TRACY CITY COUNCIL REGULAR MEETING AGENDA

**Tuesday, July 21, 2020, 7:00 P.M.**

Tracy City Hall, 333 Civic Center Plaza, Tracy Web Site: www.cityoftracy.org

# THIS REGULAR MEETING WILL BE CONDUCTED PURSUANT TO THE PROVISIONS OF THE GOVERNOR'S EXECUTIVE ORDER N-29-20 WHICH SUSPENDS CERTAIN REQUIREMENTS OF THE RALPH M. BROWN ACT

# RESIDENTS ARE STRONGLY ENCOURAGED TO PARTICIPATE REMOTELY AT THE JULY 21, 2020 MEETING

***Remote Access to City of Tracy Council Meeting***:
*In accordance with the guidelines provided in Executive Order N-29-20 on social distancing measures, the City of Tracy will allow for remote participation at the upcoming City Council meeting on Tuesday, July 21, 2020.*

*As always, the public may view the City Council meetings live on the City of Tracy's website at www.CityofTracy.org or on Channel 26. To view from the City's website, select "Watch Live Council Meetings" from the drop down menu "Select an Online Service" at the top of the City's homepage. You will be directed to the "Council Meeting Videos" page where you may select the video for the appropriate date under "Upcoming Events."*

*If you only wish to watch the meeting and do not wish to address the Council, the City requests that you stream the meeting through the City's website or watch on Channel 26.*

***Remote Public Comment***:

*Public comment via email **will only be accepted for agendized items before the start of the Council meeting at 7:00 p.m. Please send an email to** publiccomment@cityoftracy.org*
*Identify the item you wish to comment on in your email's subject line*

*During the upcoming City Council meeting public comment will be accepted via the options listed below. If you would like to comment remotely, please follow the protocols below:*

- *Comments via:*
  - **Phone** by dialing (209) 831-6010, or
  - **Online by visiting** https://cityoftracyevents.webex.com and using the following **Event Number:** 126 225 0626 and **Event Password**: TracyCC
  - ***If you would like to participate in the public comment anonymously***, you may submit your comment via phone or in WebEx by typing "Anonymous" when prompted to provide a First and Last Name and inserting Anonymous@example.com when prompted to provide an email address.

- *Protocols for submitting comments by **phone**:*
    - *If you wish to discuss an item on the "Consent Calendar" identify the item when calling in. All requests to discuss an item on the "Consent Calendar" must be submitted before the Mayor announces that the time to submit such a request has expired.*
    - *Identify the item you wish to comment on to staff when calling in. Comments received by phone will be accepted for the "Items from the Audience/Public Comment" and "Regular Items" portions of the agenda.*
    - *Comments received by phone for the "Items from the Audience/Public Comment" portion of the agenda must be received by the time the Mayor opens that portion of the agenda for discussion.*
    - *Comments received by phone on each "Regular Item" will be accepted until the Mayor announces that public comment for that item is closed.*

- *Protocols for commenting via WebEx:*
    - *If you wish to comment on the "Consent Calendar", "Items from the Audience/Public Comment" or "Regular Agenda" portions of the agenda:*
        - *Listen for the Mayor to open that portion of the agenda for discussion, then raise your hand to speak by clicking on the Hand icon on the Participants panel to the right of your screen.*
        - *If you no longer wish to comment, you may lower your hand by clicking on the Hand icon again.*
    - *Comments for the "Consent Calendar" "Items from the Agenda/Public Comment" or "Regular Agenda" portions of the agenda will be accepted until the public comment for that item is closed.*

- *The total allotted time for public comment will be as follows:*
    - *Consent Calendar: **10 minutes***
    - *Items from the Audience: **15 minutes***
    - *Regular Items: **10 minutes***

*Comments received by publiccomment@cityoftracy.org, phone call, or on Webex outside of the comment periods outlined above will not be included in the record.*

**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 (209/831-6105) 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. To facilitate the orderly process of public comment and to assist the Council to conduct its business as efficiently as possible, members of the public wishing to address the Council are requested to, but not required to, hand a speaker card, which includes the speaker's name or other identifying designation and address to the City Clerk prior to the agenda item being called. Generally, once the City Council begins its consideration of an item, no more speaker cards will be accepted. An individual's failure to present a speaker card or state their name shall not preclude the individual from addressing the Council. Each citizen will be allowed a maximum of five minutes for input or testimony. In the event there are 15 or more individuals wishing to speak regarding any agenda item including the "Items from the Audience/Public Comment" portion of the agenda and regular items, the maximum amount of time allowed per speaker will be three minutes. When speaking under a specific agenda item, each speaker should avoid repetition of the remarks of the prior speakers. To promote time efficiency

and an orderly meeting, the Presiding Officer may request that a spokesperson be designated to represent similar views. A designated spokesperson shall have 10 minutes to speak. At the Presiding Officer'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 City Council direction. One motion, a second, and a roll call vote may enact the items listed on the Consent Calendar. No separate discussion of Consent Calendar items shall take place unless a member of the City Council, City staff or the public request discussion on a specific item.

**Addressing the Council on Items not on the Agenda** – The Brown Act prohibits discussion or action on items not on the posted agenda. The City Council's Meeting Protocols and Rules of Procedure provide that in the interest of allowing Council to have adequate time to address the agendized items of business, "Items from the Audience/Public Comment" following the Consent Calendar will be limited to 15-minutes maximum period. "Items from the Audience/Public Comment" listed near the end of the agenda will not have a maximum time limit. A five-minute maximum time limit per speaker will apply to all individuals speaking during "Items from the Audience/Public Comment". For non-agendized items, Council Members may briefly respond to statements made or questions posed by individuals during public comment; ask questions for clarification; direct the individual to the appropriate staff member; or request that the matter be placed on a future agenda or that staff provide additional information to Council.. 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.

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

Full copies of the agenda are available on the City's website: *www.ci.tracy.ca.us*

CALL TO ORDER
PLEDGE OF ALLEGIANCE
INVOCATION
ROLL CALL

1. CONSENT CALENDAR

1.A. ADOPT A RESOLUTION EXEMPTING THE CITY OF TRACY FROM THE STATE-MANDATED CONGESTION MANAGEMENT PROGRAM IN CONJUNCTION WITH SAN JOAQUIN COUNCIL OF GOVERNMENTS' (SJCOG) EFFORT TO ACHIEVE COUNTYWIDE EXEMPTION

1.B. ACCEPT THE CONSTRUCTION OF THE TRACY RECYCLED WATER TRANSMISSION MAINS AND WASTEWATER TREATMENT PLANT PUMP STATION, PHASE 1 OF CIP 74091, COMPLETED BY MOUNTAIN CASCADE INC. (MCI), AUTHORIZE THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER AND AUTHORIZE THE UTILITIES DIRECTOR TO RELEASE THE BONDS AND RETENTION PAYMENT

1.C. APPROVE THE 2020 WASTEWATER TREATMENT DISCHARGE AGREEMENT WITH LEPRINO FOODS

1.D. WAIVE SECOND READING AND ADOPT ORDINANCE 1291, AN ORDINANCE OF THE CITY OF TRACY REZONING ASSESSOR'S PARCEL NUMBER 244-020-31 FROM PLANNED UNIT DEVELOPMENT ZONE (PUD) TO NEIGHBORHOOD SHOPPING ZONE (NS)

1.E. WAIVE SECOND READING AND ADOPT ORDINANCE 1292, AN ORDINANCE OF THE CITY OF TRACY AMENDING THE PUD ZONE DISTRICT OF THE PROPERTY ON THE NORTH SIDE OF CLOVER ROAD, APPROXIMATELY 500 FEET EAST OF TRACY BOULEVARD, TO PERMIT HOTELS AND INCREASE THE HEIGHT MAXIMUM TO 65 FEET

1.F. WAIVE SECOND READING AND ADOPT ORDINANCE 1293, AN ORDINANCE OF THE CITY OF TRACY AMENDING VARIOUS SECTIONS OF CHAPTER 6.36 OF TITLE 6 "BUSINESS, PROFESSIONS, AND TRADES" OF THE TRACY MUNICIPAL CODE REGARDING LOCAL REGULATIONS OF COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

1.G. AUTHORIZE STAFF TO ENTER INTO A 3 YEAR AGREEMENT WITH MICROSOFT FOR SOFTWARE LICENSES AND UPDATES FOR DESKTOP COMPUTERS AND SERVERS FOR AN ANNUAL AMOUNT NOT TO EXCEED $166,521

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

3.A. DISCUSS CITY'S RESPONSE TO COVID-19 (VERBAL REPORT)

3.B. ADOPT A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR THE CONSTRUCTION OF DETENTION BASIN 3A, AND AUTHORIZE THE DEPOSIT OF $765,000 WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND (RONNOCO PROPERTIES OF TRACY II, L.P., APN 240-090-02), AND APPROPRIATE THE FUNDS FROM ELLIS STORM DRAIN FUND (F332) AND PUBLIC BUILDINGS FUND (F334)

