.m.

SECTION 4. All previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 5. The provisions of sections 2 and 3 of this resolution shall only apply to the election to be held on December [1 or 8], 2015, and shall then be repealed.

AGENDA ITEM 5

REQUEST

CITY COUNCIL DISCUSSION AND DIRECTION REGARDING A REQUEST FROM TRACY CITY CENTER ASSOCIATION (TCCA) RELATED TO DOWNTOWN PARKING REQUIREMENTS AND PARKLETS

EXECUTIVE SUMMARY

The Tracy City Center Association (TCCA) is requesting that the City initiate amendments to the City's Parking Ordinance in order to eliminate off-street parking requirements in the Central Business District (CBD) Zone. Additionally, TCCA is requesting that the City amend the Sidewalk Dining Permit Ordinance in order to accommodate parklets in the public right-of-way.

BACKGROUND

Under City regulations, a new building or new business that requires more parking than the previous use of the building must provide off-street parking spaces or pay an in-lieu fee. The parking in-lieu fee is an option only available in the CBD Zone. The City Council substantially reduced the parking in-lieu fee in August 2002, in order to encourage the revitalization of Downtown. Prior to the reduction, the fee was approximately \$9,287 per parking space, which could add up significantly depending on the number of additional parking spaces required. The current fee (adopted in August 2002) is based on a formula and varies depending on the size of the business. As an example, a 2,000 square foot tenant space being converted from a retail store to a restaurant may need to pay a one-time fee of approximately \$200 per parking space (roughly \$3,000 total), if they do not supply any new off-street parking.

DISCUSSION

On August 5, 2015, TCCA submitted a letter formalizing their request for City-initiated amendments regarding parking requirements and parklets (Attachment A: TCCA letter regarding Downtown parking requirements and parklets). The purpose of this agenda item is to present TCCA's request to City Council and to receive direction regarding whether City Council would like staff to draft City-initiated ordinance amendments for consideration by Planning Commission and City Council at future public meetings.

Parking Requirements

For the past year or more, TCCA has been discussing with City staff the idea to eliminate off-street parking requirements and the parking in-lieu fee option in the CBD Zone. TCCA has stated that the parking requirements and the parking in-lieu fee option make it difficult for new businesses to establish in the Downtown and for existing businesses to expand. TCCA considers it important that the City make these changes in order to continue the positive momentum from the recent upswing of new restaurants and other businesses opening in Downtown.

During the past 12 years, the City installed over 300 public parking spaces in the Downtown, including two public parking lots on the north side of W. Ninth Street (totaling approximately 102 spaces) and two public parking lots south of Sixth Street, near the Transit Station (totaling approximately 212 spaces). In addition to these efforts, TCCA has secured 10-year lease agreements with multiple property owners to make two private parking lots available for public use in the Downtown (totaling approximately 159 spaces).

In 2007, a Downtown parking analysis was performed by Walker Parking Consultants, as part of the Downtown Specific Plan process. Walker's analysis included an inventory of the parking available Downtown, including both public and private spaces. The total number of parking spaces identified in the Downtown was approximately 1,730, of which, approximately 1,024 were identified as public spaces. Walker's analysis also included multiple surveys of parking usage/availability. Walker's findings indicated that parking in the Downtown is generally underutilized even during peak demand periods. However, the findings also noted that utilization of certain parking areas (such as the on-street spaces on W. Tenth Street) was higher than the overall average, indicating that there is the potential for better utilization of Downtown parking as a whole.

Staff is supportive of exploring a potential amendment to the parking requirements in the Downtown. A reduction or elimination of the parking requirements could lower a hurdle for new businesses, possibly making it easier for offices or retail spaces to convert to restaurants. Staff speculates that a reduction or elimination of the parking in-lieu fee would likely not pose a significant issue to funding future parking facilities because with the current supply of public parking, additional parking facilities may not be needed and the current fee is relatively insignificant compared with the actual cost of developing such facilities. Since 1998, the City has collected approximately \$45,000 from the parking in-lieu fee. If additional public parking facilities are needed in the future, the City would need to consider other funding sources, with or without the parking in-lieu fee.

Parklets

Additionally, TCCA is requesting that the City allow parklets in the public right-of-way. Parklets are a concept that has been implemented in many Bay Area cities and other parts of the nation. Essentially, the concept of parklets involves a temporary repurposing of portions of the public street for uses such as public seating and outdoor dining. See an example of a parklet in Attachment B. The City currently has a Sidewalk Dining Permit Ordinance, which allows outdoor dining on portions of the public sidewalk within the CBD Zone. TCCA's request is for the City to allow conversion of a portion of the on-street angled parking spaces in the Downtown for use as public seating and outdoor dining.

Staff is supportive of exploring a potential ordinance or ordinance amendment to allow parklets because an increase to outdoor dining opportunities could have a positive effect on Downtown. This same concept was highly recommended by Michael Freedman of Freedman Tung & Sasaki, during the Downtown Specific Plan process. Staff considers it important that necessary standards be established, possibly similar to those in other cities. A one- or two-year pilot program may also be useful prior to final roll-out of a permanent ordinance.

STRATEGIC PLAN

This agenda item relates to the Economic Development Strategy, Objective 2c:

Collaborate with and support the Tracy City Center Association (TCCA) in an effort to increase the drawing power of the Downtown.

FISCAL IMPACT

The application processing fee for a zoning text amendment is \$2,896. TCCA is requesting that the City Council waive this fee by making this a City-initiated proposal.

RECOMMENDATION

Staff recommends that the City Council provide direction regarding TCCA's request related to Downtown parking requirements and parklets.