3.C. CONSIDER ADOPTION OF AN AMENDMENT TO RESOLUTION NO. 2019-231 AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAYS AND TEMPORARY CONSTRUCTION EASEMENTS FROM CERTAIN REAL PROPERTIES FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM WEST SCHULTE ROAD TO LINNE ROAD, AND AUTHORIZE THE DEPOSIT OF $15,200 FOR STEVENSON PARCEL, $48,000 FOR TLC, INC. PARCEL, $29,400 FOR PRABHAKARAN PARCEL, $10,400 FOR CARTER PARCEL, $90,300 FOR DURKEE PARCEL, $57,100 FOR GALVAO PARCEL, $23,800 FOR SCHIRMER PARCEL, $39,600 FOR KING PARCEL, AND $32,300 FOR SOLOMON AND REITZ PARCEL, WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND

3.D. PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT; AND (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2020/2021

3.E. PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE AMENDING THE TRACY HILLS SPECIFIC PLAN REGARDING SINGLE-FAMILY DWELLINGS WITH THREE-CAR GARAGES

3.F. APPROVE AMENDMENTS TO THE CITY'S CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES

3.G. ALLOCATE $4,000,000 FROM THE LOW AND MODERATE INCOME HOUSING ASSET FUND TO THE HOUSING AUTHORITY OF THE COUNTY OF SAN JOAQUIN TO SUPPORT THE DEVELOPMENT OF AFFORDABLE RENTAL HOUSING AND AUTHORIZE THE CITY MANAGER TO NEGOTIATE THE LOAN AGREEMENT AND ANCILLARY DOCUMENTS

3.H. INTRODUCE AN ORDINANCE AMENDING SECTION 2.08.080 OF, AND ADDING CHAPTER 2.10 TO, TITLE 2 OF THE TRACY MUNICIPAL CODE TO REQUIRE A SUPERMAJORITY VOTE OF FOUR (4) MEMBERS OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY

3.I. APPOINT ONE APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY COMMISSION ON AGING AND ONE APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY MOSQUITO ABATEMENT DISTRICT BOARD

3.J. APPROVE AMENDMENT TO THE COUNCIL POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILITIES TO LIMIT THE DISPLAY OF CEREMONIAL FLAGS TO SEVEN DAYS AND TO ADDRESS FLAG CEREMONIES

3.K. AMEND THE COUNCIL CODE OF CONDUCT TO ADDRESS CITY COUNCIL COMMUNITY MESSAGING ACTIVITIES

4. ITEMS FROM THE AUDIENCE

5. STAFF ITEMS

6. COUNCIL ITEMS

7. ADJOURNMENT

July 21, 2020

AGENDA ITEM 1.A

REQUEST

**ADOPT A RESOLUTION EXEMPTING THE CITY OF TRACY FROM THE STATE-MANDATED CONGESTION MANAGEMENT PROGRAM IN CONJUNCTION WITH SAN JOAQUIN COUNCIL OF GOVERNMENTS' (SJCOG) EFFORT TO ACHIEVE COUNTYWIDE EXEMPTION**

EXECUTIVE SUMMARY

Staff recommends the City Council consider adopting a resolution that exempts the City of Tracy from the State-Mandated Congestion Management Program (SCMP). The City of Tracy's efforts will assist in meeting SJCOG's efforts on countywide exemption on SCMP, which requires the jurisdictions with majority of the population adopt resolutions by their City Councils/Board of Supervisors, to be exempted from SCMP.

DISCUSSION

Following the passage of Proposition 111 in 1990, one of the SJCOG's programs (i.e. SJCOG's Regional Congestion Management Program (RCMP)) is required to abide by SCMP. Pursuant to California Government Code 65088.3, an exemption clause allows a county to "opt out" of SCMP after the majority of the jurisdictions that account for the majority of the county's population adopt resolutions that exempts them from the SCMP. SJCOG took notice of this exemption clause as Senate Bill (SB) 743 implementation nears and level of service (LOS) is replaced by vehicle miles traveled (VMT) as the primary performance metric for traffic. SJCOG is currently collaborating with jurisdictions in San Joaquin County to "opt out" of SCMP. In December 2019, SJCOG's Board of Directors passed Resolution R-20-16 and authorized SJCOG's Executive Director to start the process of "opting out" of SCMP.

On December 30, 2019, SJCOG emailed information that included a letter, the December 2019 SJCOG Board staff report, Resolution R-20-16, and examples to reference (Attachment A), outlining the benefit of opting out of the SCMP.

SJCOG's letter references the administrative benefits and cost savings of exempting from SCMP, including:

1) Removes the need to submit project referral applications and environmental documentation for land use review,
2) Removes the follow up from jurisdictions about project and mitigation measure updates,
3) Eliminates the chance of losing State and Federal funding due to non-compliance with the LOS threshold, and
4) Eliminates the need to submit updates to complete seven-year capital improvement program.

If SJCOG is successful in "opting out" of SCMP, SJCOG can rebuild their RCMP to fulfill federal CMP requirements along with considering the incorporation of data that meets

the information demands of jurisdictions. SJCOG needs our support in "opting out" of SCMP by passing this resolution.

If SJCOG successfully "opts out" of the SCMP, staff recommends Council conditional support the aforementioned effort provided that the following elements also be considered to serve the best interests of our community:

1) SJCOG should ensure that the current proportion of the CMP funding to the City is preserved, and
2) SJCOG should ensure traffic operations are taken into CMP, and funding is provided to help Tracy maintain operations at acceptable level, and
3) CMP should accommodate funding projects that addresses the cut-through traffic in the City.

The proposed action is exempt from CEQA per section 15061 (b) (3), the General Rule and the General Rule can be applied when it can be seen with certainty that the activity will not have a significant effect on the environment.

## STRATEGIC PLAN

This agenda item aligns with Governance's Goal 1 of City Council's Public Safety Policies: "Support Efforts to Enhance Citywide Traffic Conditions."

## FISCAL IMPACT

Opting out of this program will alleviate the City obligation under SJCOG's current Regional Congestion Management Program.

## RECOMMENDATION

Staff recommends that City Council consider:

1) Adopting a resolution, as authorized by the California Government Code Section 65088.3, electing for the City of Tracy to be exempt from the Congestion Management Program as described in the California Government Code Section 65088 et seq.

Prepared by: Anju Pillai, PE, Associate Civil Engineer

Reviewed by: Zabih Zaca, PE, Senior Civil Engineer
Robert Armijo, PE, City Engineer / Assistant Director of Development Services
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## ATTACHMENTS

Attachment A – SJCOG Letter to Jurisdictions (December 30, 2019)

SAN JOAQUIN COUNCIL OF GOVERNMENTS

*555 E. Weber Avenue • Stockton, California 95202 • P 209.235.0600 • F 209.235.0438 • www.sjcog.org*

*Doug Kuehne*
CHAIR

*Jesus Andrade*
VICE CHAIR

*Andrew T. Chesley*
EXECUTIVE DIRECTOR

*Member Agencies*
CITIES OF ESCALON, LATHROP, LODI, MANTECA, RIPON, STOCKTON, TRACY, AND THE COUNTY OF SAN JOAQUIN

12/30/19

Dear Representative of San Joaquin County,

SJCOG started the "Opt Out" process with the goal of significantly reducing the administrative burden passed upon jurisdiction staff and saving SJCOG money on tasks to meet California Congestion Management Program (CMP) statutes. More specifically, "Opting Out" of State CMP:

- Removes the need to submit project referral applications and environmental documentation for land use review
- Removes the follow up from jurisdictions about project and mitigation measure updates
- Eliminates the chance of losing State and Federal funding due to non-compliance with the LOS threshold, and
- Eliminates the need to submit updates to complete seven-year capital improvement program.

On December 5, 2019, SJCOG's Board of Directors' unanimously approved Resolution R-20-16 (Attachment A) and authorized the San Joaquin Council of Governments (SJCOG) Executive Director to start the process of "Opting Out" of State CMP.

So What Are the Next Steps?

After receiving SJCOG Board's approval, SJCOG must ask for your assistance in passing resolutions by your Board of Supervisors/City Council by **June 30, 2020**. Without your help, SJCOG cannot move forward "Opting Out" of State CMP.

As SJCOG is not the first Congestion Management Agency to "Opt Out" of State CMP, SJCOG can refer jurisdiction(s) to previously generated staff reports, resolutions, and/or supporting documentation. Attached are two examples from Los Angeles County and City of San Gabriel. SJCOG recommends jurisdiction(s) duplicate or reference these staff report(s) in preparation of your own staff report. In terms of a resolution, SJCOG had previously generated a sample resolution that is within December 2019's Board staff report.

Staff feels comfortable jurisdiction(s) will be able to generate a staff report and resolution with these examples. In addition, SJCOG will be available over the phone or in-person to answer any questions throughout a jurisdiction's "opt out" process. If you wish to meet in-person, please feel to email me a list of dates and times. Staff will be in contact periodically to see how your process is going and plans to be in attendance of your Board of Supervisors/City Council at the time of approval.

Thank you and do not hesitate to contact me at Yokoyama@SJCOG.ORG.

Sincerely,

Travis Yokoyama

ATTACHMENT A - Opt Out of State RCMP Requirements - Dec 2019 Board
ATTACHMENT B - Example (County of Los Angeles)
ATTACHMENT C - Example (City of San Gabriel)

December 2019
SJCOG Board

# STAFF REPORT

**SUBJECT:** California Congestion Management Program (CMP) Opt-Out

**RECOMMENDED ACTION:** Approve Resolution R-20-16 and Authorize SJCOG Executive Director to Start the Process of Opting Out of State CMP

**DISCUSSION:**

**SUMMARY:**

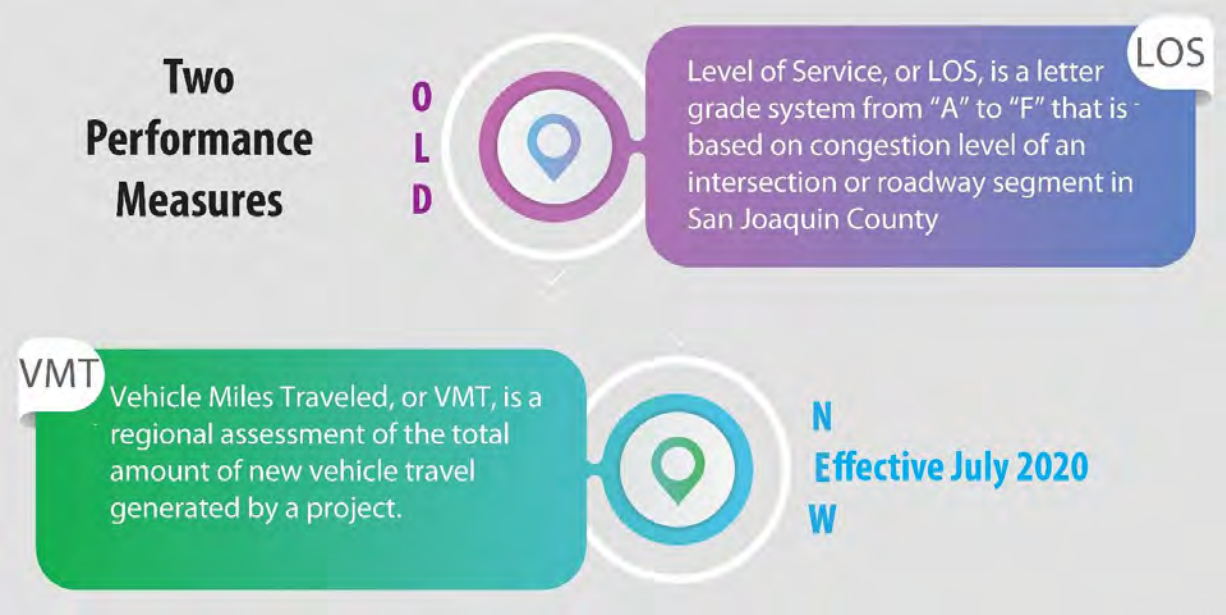
**State law allows SJCOG to "Opt Out" of State CMP with no loss of gas tax revenues as long as a majority of local agencies representing a majority of the county's population pass resolutions in support. SJCOG staff is seeking support from all local agencies to "opt out" thereby reducing the administrative burden to comply with outdated level-of-service requirements.**

Like other Congestion Management Agencies (CMA) in California, San Joaquin Council of Governments (SJCOG) is at a "crossroads" on the issue of "Opting Out" of California's Congestion Management Program (CMP). "Opting Out" of CMP does the following:

- Removes the need to submit project referral applications and environmental documentation for land use review
- Removes the follow up from jurisdictions about project and mitigation measure updates
- Eliminates the chance of losing State and Federal funding due to non-compliance with the LOS threshold, and
- Eliminates the need to submit updates to complete seven-year capital improvement program.

Staff concludes these benefits, along with the chance of building a new CMP that fulfills our Federal CMP requirements and better fit the needs of our stakeholders, should be strongly considered by SJCOG's Board. By state law, SJCOG is required to prepare and update a CMP biennially for San Joaquin County. Initiated by the passage of Proposition 111 of 1990 (Increasing the state gas tax from 9 to 18 cents), the State CMP was later supported by adoption of San Joaquin County Local Measure K on 2006. The intent of the CMP process tied new tax revenue source to a coordinated process to review land use development and transportation programs with the intent to reduce traffic congestion.

The state CMP requires the transportation system to be measured using Level of Service (LOS), a letter grade system from "A" to "F" based on congestion level. To date, the CMP LOS analysis "piggybacks" on the transportation impact analysis to meet California Environmental Quality Act (CEQA) requirements for a project (i.e., Mitigated Negative Declaration, Environmental Impact Report, etc.) – local agencies usually use the same analysis for both purposes. However, per Senate Bill 743 (Steinberg 2013) all jurisdictions will be required to use Vehicle Miles Traveled (VMT) rather than LOS in CEQA documents starting in July 2020. At that point, the CMP LOS analysis would be an additional requirement on jurisdictions that would potentially conflict with the impacts and mitigation measures found in CEQA. "Opting out" eliminates this conflict.




**RECOMMENDATION:**

SJCOG staff recommends the SJCOG Board of Directors approve Resolution R-20-16 (Appendix B) and authorize the Executive Director to start the process of opting out of California CMP, in accordance with State CMP statute.

**FISCAL IMPACT:**

Opting out of State CMP eliminates the need to staff activities for state CMP compliance. For this current fiscal year, SJCOG staff anticipates the Board adopted, budgeted resources for the Congestion Management Program (Work Element # 801.04) will be reduced by approximately 25%, a reduction of $45,000. These savings would come from a combination of funding sources including Measure K and FHWA Planning. In addition to an annual savings, every two years, SJCOG spends $150,000 for consultant services related to state CMP updates which would no longer be necessary. Any savings can be reallocated to other eligible work items in SJCOG's OWP. State gas tax revenue will continue to flow to local jurisdictions. Local jurisdictions will also experience savings in their own activities related to state CMP compliance.

**BACKGROUND:**

**For SJCOG and jurisdictions alike, the continued administration of the State CMP may not have the value it once had in improving the region's transportation system.**

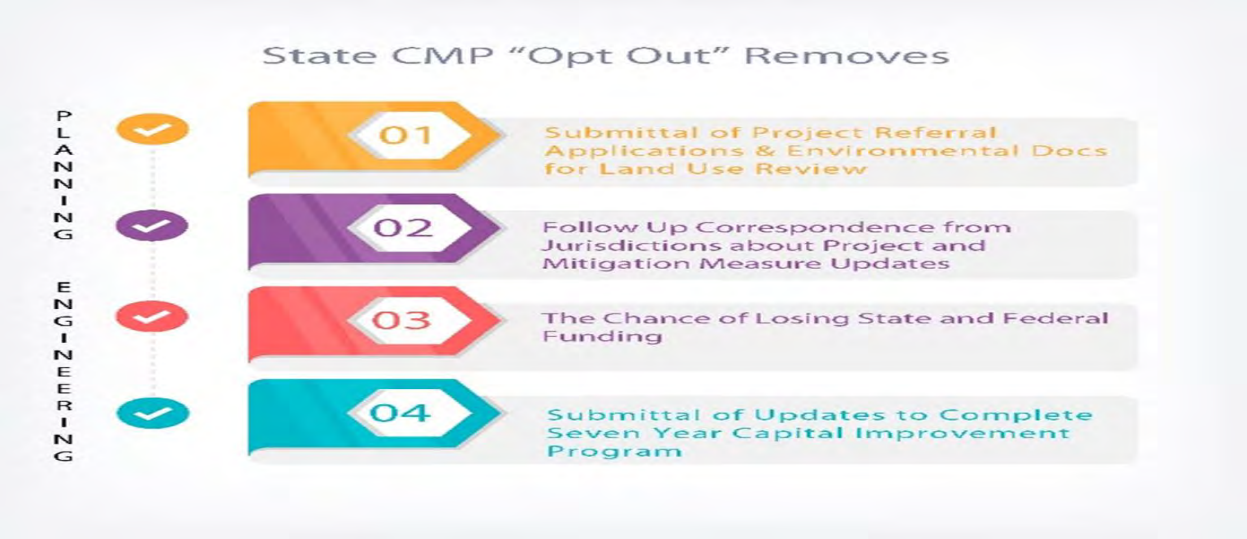
Seven incorporated cities, the County of San Joaquin, and SJCOG share various State CMP statutory responsibilities; including monitoring traffic count locations on select arterials, implementing transportation improvements, adoption of travel demand management and land use ordinances, and mitigating congestion impacts.

The framework of State CMP is predicated on adding roadway lanes to mitigate congestion levels, with LOS as the main performance metric. The recent adoption of Assembly Bill (AB) 32: California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006) directly or indirectly moved CEQA away from LOS as a performance metric. Therefore, the State CMP became a bureaucratic checklist that is completed for the purpose of retaining eligibility for state and federal funds; instead of promoting a more sustainable and equitable region.

LOS is also embedded within our Measure K Renewal Ordinance of 2006 as a performance metric. Measure K Renewal Ordinance and programs will be updated after the opt out is completed. "Opting out" of State CMP is the first task in building a platform to consider new ways of measuring transportation system performance along with VMT that complement efforts to combat climate change, support sustainable, vibrant communities and improve mobility.

<u>Reasons to "Opt Out" of State CMP</u>

SJCOG has listed the reasons for "Opting Out" of State CMP on next page. In short, our current outdated form of measuring performance along our regional roadway system has been costly and tedious with little to no benefit to either jurisdiction nor SJCOG.