Prepared by: Scott Claar, Senior Planner

Reviewed by: Alan Bell, Interim Assistant Development Services Director
Bill Dean, Interim Development Services Director
Andrew Malik, Interim Assistant City Manager

Approved by: Troy Brown, City Manager

ATTACHMENT

- A: Letter from TCCA regarding Downtown parking requirements and parklets
- B: Parklet Example



DOWNTOWN
TRACY
TRACY CITY CENTER
ASSOCIATION

August 5, 2015

ATTACHMENT A

City of Tracy
Department of Engineering Services
333 Civic Center Plaza
Tracy, CA 95376

ATTN: Scott Claar, Associate Planner

RE: Downtown Parking Requirements/Parklets

As a result of a number of recently completed projects, a ramp up of adaptive reuse in existing buildings, the potential for new infill projects, our long-term vision for Downtown Tracy, and as a follow up to our ongoing dialogue with City staff (Scott Claar, Andrew Malik), we (TCCA) have come to the realization that our discussions to date need to be formalized as a City initiated proposal/strategy with changes to City Codes/Ordinances as they relate to:

- a) the elimination of all parking requirements (including in lieu fees) within CBD zoning as a whole
- b) an amendment to the Sidewalk Dining Permit Ordinance (or new ordinance as applicable) to accommodate the concept of parklets in the public right of way

Since its inception in 2010, TCCA has been successful in attracting new restaurants, businesses, and private investment to Downtown Tracy at a greater pace than at any time in the last 25 years. We hope to continue on that path going forward.

TCCA appreciates being included in the process to help shape the vision of Downtown Tracy, and looks forward to working with City staff, property owners, and merchants in a collaborative/cooperative effort to make improvements that we can all be proud of.

Your response to this request and assistance in getting the parking and parklet matters resolved as soon as possible would be greatly appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dino Margaros'.

Dino Margaros
President

A handwritten signature in black ink, appearing to read 'Dan Schack'.

Dan Schack
Vice President

ATTACHMENT B



AGENDA ITEM 6

REQUEST

RECEIVE PRESENTATION AND PROVIDE INPUT ON CITY OF TRACY, OPEN GOV WEBPAGE

EXECUTIVE SUMMARY

This report provides a summary of the City of Tracy's Open Gov webpage, which is being added to the existing City of Tracy website as a method of promoting governmental transparency and creating ease of access to commonly searched areas, such as: City budget, government resources and ordinances, electronic outreach, and public records information. The concept of the Open Gov webpage was developed following the City's 2014 comprehensive review of its existing administrative and financial policies and ways of improving its informational transparency and accessibility to the public.

DISCUSSION

In 2013, the City Council adopted a Governance Strategic Priority to promote open communication and civic engagement, financial transparency, and fiscal stewardship. In 2014, the City implemented Open Government financial software to improve public access, promote understanding, and build trust regarding its financial reporting practices. This user-friendly software is used by more than 40 California cities and enables the public to view financial data by fund, department, and/or type of expense/revenue in a variety of mediums. In conjunction with the open government software, the City set out to create a webpage on the existing City of Tracy website that provides easy access to frequently searched information such as: City budget, government resources and ordinances, and public records information.

The name "Open Gov" was proposed for the webpage as it reflects the incorporation of the Open Government software as well as the public information and links found within the sub-pages. The webpage has undergone Department Head review, and is now being presented before the City Council for consideration and input. Staff anticipates the Open Gov webpage to go-live in mid-September 2015. After the webpage is live, staff can update and add content at any time.

STRATEGIC PLAN

This item relates to the City Council Governance Strategy:

Goal 2, Objective 3: Enhance Fiscal Transparency;

Goal 3: Identify resources to promote communication and civic engagement, enhance city services, and promote organizational productivity.

Agenda Item 6
September 1, 2015
Page 2

FISCAL IMPACT

Acceptance of this presentation will have no fiscal impact.

RECOMMENDATION

It is recommended that the City Council receive the presentation and provide input regarding the City of Tracy, Open Gov webpage.

Prepared by: Vanessa Carrera, Management Analyst II
Reviewed by: Andrew Malik, Interim Assistant City Manager
Approved by: Troy Brown, City Manager

September 1, 2015

AGENDA ITEM 7

REQUEST

**APPROVE CITY'S RESPONSES TO THE 2014-2015 SAN JOAQUIN COUNTY
GRAND JURY REPORT ON DONATION BINS (CASE NO. 1410)**

EXECUTIVE SUMMARY

The 2014-2015 San Joaquin Grand Jury issued a report relating to the City of Tracy:
Unattended For-Profit Donation Bins Proliferate Across County (Case No. 1410).

The City is required to respond to the Grand Jury's findings and recommendations within 90 days of the request. Staff requests that Council approve the prepared responses and authorize the Mayor to sign them.

DISCUSSION

The 2014-2015 San Joaquin Grand Jury issued a report relating to the City of Tracy:
Unattended For-Profit Donation Bins Proliferate Across County (Case No. 1410). A copy of this Report is attached (Attachment A).

The City is required to respond to the Grand Jury's findings and recommendations within 90 days of the request. They are due by September 10, 2015. Staff has drafted responses to this Report for the City Council's consideration.

Staff requests that Council review these draft responses, make any necessary changes, and authorize the Mayor to sign the letter.

FISCAL IMPACT

There is no fiscal impact with this agenda item.

STRATEGIC PLAN

This is a routine operational item and is not related to any of the Council Strategic Plans.

RECOMMENDATION

That the City Council, be resolution, approve the City's responses to the San Joaquin County Grand Jury report and authorize the Mayor to sign the response letter.

Prepared by: Andrew Malik, Interim Assistant City Manager
Daniel G. Sodergren, City Attorney

Approved by: Troy Brown, City Manager

Attachments:

- A 2014-2015 San Joaquin Grand Jury report: *Unattended For-Profit Donation Bins Proliferate Across County* (Case No. 1410).
- B Code Enforcement Questionnaire, submitted by City Staff on November 12, 2014, in response to Grand Jury inquiries.
- C Proposed response letter from City



The Superior Court
COUNTY OF SAN JOAQUIN
222 E. WEBER AVENUE, ROOM 303
STOCKTON, CALIFORNIA 95202

TELEPHONE
(209)992-5695
WEBSITE
www.sjcourts.org

FOR IMMEDIATE RELEASE
June 10, 2015

Contact: Trisa Martinez
Judicial Secretary
(209) 992-5290

SAN JOAQUIN COUNTY CIVIL GRAND JURY FINDS UNATTENDED FOR-PROFIT DONATION BINS PROLIFERATE ACROSS COUNTY

The number of unattended donation bins operated by out-of-state for-profit companies has increased dramatically in the county. They are unregulated, unmaintained, and often placed on private property without the owner's permission, an investigation by the San Joaquin County Civil Grand Jury found.

In a report released today, the Grand Jury's recommendation that San Joaquin County and its cities enact ordinances requiring owners of the bins received written permission before placing the collection bins, that they maintain the bins, and that property owners be held harmless for removing such bins placed without permission. Further, the Jury recommends that owners of the bins will be required to post signage making it clear the bins are operated by for-profit companies and not charities.

The Grand Jury's findings and recommendations are based on a months-long investigation that included interviews, tours of various sites where the for-profit bins have been placed, as well as a survey of the county and cities to determine what, if any, regulations exist to control the placement and maintenance of the unattended bins.

Only the Grand Jury foreman is allowed to comment publicly about Grand Jury investigations.

San Joaquin County and the cities of Stockton, Lodi, Tracy, Manteca, Lathrop, Ripon and Escalon are required to submit a response to each finding and recommendation in the report. Those responses must be sent to the Presiding Judge of the San Joaquin County Superior Court within 90 days.

###

San Joaquin County Grand Jury



Charity Begins at Home Unattended For-Profit Donation Bins Proliferate Across County 2014-2015 Case No. 1410

Summary

San Joaquin County residents give cash and donated goods each year valued in the millions of dollars. The United Way of San Joaquin County alone collects nearly \$4 million in cash donations annually. County residents also give to area charities that operate retail outlets where donated goods are sold to support the agencies' local charitable programs. Often residents drop off their donations at collection points located in area parking lots.

In recent years, unattended donation bins placed by for-profit companies have been appearing in cities and unincorporated areas of San Joaquin County. These unattended donation bins are having a significant negative impact on donations to non-profit charities. There are no ordinances in San Joaquin County and its cities to enable authorities to regulate these for-profit unattended donation bins that are often simply dropped on private property without the owner's consent. In addition, there are safety



Photo of an unattended donation bin in San Joaquin County.

and liability issues that are not addressed.

The 2014-2015 Grand Jury decided to investigate the proliferation of these for-profit unattended donation bins.

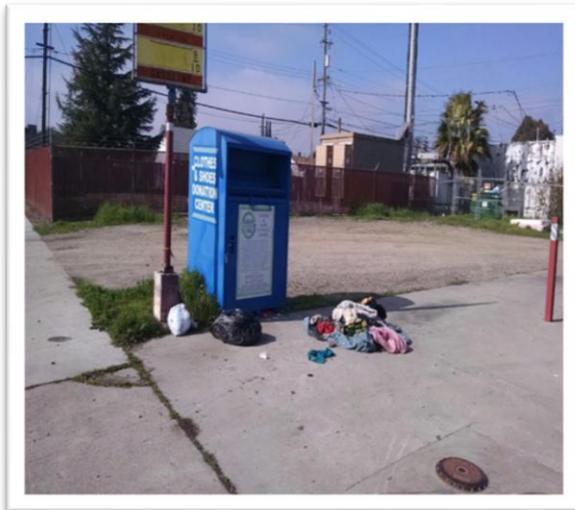
Among the most important findings are:

- San Joaquin County and its cities do not have ordinances that specifically address the placement and monitoring of for-profit unattended donation bins
- These unattended donation bins are operated by for-profit companies that make millions of dollars nationwide, exporting textiles for sale at a profit in Africa and South America
- The profits go to out-of-state corporations that pay no local or state taxes and provide no benefit locally

Among the most important recommendations are:

- San Joaquin County and its seven cities should enact ordinances to regulate for-profit unattended donation bins
- Ordinances should require operators to obtain written consent from property owners before placement of any unattended donation bins, and limit the liability of property owners and their agents who remove unwanted bins from their property

Background



Unattended bin, Roselawn Avenue, east of Mission Road, Stockton

Several non-profit charities, such as Goodwill Industries of San Joaquin Valley, operate parking lot collection sites. Their sites are operated with an attendant present and with the permission of the property owner. There is little chance someone making a donation at one of these sites can be confused about who they are donating to or if that agency is a non-profit or for-profit entity.

In recent years, for-profit companies have moved into San Joaquin County. Although it is unclear exactly how many companies are involved, bins owned by two for-profit operators, USAgain and Discover Books, can be found throughout the County. Collection bins operated by the companies are unattended, often include only small signs to indicate donations are not tax deductible, and do not spell out that donations are being exported to foreign countries.

In 2011, USAgain, according to the company's website, collected 60 million pounds of clothing from more than 10,000 donation sites in 17 states, including California. Much of the donated material was sold for a profit in Africa and Latin America.

Despite the proliferation of the for-profit unattended collection bins, the Grand Jury found no uniform city or county ordinances to regulate the placement and maintenance of for-profit bins.



Unattended bin, Country Club Boulevard, Stockton

Neither are there ordinances protecting property owners nor removal companies hired in cases where bins are placed on private property without permission and the property owner elects to have the bin removed. Unattended donation bins can attract graffiti, vandalism, and become a public nuisance. They can also be safety hazards when people crawl inside to keep warm or to remove items from the bins.

In February 2012, then-Assemblywoman and now Sen. Cathleen Galgiani, D-Stockton, introduced Assembly Bill 1978 in the California Legislature. It would have required the written consent of a property owner before a collection bin could be placed on his or her property. It also provided a mechanism for the removal of the unapproved bin without liability to the property owner.

The bill had bipartisan support. In August 2012, the bill passed the Assembly on a 70-8 vote and the Senate on a 21-13 vote, but the next month it was vetoed by Gov. Jerry Brown. "I support the author's goal of giving property owners more tools to enforce their property rights," the governor said in his veto message.