"Opt Out" Process

Pursuant to California Government Code §65088.3, counties may "Opt Out" of the CMP requirement with no loss of gas tax revenues if the majority of jurisdictions that represent the majority of the county's population pass resolutions that request to "Opt Out" of California CMP. SJCOG needs a minimum of 5 jurisdictions approve resolutions by City Council/Board of Supervisors; of which one must be City of Stockton or the County. Based on American Factfinder, City of Stockton accounts for 42% of total population in San Joaquin County.




Should the "Opt Out" occur, SJCOG staff anticipates immediate implementation. Planning and Engineering staff will no longer have to perform duties related to the state CMP.

Examples

SJCOG will not be the first to "Opt Out" of State CMP in California and even in San Joaquin Valley. The following agencies have either already opted out, are currently in the process, or passed a resolution that recommends "Opt Out" of State CMP.

"Opted Out"

- Fresno Council of Governments (Fresno County) – 1997
- Sacramento Transportation Authority (Sacramento County) – 1996
- San Diego Association of Governments (San Diego County) – 2009
- San Luis Obispo Council of Governments (San Luis Obispo County) – 1997
- Santa Cruz County Regional Transportation Commission (Santa Cruz County) – 2000
- Sonoma County Transportation Authority (Sonoma County) – 2000s

In the Process of "Opting Out"

- Los Angeles Metro (Los Angeles County) – Board passed a resolution initiating process in June 2018. City of Los Angeles and 45 other member jurisdictions passed resolutions to "Opt Out" by June 2019.

Passed a Resolution (3000 Revised) that encourages their counties to "Opt Out"

- Metropolitan Transportation Commission (Member Counties with CMAs include Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano)

Alternative Considered

SJCOG can continue to fulfill the requirements as required by State CMP and move forward with updating the current CMP. We do not recommend this alternative as SJCOG has examined multiple ways of adapting the state legislative requirements to better fit the needs of our stakeholders and found little benefit of preserving State CMP. Opting out of the CMP gives SJCOG the flexibility to implement mobility improvements through the programs and projects in

the Long Range Transportation Plan adopted by the Board, while furthering improvements to transportation capacity, choice and cost-effectiveness.

Determination

CMP LOS analysis was originally a pioneering effort in coordinated transportation planning, but now will become a burdensome and duplicative requirement for local agencies that is out of step with statewide transportation goals and greenhouse gas emission targets. To reiterate the reasons to "Opt Out" of State CMP, the following requirements would be removed:

- Submittal of project referral application & environmental documents for land use review;
- Follow up correspondence from jurisdictions about project & mitigation measure updates;
- The chance of losing State & Federal funding; And
- Submittal of updates to complete seven-year capital improvement program.

SJCOG staff sees merit in "opting out" of the State CMP and does recommend jurisdictions start the "Opt Out" process that results in the adoption of resolutions by City Councils/Board of Supervisors. SJCOG staff prefers all jurisdictions adopt resolutions to "Opt Out" State CMP; however, the minimum requirement of 5 jurisdictions that includes City of Stockton or San Joaquin County is acceptable.

**Impact to Measure K Program**

There is a linkage between Measure K projects and the CMP. The Measure K Program, in Section 7 of the Ordinance, identifies requirements of Measure K Projects to the adopted Congestion Management Program. It further goes into technical detail about state CMP requirements, which identified earlier in this staff report, are now antiquated. If and when this region "Opts Out" of State CMP, the Measure K ordinance will require an amendment to remove these outdated references.

This can occur during the annual Call for Amendments to the Measure K Ordinance conducted by SJCOG Board. Appendix E is an excerpt from the Measure K Ordinance and illustrates the strikeover (deleted) text and new text that would be submitted for the proposed Measure K amendment. Ultimately, updates of SJCOG's CMP will achieve the goal of meeting Federal CMP requirements while adding policies, information, and/or action items that better supports the needs of jurisdictions within San Joaquin County.

Jurisdiction Review

This staff report was distributed on 10/31/19 to primarily Planning staff for review with comments and questions due at 5:00 PM on 11/21/19. SJCOG felt Planning staff would be the most incentivized for "Opting Out" of State CMP due to the current staff time needed to receive and respond to SJCOG letters and provide updates to projects and associated mitigation measures.

As of 11/21/19, no comments were received from Planning Staff. On 11/22/19, San Joaquin County left a voicemail to request clarity on possibly whom would be right department to take

forth a recommendation to their Board of Supervisors. On 11/25/19, SJCOG emailed San Joaquin County to provide clarification and availability to discuss "Opting Out" of State CMP more in detail, if needed.

**COMMITTEE ACTIONS:**

- ***Technical Advisory Committee*** – Unanimously approved on 11/14/19.
    - City of Lodi was provided a recommended implementation deadline of July 1, 2020.
    - City of Ripon received assurance that there are no drawbacks by SJCOG "Opting Out" of State CMP.
    - City of Tracy was provided clarity on minimum participation requirement of jurisdictions to "Opt Out" of State CMP.
- ***Management & Finance Committee*** – Unanimously approved on 11/20/19.
    - Cities of Tracy and Ripon asked similar questions as Cities of Lodi and Ripon at TAC.
    - City of Stockton asked why SJCOG did not "Opt Out" earlier. SJCOG noted SB 743 implementation in 2020 was the main factor to "Opt Out."
- ***Citizens Advisory Committee*** – Unanimously approved on 11/20/19.
    - Sierra Club was provided clarification on SB 743 and received assurance that there are no drawbacks by SJCOG "Opting Out" of State CMP.
- ***Executive Committee*** - *Unanimously* approved on 11/22/19.
    - City of Lodi was provided clarity on VMT.
    - City of Ripon was provided clarity that staff currently follow s both federal and state CMP statutes. This request will opt SJCOG out of state CMP statutes.

**NEXT STEPS:**

Staff will move forward with the follow steps:

- Monitor and provide information/advise while jurisdictions move forward with the resolution process with their City Councils/Board of Supervisors;
- Work with our jurisdictions while amending CMP to fulfill federal CMP statutes and better fit the needs of jurisdictions in San Joaquin County;
- Plan to amend San Joaquin County's Measure K in 2020 and replace State CMP requirements with reference that Measure K will comply with Federal CMP requirements; And
- Update other SJCOG documents, like SJCOG's Overall Work Program, to reflect the removal of State CMP statutes.

**ATTACHMENTS:**

A. SJCOG Resolution R-20-16
B. Sample Resolution for City / County
C. State Statutes Related to Congestion Management Programs

D. List of Current & Past CMAs and Sources
E. Draft Measure K Renewal Ordnance of 2006 Amended
F. Draft SJCOG Overall Work Program Updated

*Prepared by: Travis Yokoyama, Associate Regional Planner*

# RESOLUTION
## SAN JOAQUIN COUNCIL OF GOVERNMENTS

R-20-16

RESOLUTION RECOMMENDING OUR JURISDICTIONS ADOPT RESOLUTIONS TO OPT OUT OF STATE CONGESTION MANAGEMENT PROGRAM (CMP)

WHERESAS, the San Joaquin Council of Governments (SJCOG) serves as the Congestion Management Agency (CMA) for San Joaquin County; and

WHEREAS, pursuant to the passage of Proposition 111 of 1990 and Measure K of 2006, SJCOG must follow guidelines set forth by California Government Code 65088; and

WHEREAS, SJCOG must prepare and update a CMP biennially for San Joaquin County that includes an element defining the CMP system, an element establishing level of service (LOS) standards, a system-wide multimodal performance element, a program for analyzing the impact of land use decisions, and a seven-year capital improvement program; and

WHEREAS, SJCOG must monitor the regional roadway network set forth by the policies of most recent CMP update; and

WHEREAS, jurisdictions can be held accountable for deficient roadways/intersections; and

WHEREAS, adoptions of Assembly Bill (AB) 32 California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006) directly or indirectly moved CEQA away from LOS as a performance metric; and

WHEREAS, fulfilling State CMP requirements has become burdensome and duplicative requirement for local agencies that is out of step with statewide transportation goals and greenhouse gas emission targets; and

WHEREAS, pursuant to California Government Code 65088.3, SJCOG can opt out of State CMP requirements if the majority of local governments, collectively comprised of the city councils and the county board of supervisors, which in total also represent a majority of the population in the county, each adopt resolutions electing to be exempt from the congestion management program; and

WHEREAS, the option of "Opting Out" of State CMP has been reviewed by our jurisdictions

and approved by the San Joaquin Council of Governments' Board on December 5, 2019.

NOW, THEREFORE BE IT RESOLVED that staff of the eight jurisdictions in San Joaquin County are recommended to submit a resolution to city council that opts a jurisdiction out of responsibilities of State CMP set forth by California Government Code 65088.

PASSED AND ADOPTED this 5th day of December 2019 by the following vote of the San Joaquin Council of Governments, to wit;

AYES: Councilmember Andrade, Stockton; Councilmember Jobrack, Stockton; Supervisor Miller, SJC; Councilmember Murken, Escalon; Mayor Rickman, Tracy; Councilmember Singh, Manteca; Vice Mayor Wright, Stockton; Mayor Zuber, Ripon.

NOES: None.

ABSENT: Mayor Dhaliwal, Lathrop; Supervisor Elliot, SJC; Mayor Pro Tem Kuehne, Lodi; Supervisor Winn, SJC.

for DOUG KUEHNE
Chair

RESOULTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF

_____, CALIFORNIA, ELECTING TO BE EXEMPT FROM

THE CONGESTION MANAGEMENT PROGRAM

WHEREAS, in 1990 the voters of California passed Proposition 111 and the requirement that urbanized counties develop and implement a Congestion Management Program; and

WHEREAS, the legislature and governor established the specific requirements of the Congestion Management Program by passage of legislation which was a companion to Proposition 111 and is encoded in California Government Code Section 65088 to 65089.10; and

WHEREAS, the San Joaquin Council of Governments (SJCOG) has been designated as the Congestion Management Agency responsible for San Joaquin County's Congestion Management Program; and

WHEREAS, California Government Code Section 65089.3 allows urbanized counties to be exempt from the Congestion Management Program based on resolutions passed by local jurisdictions representing a majority of a county's jurisdictions with a majority of the county's population; and

WHEREAS, the Congestion Management Program is outdated and increasingly out of step with current regional, State, and federal planning processes and requirements, including new State requirements for transportation performance measures related to greenhouse gas reduction; and

WHEREAS, on _____ the SJCOG Board of Directors took action to direct SJCOG staff to work with local jurisdictions to prepare the necessary resolutions to exempt San Joaquin County from the Congestion Management Program.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of the City of _____, California, as follows:

1. That the above recitations are true and correct.
2. That the City of _____ hereby elects to be exempt from the Congestion Management Program as described in California Government Code Section 65088 to 65089.10.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of _____ on the ____ day of _____ by the following vote, to wit:

AYES:

NOES:

ABSENT:

_____

(Name), Mayor

SAMPLE

ATTEST:

_____

(Name), City Clerk

(Seal)

SAMPLE

CALIFORNIA CODES
GOVERNMENT CODE
SECTION 65088-65089.10

65088. The Legislature finds and declares all of the following:

(a) Although California's economy is critically dependent upon transportation, its current transportation system relies primarily upon a street and highway system designed to accommodate far fewer vehicles than are currently using the system.

(b) California's transportation system is characterized by fragmented planning, both among jurisdictions involved and among the means of available transport.

(c) The lack of an integrated system and the increase in the number of vehicles are causing traffic congestion that each day results in 400,000 hours lost in traffic, 200 tons of pollutants released into the air we breathe, and three million one hundred thousand dollars ($3,100,000) added costs to the motoring public.

(d) To keep California moving, all methods and means of transport between major destinations must be coordinated to connect our vital economic and population centers.

(e) In order to develop the California economy to its full potential, it is intended that federal, state, and local agencies join with transit districts, business, private and environmental interests to develop and implement comprehensive strategies needed to develop appropriate responses to transportation needs.

(f) In addition to solving California's traffic congestion crisis, rebuilding California's cities and suburbs, particularly with affordable housing and more walkable neighborhoods, is an important part of accommodating future increases in the state's population because homeownership is only now available to most Californians who are on the fringes of metropolitan areas and far from employment centers.

(g) The Legislature intends to do everything within its power to remove regulatory barriers around the development of infill housing, transit-oriented development, and mixed use commercial development in order to reduce regional traffic congestion and provide more housing choices for all Californians.

(h) The removal of regulatory barriers to promote infill housing, transit-oriented development, or mixed use commercial development does not preclude a city or county from holding a public hearing nor finding that an individual infill project would be adversely impacted by the surrounding environment or transportation patterns.

65088.1. As used in this chapter the following terms have the following meanings:

(a) Unless the context requires otherwise, "agency" means the agency responsible for the preparation and adoption of the congestion management program.

(b) "Bus rapid transit corridor" means a bus service that includes at least four of the following attributes:

(1) Coordination with land use planning.

(2) Exclusive right-of-way.

(3) Improved passenger boarding facilities.

(4) Limited stops.

(5) Passenger boarding at the same height as the bus.

(6) Prepaid fares.
(7) Real-time passenger information.
(8) Traffic priority at intersections.
(9) Signal priority.
(10) Unique vehicles.

(c) "Commission" means the California Transportation Commission.

(d) "Department" means the Department of Transportation.

(e) "Infill opportunity zone" means a specific area designated by a city or county, pursuant to subdivision (c) of Section 65088.4, that is within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3 of the Public Resources Code, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours.

(f) "Interregional travel" means any trips that originate outside the boundary of the agency. A "trip" means a one-direction vehicle movement. The origin of any trip is the starting point of that trip. A roundtrip consists of two individual trips.

(g) "Level of service standard" is a threshold that defines a deficiency on the congestion management program highway and roadway system which requires the preparation of a deficiency plan. It is the intent of the Legislature that the agency shall use all elements of the program to implement strategies and actions that avoid the creation of deficiencies and to improve multimodal mobility.

(h) "Local jurisdiction" means a city, a county, or a city and county.

(i) "Multimodal" means the utilization of all available modes of travel that enhance the movement of people and goods, including, but not limited to, highway, transit, nonmotorized, and demand management strategies including, but not limited to, telecommuting. The availability and practicality of specific multimodal systems, projects, and strategies may vary by county and region in accordance with the size and complexity of different urbanized areas.

(j) (1) "Parking cash-out program" means an employer-funded program under which an employer offers to provide a cash allowance to an employee equivalent to the parking subsidy that the employer would otherwise pay to provide the employee with a parking space. "Parking subsidy" means the difference between the out-of-pocket amount paid by an employer on a regular basis in order to secure the availability of an employee parking space not owned by the employer and the price, if any, charged to an employee for use of that space.

(2) A parking cash-out program may include a requirement that employee participants certify that they will comply with guidelines established by the employer designed to avoid neighborhood parking problems, with a provision that employees not complying with the guidelines will no longer be eligible for the parking cash-out program.

(k) "Performance measure" is an analytical planning tool that is used to quantitatively evaluate transportation improvements and to assist in determining effective implementation actions, considering all modes and strategies. Use of a performance measure as part of the program does not trigger the requirement for the preparation of deficiency plans.

(l) "Urbanized area" has the same meaning as is defined in the 1990 federal census for urbanized areas of more than 50,000 population.

(m) Unless the context requires otherwise, "regional agency" means the agency responsible for preparation of the regional transportation improvement program.

**State CMP "Opt Out" Criteria**

65088.3. This chapter does not apply in a county in which a majority of local governments, collectively comprised of the city councils and the county board of supervisors, which in total also represent a majority of the population in the county, each adopt resolutions electing to be exempt from the congestion management program.

65088.4. (a) It is the intent of the Legislature to balance the need for level of service standards for traffic with the need to build infill housing and mixed use commercial developments within walking distance of mass transit facilities, downtowns, and town centers and to provide greater flexibility to local governments to balance these sometimes competing needs.

(b) Notwithstanding any other provision of law, level of service standards described in Section 65089 shall not apply to the streets and highways within an infill opportunity zone.

(c) The city or county may designate an infill opportunity zone by adopting a resolution after determining that the infill opportunity zone is consistent with the general plan and any applicable specific plan, and is a transit priority area within a sustainable communities strategy or alternative planning strategy adopted by the applicable metropolitan planning organization.

65088.5. Congestion management programs, if prepared by county transportation commissions and transportation authorities created pursuant to Division 12 (commencing with Section 130000) of the Public Utilities Code, shall be used by the regional transportation planning agency to meet federal requirements for a congestion management system, and shall be incorporated into the congestion management system.

65089. (a) A congestion management program shall be developed, adopted, and updated biennially, consistent with the schedule for adopting and updating the regional transportation improvement program, for every county that includes an urbanized area, and shall include every city and the county. The program shall be adopted at a noticed public hearing of the agency. The program shall be developed in consultation with, and with the cooperation of, the transportation planning agency, regional transportation providers, local governments, the department, and the air pollution control district or the air quality management district, either by the county transportation commission, or by another public agency, as designated by resolutions adopted by the county board of supervisors and the city councils of a majority of the cities representing a majority of the population in the incorporated area of the county.

(b) The program shall contain all of the following elements:

(1) (A) Traffic level of service standards established for a system of highways and roadways designated by the agency. The highway and roadway system shall include at a minimum all state highways and principal arterials. No highway or roadway designated as a part of

the system shall be removed from the system. All new state highways and principal arterials shall be designated as part of the system, except when it is within an infill opportunity zone. Level of service (LOS) shall be measured by Circular 212, by the most recent version of the Highway Capacity Manual, or by a uniform methodology adopted by the agency that is consistent with the Highway Capacity Manual. The determination as to whether an alternative method is consistent with the Highway Capacity Manual shall be made by the regional agency, except that the department instead shall make this determination if either (i) the regional agency is also the agency, as those terms are defined in Section 65088.1, or (ii) the department is responsible for preparing the regional transportation improvement plan for the county.

(B) In no case shall the LOS standards established be below the level of service E or the current level, whichever is farthest from level of service A except when the area is in an infill opportunity zone. When the level of service on a segment or at an intersection fails to attain the established level of service standard outside an infill opportunity zone, a deficiency plan shall be adopted pursuant to Section 65089.4.