"However, I believe the language can be more narrowly crafted to avoid unintended consequences to local charities and nonprofits." Gov. Brown did not spell out what "unintended consequences" concerned him. Some non-profits, such as D.A.R.E America and Planet Aid, had voiced opposition, arguing that the bill would have unfairly restricted their fundraising efforts.

Reasons for Investigation

The Grand Jury chose this issue because of concerns about the proliferation of unattended, for-profit collection bins in San Joaquin County and its cities. It was discovered that non-profit charities, such as Goodwill Industries and The Salvation Army, do not operate unattended donation bins. Further, they place their collection bins only with the written consent of property owners.

Witnesses testified that donations to some non-profit charities have decreased in the last few years, a change partially blamed on the proliferation of for-profit bins. The Grand Jury was told some donors believe that their donations are being made to non-profit charities. No local jobs

are created by these for-profit companies, although USAgain has many employees at its Hayward warehouse.

Donations placed in unattended bins create profits for out-of-state organizations and create problems when they are placed on private property without written consent from property owners. Many property owners want them removed, but are unable to contact the operator. They are hesitant to pay the cost of removal in case they are held liable for the bin. Other property owners choose to ignore the bin rather than pay for its removal.

Method of Investigation

Materials Reviewed

- Grand Jury surveys of code enforcement officials in San Joaquin County, Stockton, Lodi, Manteca, Lathrop, Escalon, Ripon, and Tracy
- Grand Jury survey of 12 property owners who have for-profit unattended donation bins located on their premises
- State Assembly Bill 918 (2010), now identified as Welfare and Institutions Code, §150-153 (www.leginfo.ca.gov/cgi-bin/displaycode?section=wic&group=00001-01000&file=150-153)
- State Assembly Bill 1978 (2012), vetoed by the governor
- Stockton, Lodi, and Tracy building codes
- Informational handouts from Goodwill Industries
- Elk Grove and Ceres ordinances governing the placement of unattended collection bins

Interviews Conducted

- San Joaquin County code enforcement staff
- Lathrop code enforcement staff
- Stockton Police Department code enforcement staff
- Goodwill Industries of San Joaquin Valley, Inc., and Shelter Thrift and Donation Center management staff
- Security staff at Lowe's on Hammer Lane in Stockton
- Property owners who have had for-profit donation bins on their property

Sites Visited

- Central Valley headquarters of Goodwill Industries of San Joaquin Valley, Inc.
- Shelter Thrift and Donation Center retail outlet in Stockton
- Fourteen for-profit unattended donation bin sites including locations in Tracy, Manteca, Lodi, Lathrop, Stockton, and the unincorporated county

Facts, Findings, and Recommendations

The 2014-2015 Grand Jury reviewed responses from San Joaquin County and all of its cities to a Grand Jury survey sent in October 2014. These responses show that cities and the county government have reduced staffing in their code enforcement and local police departments.

Although code enforcement officers are generally responsible for code violations, limited staff means that they only investigate when there are complaints. Some California cities, including Elk Grove, Rancho Cordova, and Ceres, have comprehensive ordinances that regulate unattended donation bins. Stockton and Lodi have ordinances directed at recycling collection sites, but not for unattended donation bins.

Different codes and policies in San Joaquin County and its cities have contributed to confusion about unattended donation bins in parking lots and on street corners. Survey responses from San Joaquin County and its cities revealed a lack of ordinances that specifically address unattended donation bins, or simply classifies them as recycling centers (see appendix). In its response to the Grand Jury survey, San Joaquin County officials, for example, said that "a donation box, whether or not for profit, placed on the site of an existing retail establishment would be considered an accessory use to the business operation." However, more than half of the property owners questioned in an informal survey found they had not given permission for the placement of unattended donation bins on their premises.

Different approaches to for-profit collection bins give a flavor of the various methods some cities have used, for example:

- Lodi ordinances refer to "recycling facilities", but do not specifically mention items often given as charitable donations such as books, shoes, household goods, and, clothing.
- Tracy cites Welfare and Institutions Code, §§150 to 153, which sets forth definition of donation bins as well as disclosure requirements that must be printed on each donation bin to provide information to consumers. That information must include the name of the organization benefiting from the donation, contact information, and how their donations would be used. Each bin also is required to have clear information on whether the donation bin is owned by a charitable or commercial (for-profit) entity.

Findings

F1.1 San Joaquin County and its cities do not have regulations that specifically address the placement, maintenance, and monitoring of unattended donation bins.

F1.2 City and county ordinances can effectively clarify who is responsible for removing unwanted donation bins and protect property owners from liability.

F1.3 Local ordinances can provide cities and the county with stronger control over unattended donation bin placement and assist to enforce them efficiently.

F1.4 Donations to out-of-state for profit operators divert donations from local not-for-profit operators, which diminishes their ability to benefit local communities.

Recommendation

R1 By December 1, 2015, San Joaquin County and its incorporated cities should enact ordinances that regulate unattended donation bins, including:

- Shall require written consent from property owners before placement of any donation bin on private property
- Shall obligate the bin owner to maintain it
- Shall obligate the bin owner to hold property owners and their agents harmless from liability who remove unwanted bins from their property
- Shall require donation bins meet or exceed the requirements found in the California Welfare and Institutions Code, §§150 to 153
- Shall adopt sanctions for any violations of the ordinance provisions
- Shall require owners of donation bins that do not have IRS Code 501(c)(3) status to pay a permit fee to generate income to help off-set ordinance enforcement efforts

Conclusion

Unattended donation bins operated by for-profit organizations are unsightly and can become safety hazards. They deprive local charities of donations that benefit our community, providing services and jobs. They generally do not make clear that the bins are placed by for-profit companies, which confuses donors making charitable donations. Understaffed code enforcement offices and confusion about whose responsibility it is to remove unwanted bins has led to lack of action. Implementation of local ordinances is an important tool in preventing this problem and will generate additional income to the county and its cities that could go toward code enforcement efforts.