(2) A performance element that includes performance measures to evaluate current and future multimodal system performance for the movement of people and goods. At a minimum, these performance measures shall incorporate highway and roadway system performance, and measures established for the frequency and routing of public transit, and for the coordination of transit service provided by separate operators. These performance measures shall support mobility, air quality, land use, and economic objectives, and shall be used in the development of the capital improvement program required pursuant to paragraph (5), deficiency plans required pursuant to Section 65089.4, and the land use analysis program required pursuant to paragraph (4).

(3) A travel demand element that promotes alternative transportation methods, including, but not limited to, carpools, vanpools, transit, bicycles, and park-and-ride lots; improvements in the balance between jobs and housing; and other strategies, including, but not limited to, flexible work hours, telecommuting, and parking management programs. The agency shall consider parking cash-out programs during the development and update of the travel demand element.

(4) A program to analyze the impacts of land use decisions made by local jurisdictions on regional transportation systems, including an estimate of the costs associated with mitigating those impacts. This program shall measure, to the extent possible, the impact to the transportation system using the performance measures described in paragraph (2). In no case shall the program include an estimate of the costs of mitigating the impacts of interregional travel. The program shall provide credit for local public and private contributions to improvements to regional transportation systems. However, in the case of toll road facilities, credit shall only be allowed for local public and private contributions which are unreimbursed from toll revenues or other state or federal sources. The agency shall calculate the amount of the credit to be provided. The program defined under this section may require implementation through the requirements and analysis of the California Environmental Quality Act, in order to avoid duplication.

(5) A seven-year capital improvement program, developed using the

performance measures described in paragraph (2) to determine effective projects that maintain or improve the performance of the multimodal system for the movement of people and goods, to mitigate regional transportation impacts identified pursuant to paragraph (4). The program shall conform to transportation-related vehicle emission air quality mitigation measures, and include any project that will increase the capacity of the multimodal system. It is the intent of the Legislature that, when roadway projects are identified in the program, consideration be given for maintaining bicycle access and safety at a level comparable to that which existed prior to the improvement or alteration. The capital improvement program may also include safety, maintenance, and rehabilitation projects that do not enhance the capacity of the system but are necessary to preserve the investment in existing facilities.

(c) The agency, in consultation with the regional agency, cities, and the county, shall develop a uniform data base on traffic impacts for use in a countywide transportation computer model and shall approve transportation computer models of specific areas within the county that will be used by local jurisdictions to determine the quantitative impacts of development on the circulation system that are based on the countywide model and standardized modeling assumptions and conventions. The computer models shall be consistent with the modeling methodology adopted by the regional planning agency. The data bases used in the models shall be consistent with the data bases used by the regional planning agency. Where the regional agency has jurisdiction over two or more counties, the data bases used by the agency shall be consistent with the data bases used by the regional agency.

(d) (1) The city or county in which a commercial development will implement a parking cash-out program that is included in a congestion management program pursuant to subdivision (b), or in a deficiency plan pursuant to Section 65089.4, shall grant to that development an appropriate reduction in the parking requirements otherwise in effect for new commercial development.

(2) At the request of an existing commercial development that has implemented a parking cash-out program, the city or county shall grant an appropriate reduction in the parking requirements otherwise applicable based on the demonstrated reduced need for parking, and the space no longer needed for parking purposes may be used for other appropriate purposes.

(e) Pursuant to the federal Intermodal Surface Transportation Efficiency Act of 1991 and regulations adopted pursuant to the act, the department shall submit a request to the Federal Highway Administration Division Administrator to accept the congestion management program in lieu of development of a new congestion management system otherwise required by the act.

65089.1. (a) For purposes of this section, "plan" means a trip reduction plan or a related or similar proposal submitted by an employer to a local public agency for adoption or approval that is designed to facilitate employee ridesharing, the use of public transit, and other means of travel that do not employ a single-occupant vehicle.

(b) An agency may require an employer to provide rideshare data bases; an emergency ride program; a preferential parking program; a transportation information program; a parking cash-out program, as defined in subdivision (f) of Section 65088.1; a public transit

subsidy in an amount to be determined by the employer; bicycle parking areas; and other noncash value programs which encourage or facilitate the use of alternatives to driving alone. An employer may offer, but no agency shall require an employer to offer, cash, prizes, or items with cash value to employees to encourage participation in a trip reduction program as a condition of approving a plan.

(c) Employers shall provide employees reasonable notice of the content of a proposed plan and shall provide the employees an opportunity to comment prior to submittal of the plan to the agency for adoption.

(d) Each agency shall modify existing programs to conform to this section not later than June 30, 1995. Any plan adopted by an agency prior to January 1, 1994, shall remain in effect until adoption by the agency of a modified plan pursuant to this section.

(e) Employers may include disincentives in their plans that do not create a widespread and substantial disproportionate impact on ethnic or racial minorities, women, or low-income or disabled employees.

(f) This section shall not be interpreted to relieve any employer of the responsibility to prepare a plan that conforms with trip reduction goals specified in Division 26 (commencing with Section 39000) of the Health and Safety Code, or the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(g) This section only applies to agencies and employers within the South Coast Air Quality Management District.

65089.2. (a) Congestion management programs shall be submitted to the regional agency. The regional agency shall evaluate the consistency between the program and the regional transportation plans required pursuant to Section 65080. In the case of a multicounty regional transportation planning agency, that agency shall evaluate the consistency and compatibility of the programs within the region.

(b) The regional agency, upon finding that the program is consistent, shall incorporate the program into the regional transportation improvement program as provided for in Section 65082. If the regional agency finds the program is inconsistent, it may exclude any project in the congestion management program from inclusion in the regional transportation improvement program.

(c) (1) The regional agency shall not program any surface transportation program funds and congestion mitigation and air quality funds pursuant to Sections 182.6 and 182.7 of the Streets and Highways Code in a county unless a congestion management program has been adopted by December 31, 1992, as required pursuant to Section 65089. No surface transportation program funds or congestion mitigation and air quality funds shall be programmed for a project in a local jurisdiction that has been found to be in nonconformance with a congestion management program pursuant to Section 65089.5 unless the agency finds that the project is of regional significance.

(2) Notwithstanding any other provision of law, upon the designation of an urbanized area, pursuant to the 1990 federal census or a subsequent federal census, within a county which previously did not include an urbanized area, a congestion management program as required pursuant to Section 65089 shall be adopted within a period of 18 months after designation by the Governor.

(d) (1) It is the intent of the Legislature that the regional agency, when its boundaries include areas in more than one county,

should resolve inconsistencies and mediate disputes that arise between agencies related to congestion management programs adopted for those areas.

(2) It is the further intent of the Legislature that disputes that may arise between regional agencies, or agencies that are not within the boundaries of a multicounty regional transportation planning agency, should be mediated and resolved by the Secretary of Transportation, or an employee of the Transportation Agency designated by the secretary, in consultation with the air pollution control district or air quality management district within whose boundaries the regional agency or agencies are located.

(e) At the request of the agency, a local jurisdiction that owns, or is responsible for operation of, a trip-generating facility in another county shall participate in the congestion management program of the county where the facility is located. If a dispute arises involving a local jurisdiction, the agency may request the regional agency to mediate the dispute through procedures pursuant to subdivision (d). Failure to resolve the dispute does not invalidate the congestion management program.

65089.3. The agency shall monitor the implementation of all elements of the congestion management program. The department is responsible for data collection and analysis on state highways, unless the agency designates that responsibility to another entity. The agency may also assign data collection and analysis responsibilities to other owners and operators of facilities or services if the responsibilities are specified in its adopted program. The agency shall consult with the department and other affected owners and operators in developing data collection and analysis procedures and schedules prior to program adoption. At least biennially, the agency shall determine if the county and cities are conforming to the congestion management program, including, but not limited to, all of the following:

(a) Consistency with levels of service standards, except as provided in Section 65089.4.

(b) Adoption and implementation of a program to analyze the impacts of land use decisions, including the estimate of the costs associated with mitigating these impacts.

(c) Adoption and implementation of a deficiency plan pursuant to Section 65089.4 when highway and roadway level of service standards are not maintained on portions of the designated system.

65089.4. (a) A local jurisdiction shall prepare a deficiency plan when highway or roadway level of service standards are not maintained on segments or intersections of the designated system. The deficiency plan shall be adopted by the city or county at a noticed public hearing.

(b) The agency shall calculate the impacts subject to exclusion pursuant to subdivision (f) of this section, after consultation with the regional agency, the department, and the local air quality management district or air pollution control district. If the calculated traffic level of service following exclusion of these impacts is consistent with the level of service standard, the agency shall make a finding at a publicly noticed meeting that no deficiency plan is required and so notify the affected local jurisdiction.

(c) The agency shall be responsible for preparing and adopting procedures for local deficiency plan development and implementation

responsibilities, consistent with the requirements of this section. The deficiency plan shall include all of the following:

(1) An analysis of the cause of the deficiency. This analysis shall include the following:

(A) Identification of the cause of the deficiency.

(B) Identification of the impacts of those local jurisdictions within the jurisdiction of the agency that contribute to the deficiency. These impacts shall be identified only if the calculated traffic level of service following exclusion of impacts pursuant to subdivision (f) indicates that the level of service standard has not been maintained, and shall be limited to impacts not subject to exclusion.