Disclaimers

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon the specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Sections 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Sections 924.2 and 929).

Response Requirements

California Penal Code Sections 933 and 933.05 require that specific responses to all findings and recommendations contained in this report be submitted to the Presiding Judge of the San Joaquin County Superior Court within 90 days of receipt of the report.

The San Joaquin County Board of Supervisors as well as the city councils of Stockton, Manteca, Tracy, Lodi, Lathrop, Ripon, and Escalon shall respond to each Finding and Recommendation contained in this Report.

Mail or hand-deliver a hard copy of the response to:

Honorable Lesley D. Holland, Presiding Judge
San Joaquin County Superior Court
P.O. Box 201022
Stockton, CA 95201

Also, please email the response to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at grandjury@sjcourts.org

Appendix

	CODE ENFORCEMENT STAFFING	ORDINANCES FOR DONATION BINS	PERMITS REQUIRED	COMPLAINT DRIVEN
SAN JOAQUIN COUNTY	2 full-time, 1 part-time	None	Yes	Yes
ESCALON	2 full-time	None	Yes	Yes
LATHROP	1 part-time	None	No	Yes
LODI	2 full-time	Yes - SEC 17.36	May require deposit	Yes
MANTECA	2 full-time, 1 part-time	None	Yes	Yes
RIPON	1 part-time	None	No	Yes
STOCKTON	26 full-time, 2 part-time	No - SMC 16.20.020, Table 2-2	Yes, on private property	Yes
TRACY	4 full-time, 1 part-time	AB918, Sec. 10.08,1070, W&I Code §150-153	Yes, on private property	Yes.

CODE ENFORCEMENT QUESTIONNAIRE

The 2014-2015 Civil Grand Jury is requesting that you provide the information requested in the following survey, including documents where indicated. If the documents are available either on the website, you may indicate the site address and location of the document rather than providing a hard copy. **All information provided is confidential.**

Please provide your full response **no later than November 12, 2014.**

Name: Andrew Malik
Development Services Director

Address: 333 Civic Center Drive
Tracy, CA 95376

Contact: Ana Contreras
Community Preservation Manager

Phone number: (209) 831-6410

E-mail address: ana.contreras@ci.tracy.ca.us

1. What is the number of full-time and part-time employees who work in Code Enforcement?

Four (4) full time employees are assigned to the City of Tracy's Code Enforcement Division:

- (1) Community Preservation Manager
- (1) Administrative Assistant II
- (1) Code Enforcement Officer/Building Inspector II
- (1) Code Enforcement Officer

One employee from the City's Public Works Department works in Code Enforcement one day per week as part of the City's talent development program.

2. *What are the specific responsibilities of each employee working in Code Enforcement?*

Community Preservation Manager: The manager is a working-manager position, responsible for managing the City's code enforcement program, and for developing and administering the community preservation program. This position recommends policy for City Council review; develops and administers neighborhood development and improvement programs; organizes and administers public education materials on code enforcement; supervises code enforcement personnel, and ensures needed training and development; is directly involved in ensuring compliance with zoning ordinances, municipal codes, and other related sections of the City's Municipal Code. This position also participates in the organization and support of grass root efforts to maintain and improve neighborhoods and communities throughout the City of Tracy and develops program standards and practices that ensure a strong and progressive customer service orientation.

Administrative Assistant II: Performs a wide variety of complex clerical and administrative office support duties that are specialized to an assigned department; to provide receptionist duties, customer service to the public and internal customers, basic clerical accounting support and furnish

accurate information and assistance regarding departmental policies and procedures; utilize data processing, word processing, spreadsheet and presentation computer software; and to perform other related duties as assigned.

Code Enforcement Officer: Investigates and resolves potential violations of municipal and state laws, ordinances, codes and regulations including zoning, sign, uniform housing and dangerous building codes.

Code Enforcement Officer/Building Inspector II: Investigates and resolves potential violations of municipal and state laws, ordinances, codes and regulations including zoning, sign, uniform housing and dangerous building codes. Inspects residential, commercial, and industrial buildings as they relate to code violations. These inspections are conducted to ensure compliance with California Building Codes as they relate to illegal construction, alterations, or repairs.

3. *Who is responsible for supervision of their activities?*

Ana Contreras, Community Preservation Manager

4. *What specific codes apply to the regulation of donation boxes belonging to tax-exempt organizations?*

Outdoor donation collection facilities, such as donation boxes, are a use not listed as permitted or conditionally permitted in any particular zone of the City of Tracy. Pursuant to Tracy Municipal Code Section 10.08.1070, Uses Not Listed, any use not authorized in a particular zone as permitted or conditionally permitted shall be prohibited until such time that it is authorized in accordance with the procedures and requirements set forth in the Tracy Municipal Code. However, areas zoned Planned Unit Development (PUD) may permit outdoor donation collection facilities, if all requirements of the PUD zone are satisfied (Article 13, Chapter 10.08, Tracy Municipal Code), including conformance with the General Plan, any applicable specific plan, the concept development plan, and approval by City Council of a preliminary and final development plan, or amendment to a previously approved final development plan.

In July 2010, the state enacted Assembly Bill (AB) 918, which amended Sections 150-153 of the Welfare and Institutions Code (attached), regulating unattended donation boxes. AB 918 sets forth definitions of a donation box as well as disclosure requirements required to be printed on each donation box to provide information to consumers with the name of the organization benefiting from the donation, contact information (address, telephone number, email address), and how their donations would be used. Each box is also required to have clear information on whether the donation box is owned by a charitable or commercial (for-profit) entity. The bill specifies that its provisions shall not be deemed to supersede or limit a city or county from regulating, monitoring, or prohibiting collection boxes. Furthermore, the bill further allows a city or county to declare a collection box to be a public nuisance and to impose additional requirements on the solicitation and sale of salvageable personal property within its jurisdiction if said box violates the provisions of AB 918.