(2) A list of improvements necessary for the deficient segment or intersection to maintain the minimum level of service otherwise required and the estimated costs of the improvements.

(3) A list of improvements, programs, or actions, and estimates of costs, that will (A) measurably improve multimodal performance, using measures defined in paragraphs (1) and (2) of subdivision (b) of Section 65089, and (B) contribute to significant improvements in air quality, such as improved public transit service and facilities, improved nonmotorized transportation facilities, high occupancy vehicle facilities, parking cash-out programs, and transportation control measures. The air quality management district or the air pollution control district shall establish and periodically revise a list of approved improvements, programs, and actions that meet the scope of this paragraph. If an improvement, program, or action on the approved list has not been fully implemented, it shall be deemed to contribute to significant improvements in air quality. If an improvement, program, or action is not on the approved list, it shall not be implemented unless approved by the local air quality management district or air pollution control district.

(4) An action plan, consistent with the provisions of Chapter 5 (commencing with Section 66000), that shall be implemented, consisting of improvements identified in paragraph (2), or improvements, programs, or actions identified in paragraph (3), that are found by the agency to be in the interest of the public health, safety, and welfare. The action plan shall include a specific implementation schedule. The action plan shall include implementation strategies for those jurisdictions that have contributed to the cause of the deficiency in accordance with the agency's deficiency plan procedures. The action plan need not mitigate the impacts of any exclusions identified in subdivision (f). Action plan strategies shall identify the most effective implementation strategies for improving current and future system performance.

(d) A local jurisdiction shall forward its adopted deficiency plan to the agency within 12 months of the identification of a deficiency. The agency shall hold a noticed public hearing within 60 days of receiving the deficiency plan. Following that hearing, the agency shall either accept or reject the deficiency plan in its entirety, but the agency may not modify the deficiency plan. If the agency rejects the plan, it shall notify the local jurisdiction of the reasons for that rejection, and the local jurisdiction shall submit a revised plan within 90 days addressing the agency's concerns. Failure of a local jurisdiction to comply with the schedule and requirements of this section shall be considered to be nonconformance for the purposes of Section 65089.5.

(e) The agency shall incorporate into its deficiency plan

procedures, a methodology for determining if deficiency impacts are caused by more than one local jurisdiction within the boundaries of the agency.

(1) If, according to the agency's methodology, it is determined that more than one local jurisdiction is responsible for causing a deficient segment or intersection, all responsible local jurisdictions shall participate in the development of a deficiency plan to be adopted by all participating local jurisdictions.

(2) The local jurisdiction in which the deficiency occurs shall have lead responsibility for developing the deficiency plan and for coordinating with other impacting local jurisdictions. If a local jurisdiction responsible for participating in a multi-jurisdictional deficiency plan does not adopt the deficiency plan in accordance with the schedule and requirements of paragraph (a) of this section, that jurisdiction shall be considered in nonconformance with the program for purposes of Section 65089.5.

(3) The agency shall establish a conflict resolution process for addressing conflicts or disputes between local jurisdictions in meeting the multi-jurisdictional deficiency plan responsibilities of this section.

(f) The analysis of the cause of the deficiency prepared pursuant to paragraph (1) of subdivision (c) shall exclude the following:

(1) Interregional travel.

(2) Construction, rehabilitation, or maintenance of facilities that impact the system.

(3) Freeway ramp metering.

(4) Traffic signal coordination by the state or multi-jurisdictional agencies.

(5) Traffic generated by the provision of low-income and very low income housing.

(6) (A) Traffic generated by high-density residential development located within one-fourth mile of a fixed rail passenger station, and

(B) Traffic generated by any mixed use development located within one-fourth mile of a fixed rail passenger station, if more than half of the land area, or floor area, of the mixed use development is used for high density residential housing, as determined by the agency.

(g) For the purposes of this section, the following terms have the following meanings:

(1) "High density" means residential density development which contains a minimum of 24 dwelling units per acre and a minimum density per acre which is equal to or greater than 120 percent of the maximum residential density allowed under the local general plan and zoning ordinance. A project providing a minimum of 75 dwelling units per acre shall automatically be considered high density.

(2) "Mixed use development" means development which integrates compatible commercial or retail uses, or both, with residential uses, and which, due to the proximity of job locations, shopping opportunities, and residences, will discourage new trip generation.

65089.5. (a) If, pursuant to the monitoring provided for in Section 65089.3, the agency determines, following a noticed public hearing, that a city or county is not conforming with the requirements of the congestion management program, the agency shall notify the city or county in writing of the specific areas of nonconformance. If, within 90 days of the receipt of the written notice of nonconformance, the city or county has not come into conformance with the congestion management program, the governing body of the agency shall make a

finding of nonconformance and shall submit the finding to the commission and to the Controller.

(b) (1) Upon receiving notice from the agency of nonconformance, the Controller shall withhold apportionments of funds required to be apportioned to that nonconforming city or county by Section 2105 of the Streets and Highways Code.

(2) If, within the 12-month period following the receipt of a notice of nonconformance, the Controller is notified by the agency that the city or county is in conformance, the Controller shall allocate the apportionments withheld pursuant to this section to the city or county.

(3) If the Controller is not notified by the agency that the city or county is in conformance pursuant to paragraph (2), the Controller shall allocate the apportionments withheld pursuant to this section to the agency.

(c) The agency shall use funds apportioned under this section for projects of regional significance which are included in the capital improvement program required by paragraph (5) of subdivision (b) of Section 65089, or in a deficiency plan which has been adopted by the agency. The agency shall not use these funds for administration or planning purposes.

65089.6. Failure to complete or implement a congestion management program shall not give rise to a cause of action against a city or county for failing to conform with its general plan, unless the city or county incorporates the congestion management program into the circulation element of its general plan.

65089.7. A proposed development specified in a development agreement entered into prior to July 10, 1989, shall not be subject to any action taken to comply with this chapter, except actions required to be taken with respect to the trip reduction and travel demand element of a congestion management program pursuant to paragraph (3) of subdivision (b) of Section 65089.

65089.9. The study steering committee established pursuant to Section 6 of Chapter 444 of the Statutes of 1992 may designate at least two congestion management agencies to participate in a demonstration study comparing multimodal performance standards to highway level of service standards. The department shall make available, from existing resources, fifty thousand dollars ($50,000) from the Transportation Planning and Development Account in the State Transportation Fund to fund each of the demonstration projects. The designated agencies shall submit a report to the Legislature not later than June 30, 1997, regarding the findings of each demonstration project.

65089.10. Any congestion management agency that is located in the Bay Area Air Quality Management District and receives funds pursuant to Section 44241 of the Health and Safety Code for the purpose of implementing paragraph (3) of subdivision (b) of Section 65089 shall ensure that those funds are expended as part of an overall program for improving air quality and for the purposes of this chapter.

**Current & Past State Congestion Management Agencies**

| County | Agency | Opt Out? | Opt Out Year |
|---|---|---|---|
| Alameda | Alameda County Transportation Commission | N | |
| Contra Costa | Contra Costa Transportation Authority | N | |
| Fresno | Fresno Council of Governments | Y | 1997 |
| Kern | Kern Council of Governments | N | |
| Los Angeles | Los Angeles County Metropolitan Transportation Authority | Y | In Process |
| Marin | Transportation Authority of Marin | N | |
| Monterey | Transportation Agency for Monterey County | N | |
| Napa | Napa County Transportation Planning Agency | N | |
| Orange | Orange County Transportation Authority | N | |
| Placer | Placer County Transportation Planning Agency | N | |
| Riverside | Riverside County Transportation Commission | N | |
| Sacramento | Sacramento Transportation Authority | Y | 1996 |
| San Bernardino | San Bernardino Associated Governments | N | |
| San Diego | San Diego Association of Governments | Y | 2009 |
| San Francisco | San Francisco Transportation Authority | N | |
| San Joaquin | San Joaquin Council of Governments | N | |
| San Luis Obispo | San Luis Obispo Council of Governments | Y | 1997 |
| San Mateo | San Mateo County Association of Governments | N | |
| Santa Barbara | Santa Barbara County Association of Governments | N | |
| Santa Clara | Santa Clara County Transportation Authority | N | |
| Santa Cruz | Santa Cruz County Regional Transportation Commission | Y | 2000 |
| Solano | Solano County Transportation Authority | N | |
| Sonoma | Sonoma County Transportation Authority | Y | 2000s |
| Stanislaus | Stanislaus Council of Governments | N | |
| Tulare | Tulare County Associate of Governments | N | |
| Ventura | Ventura County Transporation Commission | N | |
| Yolo | Yolo County Transportation District | N | |

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Sacramento County

City of Sacramento, Congestion Management Plan (CMP) Exemption, 9/6/96 <http://www.records.cityofsacramento.org/ViewDoc.aspx?ID=s6tFBnt4W+KLuZR2aLd6/NXGZpqF4NXG>

Santa Cruz County

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Sonoma County

Sonoma County Transportation Authority <Email from Christopher Barney, Senior Transportation Planner [9/17/19]>

San Luis Obispo

City of San Luis Obispo, AB 2419 Exemption from the Congestion Management Agency/Congestion Management Program (CMA/CMP) <http://opengov.slocity.org/WebLink/PDF/4tewmnkjialqetafogxz5r5r/37/01071997,%208%20-%20AB%202419%20EXEMPTION%20FROM%20THE%20CONGESTION%20MANAGEMENT%20AGENCYCONGES.pdf>

# MEASURE K RENEWAL CMP REQUIREMENTS

## SECTION 7. REGIONAL CONGESTION MANAGEMENT PLAN

7.01 The Authority must have in place and be fully implementing a Regional Congestion Management Plan by January 1, 2008.