5. *What codes or rules apply to donation boxes belonging to for profit organizations?*

For profit organizations and tax-exempt organizations are treated the same on this zoning matter. In addition, the regulations contained in AB 918, as described above, imposes the same requirements for commercial (for-profit) and charitable entities.

6. *Does a donation box located on private property require any type of permit or business license?*

From a zoning standpoint, the City's zoning ordinance would need to be amended to permit or conditionally permit outdoor donation collection facilities in any zone other than PUD. In the PUD zone, outdoor donation collection facilities may be permitted, if all requirements of the PUD zone are satisfied (Article 13, Chapter 10.08, Tracy Municipal Code), including conformance with the General Plan, any applicable specific plan, the concept development plan, and approval by City Council of a preliminary and final development plan, or amendment to a previously approved final development plan. Building permits may be necessary depending on the size and details of the proposed structure, in accordance with the California State Building Code. Business licenses may be required. Interested parties should contact the City's Finance Department regarding requirements for business license.

7. *Does your department only investigate when a citizen complaint is received?*

The City's Code Enforcement Division is a reactive agency. Reports of violations are investigated as they are received.

8. *What codes or rules apply to donation boxes belonging to for profit organizations?*

For profit organizations and tax-exempt organizations are treated the same on this zoning matter.

9. *Does a donation box located on private property require any type of permit or business license?*

From a zoning standpoint, the City's zoning ordinance would need to be amended to permit or conditionally permit outdoor donation collection facilities in any zone other than PUD. In the PUD zone, outdoor donation collection facilities may be permitted, if all requirements of the PUD zone are satisfied (Article 13, Chapter 10.08, Tracy Municipal Code), including conformance with the General Plan, any applicable specific plan, the concept development plan, and approval by City Council of a preliminary and final development plan, or amendment to a previously approved final development plan. Building permits may be necessary depending on the size and details of the proposed structure, in accordance with the California State Building Code. Business licenses may be required. Interested parties should contact the City's Finance Department regarding requirements for business license.

10. *Does any other office, other than code enforcement accept or investigate complaints?*

Zoning violations are enforced by the City's Code Enforcement Division. Reports of violations are often accepted by other City departments and referred to Code Enforcement for appropriate action.

11. *Can a complaint be filed via the Internet?*

Reports of violations are accepted in person, by phone, and via the City of Tracy website at Contact Us, www.ci.tracy.ca.us.

Attachment:

Sections 150-153 of the Welfare and Institutions Code

Please submit the completed survey and requested documents to:

San Joaquin County Grand Jury
Attn: Trisa Martinez, Grand Jury Staff Secretary
222 East Weber Avenue, Room 605
Stockton, CA 95202
email: grandjury@sjcourts.org



September 2, 2015

Honorable Lesley D. Holland, Presiding Judge
San Joaquin County Superior Court
P.O. Box 201022
Stockton, CA 95201

Re: Grand Jury Report: 2014-2015 Case No. 1410 – Charity Begins at Home:
Unattended For-Profit Donation Bins Proliferate Across County

Honorable Judge Holland:

This letter responds to the above-referenced Grand Jury Report and is submitted in accordance with California Penal Code Sections 933 and 933.05. The City of Tracy's response relates to the findings and recommendations contained in the Grand Jury Report.

FINDING F1.1

San Joaquin County and its cities do not have regulations that specifically address the placement, maintenance, and monitoring of unattended donation bins.

The City partially disagrees with this finding.

The City of Tracy's zoning regulations preclude the placement of donation bins. They are not permitted or conditionally permitted in any zone in the City and, therefore, are prohibited. (Tracy Municipal Code section 10.08.1070.) Because donation bins are prohibited, the City does not have specific regulations regarding the placement, maintenance, and monitoring of donation bins.

FINDING F1.2

City and county ordinances can effectively clarify who is responsible for removing unwanted donation bins and protect property owners from liability.

The City disagrees with this finding.

The City believes that private property owners already have the authority to remove unauthorized items from their property, under California statutes and case law. (See, for example: Penal Code §602(m) (trespass), Civil Code §820 (rights of owner); Civil Code §§3501-3503 (private nuisance and abatement).) The City questions its legal

authority to impose a regulation regarding private property rights that is within the state's purview to regulate.

FINDING F1.3

Local ordinances can provide cities and the county with stronger control over unattended donation bin placement and assist to enforce them efficiently.

The City agrees with this finding.

FINDING F1.4

Donations to out-of-state for profit operations divert donations from local not-for-profit operators, which diminishes their ability to benefit local communities.

The City has no independent information to agree or disagree with this finding. In any case, the City's zoning and other regulations do not generally distinguish in-state, out-of-state, for-profit and not-for-profit uses, but instead attempt to be neutral in their effect on all property owners and users.

RECOMMENDATION R1

By December 1, 2015, San Joaquin County and its incorporated cities should enact ordinances that regulate unattended donation bins, including:

- **Shall require written consent from property owners before placement of any donation bin on private property**
- **Shall obligate the bin owners to maintain it**
- **Shall obligate the bin owner to hold property owners and their agents harmless from liability who remove unwanted bins from their property**
- **Shall require donation bins meet or exceed the requirements found in the California Welfare and Institutions Code, §§150 to 153**
- **Shall adopt sanctions for any violations of the ordinance provisions**
- **Shall require owners of donation bins that do not have IRS Code 501(c)(3) status to pay a permit fee to generate income to help off-set ordinance enforcement efforts.**

This recommendation has not yet been implemented, but the City will enact an ordinance regulating unattended donation bins by December 1, 2015. However, the contents of such an ordinance is yet to be determined.

Sincerely,

Michael Maciel, Mayor
On Behalf of the Tracy City Council

cc: Members of the Tracy City Council
Troy Brown, City Manager
Daniel G. Sodergren, City Attorney
Via email to Ms. Trisa Martinez, Staff Secretary to the Grand Jury at
grandjury@sjcourts.org

RESOLUTION 2015-____

A RESOLUTION OF THE CITY OF TRACY APPROVING RESPONSES TO THE 2014-2015 SAN JOAQUIN COUNTY GRAND JURY REPORT ON DONATION BINS AND AUTHORIZING THE MAJOR TO SIGN THE RESPONSE LETTER

WHEREAS, The 2014-2015 San Joaquin County Grand Jury (Grand Jury) submitted its 2014-2015 Report, Charity begins at Home: Unattended For-Profit Donation Bins Proliferate Across County (Case No. 1410), and

WHEREAS, Under Penal Code sections 933 and 933.05, this Report requires a response from the City regarding the Grand Jury's Findings and Recommendations, and

WHEREAS, This response is due within 90 days, by September 10, 2015;

NOW, THEREFORE, The Tracy City Council approves the responses to the Findings and Recommendations of the Grand Jury and authorizes the Mayor to sign the response letter attached to the staff report:

* * * * *

The foregoing Resolution 2015-____ was passed and adopted by the Tracy City Council on the 1st day of September, 2015, by the following vote:

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

MAYOR

ATTEST:

CITY CLERK

September 1, 2015

AGENDA ITEM 8

REQUEST

RECEIVE AND ACCEPT THE CITY MANAGER'S QUARTERLY REPORT

EXECUTIVE SUMMARY

This agenda item will update the Council on newsworthy events.

DISCUSSION

The City Manager will provide Council with a quarterly report on various items, including upcoming special events, status on key projects, or other items of interest in an effort to keep Council, staff, and residents abreast of newsworthy events.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact with this item.

RECOMMENDATION

That Council receive and accept the City Manager's quarterly report.

Prepared, Reviewed and Approved by: Troy Brown, City Manager

September 1, 2015

AGENDA ITEM 10.A

REQUEST

APPOINT FIVE APPLICANTS TO THE BOARD OF APPEALS TO HEAR AN APPEAL ON AN ADMINISTRATIVE DECISION PERTAINING TO ENFORCEMENT RELATED TO REGULATIONS LISTED IN THE TRACY MUNICIPAL CODE

EXECUTIVE SUMMARY

On November 20, 2012, City Council adopted Ordinance 1176, revising the ordinance creating the Board of Appeals, to provide for appointment only at the time of an appeal, when the Board is needed. On July 27, 2015, the City Clerk's office received a request for hearing to appeal an administrative decision in the City's application of the California Building and Fire Codes. A five member board needs to be appointed from the list of potentially interested and qualified candidates maintained by the City Clerk's office.

DISCUSSION

The City long ago established a Building Board of Appeals, as required by the California Building Codes and Fire Code. The purpose of the Board was to hear appeals by anyone aggrieved by any administrative decision in the application of the California Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, Residential, Green Building Standards, Historical Building, Energy, Existing Building and Fire Codes.

Even though the Board was established, and members appointed, the Board of Appeals never had a matter appealed to it. There was some administrative burden for both City staff and Board members in maintaining an ongoing board, with required re-appointments and annual disclosure statements. In November 2012, Council adopted Ordinance 1176, which revised the ordinance establishing the Board of Appeals so that the Board is formally appointed only if there is an appeal. The term of the Board would only be for the duration of the matter appealed. The City Clerk would maintain a list of potentially interested and qualified candidates, so that the Mayor and Council could make a prompt appointment if necessary. Staff contacted the previous members who were actively serving on the Building Board of Appeals when the revised ordinance was adopted, to see if they were still interested and qualified to serve on the Board to hear the appeal. All five members were interested and qualified to serve on the Board.

STRATEGIC PLAN

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

FISCAL IMPACT

This agenda item will have no fiscal impact.

RECOMMENDATION

That City Council appoint Philip Aubin (Resident), Dennis Alegre (Contractor), Jerry Yerian (Retired Contractor), James Caling (Resident with Electrical Engineering Degree and background in construction), and John Davis (Architect) to the Board of Appeals to hear an appeal by a person regarding an administrative decision in the City's application of the California Building and Fire Codes.

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

Attachment A – Ordinance 1176

ORDINANCE 1176

AN ORDINANCE OF THE CITY OF TRACY AMENDING SECTIONS 9.02.050, 9.06.050 AND
CHAPTER 9.44, BOARD OF APPEALS, AND DELETING SECTION 9.44.050,
OF THE TRACY MUNICIPAL CODE

WHEREAS, the City long ago established a Building Board of Appeals, as required by the California Building Codes and Fire Code.

WHEREAS, though established, and members appointed, the Building Board of Appeals has never had a matter appealed to it. There is some administrative burden for both City staff and Board members in maintaining an ongoing board, with required re-appointments and annual disclosure statements.

WHEREAS, City staff is recommending that the ordinance creating the Building Board of Appeals be revised to provide for appointment only at the time of an appeal, when the Board is needed. The City Clerk would maintain a list of potentially interested and qualified candidates.

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

SECTION 1: Section 9.02.050, Building Board of Appeals, of the Tracy Municipal Code is renamed "Board of Appeals."

SECTION 2: Section 9.06.050, Appeals [for Fire Protection and Prevention] of the Tracy Municipal Code, is amended to read as follows:

"9.06.050 Appeals.

Any person aggrieved by any decision or action of the Chief, may appeal to the Board of Appeals, by filing a written notice of appeal with the City Clerk within 30 from the date the decision or action was taken."

SECTION 3. Chapter 9.44, Building Board of Appeals, of the Tracy Municipal Code is renamed and amended to read as follows:

"BOARD OF APPEALS

9.44.010 - Name and purpose.

The Board of Appeals is created in order to hear appeals by persons aggrieved by any administrative decisions in the City's application of the Uniform Housing, Building, Mechanical, Electrical, Plumbing, Abatement of Dangerous Buildings, Residential, Green Building Standards, Historical Building Code, Energy Code, Existing Building Code and Fire Codes, or regulations adopted under them. (See TMC Chapter 9; and TMC §§9.02.050 and 9.06.050.) It will also serve as the appeal board when determinations are made regarding special conditions for persons with disabilities, under California Building Code section 1.9.1.5 or California Health and Safety Code section 19957.5.

9.44.020 - Definitions.

In this chapter, unless otherwise apparent from the context:

"Board" means the Board of Appeals.

"Building Official" means the Chief Building Official or his or her designee.

"Member" means a member of the Board of Appeals.

9.44.030 - Organization and membership.

(a) Time of appointment; Term. The Board will be appointed promptly whenever the city receives an appeal requiring a hearing by the Board. The Board shall be comprised of five members appointed by the Mayor with the advice and consent of the Council. Members shall serve only until the matter appealed has been concluded and the Board's participation is no longer required.

(b) Qualifications. The Board will be appointed from a list of potentially interested and qualified candidates maintained by the City Clerk. The Board shall consist of members who are qualified by experience and training to pass on matters pertaining to building construction (such as licensed contractors, engineers and architects). When the appeal concerns the Fire Code, at least two of the members shall be qualified by experience with the Fire Code. When the appeal concerns access for persons with disabilities, at least two members shall be disabled individuals.

A member may not be an employee or elected officer of the City, but may be a member of another City board or commission. A member need not be a resident of the City. A member may not have any interest in property which is the subject of the appeal to the Board.

(c) Officers; Procedures. Once appointed, the Board shall meet to elect a chair and vice-chair, and to set the time and place of its meetings. The Board shall function in accordance with the standard commission by-laws which apply to other city commissions and boards.

(d) Secretary; Ex officio members. The Chief Building Official shall be the ex officio Secretary of the Board but shall not vote. When an appeal is heard regarding the Fire Code, the Fire Chief or his or her designee shall sit as an ex officio member."

9.44.040 - Powers and duties.

(a) Functions. The functions of the Board shall be as follows:

(1) To hear appeals of administrative decisions regarding the use of alternative materials, interpretations pertaining to the enforcement of any of the Codes and related regulations listed in TMC Section 9.44.010; and

(2) To hear appeals of administrative decisions in the application of the Uniform Housing Code, the Uniform Code for the Abatement of Dangerous

Buildings, and related sections of this Code in actions declaring certain building structures or conditions therein substandard, unsanitary, or hazardous and requiring their consideration, rehabilitation, reconstruction, correction, or abatement as applicable.

- (b) Limitation on appeals. An application for appeal must be based on a claim that:
- (1) the true intent of the applicable code or the related regulations has been incorrectly interpreted;
 - (2) the provisions of the applicable code do not fully apply;
 - (3) an equally good or better form of construction is proposed.

The Board does not have the authority to waive requirements of the code. (California Building Code Section 113.2.)

(c) Conduct of appeals.

- (1) The Board shall exercise its powers in such a manner that substantial justice is done most nearly in accord with the intent and purpose of this Code.
- (2) The Board shall follow fair procedural rules, including giving adequate notice of hearings to all parties, providing hearings open to the public, assuring that the hearing is commenced within 60 days after the date of the filing of the petition for an appeal, recording minutes of its proceedings, and providing copies of minutes for inspection as a public record.

(d) Procedure of petitions for hearing of appeals. Upon the filing of a petition and appointment of the Board under Section 9.44.030, the secretary shall set the matter on the Board's agenda for consideration. The secretary shall give written notice of at least seven days to the applicant or petitioner, specifying the time and place of the hearing. At the hearing, the petitioner shall be given an opportunity to be heard and present any evidence to support the request. If necessary, the hearing may be continued.

(e) Decisions. In rendering its decision, the Board has no authority to waive requirements of any code. (California Building Code Section 113.2.) No later than 10 days after the close of the hearing(s) the Board shall formally report its decision in writing, including its findings of fact and reasons for the decision. The report shall either approve, approve with modifications or deny the appeal, and shall specify any conditions or limitations imposed. A copy of the report shall be forwarded to the petitioner or his or her representative at the address shown on the petition within 10 days after the decision. The secretary shall provide a copy of the report to the administrative office whose decision was appealed, and shall maintain a copy in the Board's permanent records.

(f) Appeals to the Council. The decision of the Board in granting or denying an appeal shall become final and effective unless timely appealed to the City Council under section 1.12.020. Upon the receipt of a written appeal filed with the Council, the

secretary of the Board shall transmit to the Council the Board's complete record of the case.

Within 10 days after the council adopts a resolution ordering that an appeal be granted or denied, or modified subject to conditions, the secretary shall mail a copy of the resolution to the appellant, and one copy shall be attached to the Board's file of the case."

SECTION 3. Section 9.44.050, Bylaws, of Chapter 9.44 (Building Board of Appeals) of Title 9 (Building Regulations) of the Tracy Municipal Code is deleted.

SECTION 4. Because of the unique circumstances, the Board of Appeals is not subject to Council Resolution 2004-152 (or any successor resolution) Establishing the Council Selection Process and Defining Residence Requirements, for Appointee Bodies.

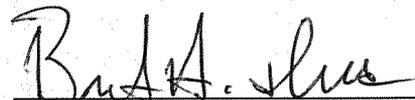
SECTION 5. This Ordinance shall take effect 30 days after its final passage and adoption.

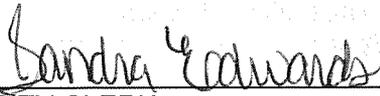
SECTION 6. This Ordinance shall be published once in the Tri-Valley Herald, a newspaper of general circulation, within 15 days from and after its final passage and adoption.

* * * * *

The foregoing Ordinance 1176 was introduced at a regular meeting of the Tracy City Council on the 16th day of October, 2012, and finally adopted on the 20th day of November, 2012, by the following vote:

AYES: COUNCIL MEMBERS: ABERCROMBIE, ELLIOTT, MACIEL, RICKMAN, IVES
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE


MAYOR

ATTEST:

CITY CLERK