7.02 The primary goals of this Plan shall include:

(a) Monitoring Vehicle Mile Traveled (VMT) as a key indicator of growth and jobs/housing targets.
(b) Adopting programs that strive to keep the increase in VMT to an annual rate that is equal or less than the population increase.
(c) Supporting and planning for improved heavy passenger rail and regional bus connections with the Bay Area and Sacramento.
(d) Ensuring new development contributes a fair share and provides transportation improvements at the time of new construction.

7.03 The Regional Congestion Management Plan shall be in compliance with the federal Congestion Management Process. ~~the following:~~

~~(a) Traffic Level of Service standards for all regional roadway facilities.~~
~~(b) Standards for the frequency and routing of public transit.~~
~~(c) A trip reduction and travel demand element that promotes alternative transportation modes.~~
~~(d) A program to coordinate the development review process to reduce automobile trip generation from newly developed residential and employment centers.~~
~~(e) The San Joaquin Council of Governments will review all environmental documents and/or development applications for residential, commercial, retail, and industrial development in San Joaquin County generating 125 or more peak hour trips, based on ITE factors. The San Joaquin Council of Governments will comment on each of these developments as to their impact on the region and recommend the appropriate mitigation to address the impacts the new development will have on the existing transportation system. The San Joaquin Council of Governments will coordinate with the California Department of Transportation on these comments.~~
~~(f) Use of a regional transportation and traffic computer model and database to determine the quantitative impacts of traffic from new and existing development on the regional transportation system.~~

7.04 An Annual Report will be produced and adopted by the Authority determining the compliance of all local agencies and the San Joaquin Council of Governments with sections 7.01 through 7.03. Should a local agency fail to comply with the requirements of this section that agency will be suspended from being allocated Congestion Relief funds for new projects until found to be in compliance. Should the San Joaquin Council of Governments fail to comply with the requirements of this section the agency will suspend expenditure of the 1% administrative funds until compliance is achieved.

Attached is a conceptual update of the Congestion Management Program Work Element based on the FY 19/20 OWP. The purpose is to indicate tasks that would no longer be needed after the removal of the State CMP requirements.

The exact tasks and budget for each future fiscal year will be determined through the OWP process based on the requirements of the Federal CMP and priorities of SJCOG and member agencies.

Note that consultant assistance was not expected during FY 19/20, so the estimated $150,000 savings in biannual consultant costs are not shown. Only the estimated $45,000 annual staff savings are shown.

## 801.04 CONGESTION MANAGEMENT PROGRAM/SYSTEM

A. Previous Work: ~~AB 471 (1989) provides for development of Congestion Management Programs for all urbanized counties in California.~~ The Measure K Renewal Program Ordinance, approved in November 2006, includes goals and provisions for update of the CMP and a process to review and comment on local plans and development proposals. The FAST Act requires the establishment of a Congestion Management Process. During FY 17/18, SJCOG updated the program, adopted a revised Regional Congestion Management Plan, and developed and used the Federal Congestion Management Process as a component of the RTP/SCS updates. During FY 18/19, SJCOG completed the system monitoring and performance reports.

B. Purpose: To implement the requirements of the ~~State Congestion Management Plan,~~ the Federal Congestion Management Process and the Measure K Renewal Program. To adhere to a planning process that flags and corrects new areas of congestion before they occur. To implement a technically sound and achievable set of planning methods that monitor the transportation system as well as the land use developments that generate trip making. To demonstrate that all reasonable Transportation Demand Management (TDM) and Transportation System Management strategies have been employed prior to programming a roadway capacity increasing project.

C. Tasks:

1. Continue to refine, quarterly, CMP process to address all suggestions and/or recommendations made as part of the federal certification review process and to ensure continued compliance with FHWA policy and guidance. In reference to 23 CFR 450.320 (6) (d) and (e).
2. Planning activities to demonstrate and ensure that all reasonable Transportation Demand Management (TDM) strategies have been employed prior to adding capacity to a regionally significant roadway.
3. Collect data on CMP network and monitor system performance ~~through use of the CMP Land Use Analysis program. This program will enable a review and technical analysis of planning and development proposals and proposed capacity enhancing transportation projects.~~
4. Use of CMP process to identify transportation projects and programs that can be considered for inclusion in the next RTP.
5. Continue to define and expand upon CMP's performance measures and indicators.
6. Per Measure K Renewal, prepare annual evaluation and recommendations based on CMP implementation goals in conjunction

with local, ~~state,~~ and federal mandates.

~~7. Per State Statute, update CMP every 2 years (e.g., perform traffic counts and level of service analysis of the CMP network in conformance with CMP requirements, re-establish system LOS, review implementation strategies, assess effectiveness of CMP based on performance measure and indicators).~~

8. Continue to refine and develop applications for SJCOG's use of the federal congestion management process and procedures as a component of the CMP update. Adhering to the Federal Congestion Management process, investigate and apply corridor level monitoring analysis to evaluate CMP system performance.

D. Products & Schedule:

1. Application of regional and roadway specific Transportation Demand Management strategies – Quarterly through June 2020.

~~2. Review planning and development proposals in accordance with the CMP and provisions of the Measure K Renewal Ordinance - Approximately 50 reviews per year. July 2019 to June 2020~~

3. Perform strategic intersection and roadway segment traffic counts on CMP network ~~and re-establish system LOS~~ – As deemed necessary throughout year.

4. Apply Federal Congestion Management process and procedures as part of the CMP update – June 2020.

~~5. Biennial CMP Update – June 2020~~

6. Biennial evaluation of CMP implementation – June 2021.

~~7. Preparation and adoption of Deficiency Plans – As required by development proposals or technical analysis.~~

E. Funding Source:

| | | |
|---|---|---|
| FHWA PL- | ~~$ 107,000.00 - Credits 12,272.90~~ | $82,000.00 |
| Local Transportation Authority-MK PM | ~~$ 60,000.00~~ | $40,000.00 |

F. Responsible Agency:

SJCOG

~~$ 167,000.00~~ $122,000.00

G. Staff Required: (person-months)

SJCOG:

5.5

COUNTY OF LOS ANGELES
DEPARTMENT OF PUBLIC WORKS
"To Enrich Lives Through Effective and Caring Service"

900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91803-1331
Telephone (626) 458-5100
http://dpw.lacounty.gov

MARK PESTRELLA, Director

ADDRESS ALL CORRESPONDENCE TO:
P.O. BOX 1460
ALHAMBRA, CALIFORNIA 91802-1460

IN REPLY PLEASE
REFER TO FILE

**ADOPTED**
BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
28 July 16, 2019
CELIA ZAVALA
EXECUTIVE OFFICER

July 16, 2019

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

**TRANSPORTATION CORE SERVICE AREA**
**CONGESTION MANAGEMENT PROGRAM OPT-OUT**
**(ALL SUPERVISORIAL DISTRICTS)**
**(3 VOTES)**

## SUBJECT

This action is to approve a resolution exempting the Los Angeles County from the State-mandated Congestion Management Program in conjunction with Metro's effort to achieve Countywide exemption once a majority of the Los Angeles County's local governments have adopted similar resolutions.

## IT IS RECOMMENDED THAT THE BOARD:

1. Find that the proposed action is exempt from the California Environmental Quality Act for the reasons stated in this Board letter.

2. Approve the resolution, as authorized by the California Government Code Section 65088.3, electing for the Los Angeles County to be exempt from the Congestion Management Program as described in the California Government Code Section 65088 et seq.

## PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Approval of recommended actions will find that the project is exempt from the California Environmental Quality Act (CEQA) and withdraw the County from the requirement of the adopted Congestion Management Program (CMP).

Background

The CMP for the County region was first established in 1992 by the County Transportation Commission, predecessor of Metro, following the passage of Proposition 111 in 1990. The purpose of the CMP was to address the impacts of local growth on the regional transportation system. The CMP was created to link local land use decisions with their impacts on regional transportation and air quality as well as to develop a partnership among transportation decision makers on devising appropriate transportation solutions that include all modes of travel.

Under the CMP, the 88 incorporated cities plus the County share various statutory responsibilities, including monitoring traffic count locations on select arterials, implementing transportation improvements, adoption of travel demand management and land use ordinance, and mitigating congestion impacts.

The framework for the CMP is linked to the idea that congestion can be mitigated by continuing to add capacity to roadways since the primary metric that drives the program is level of service (LOS). LOS is a qualitative metric that is used to define operational conditions of a roadway in terms of vehicular service measures, such as speed and travel time, freedom to maneuver, traffic interruptions, and comfort and convenience. Recent State laws and rulemaking, namely Assembly Bill 32 (California Global Warming Solutions Act of 2006), Senate Bill (SB) 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit-oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006), all move away from LOS directly or indirectly. Therefore, the CMP contradicts these key State policies. Several counties have elected to opt-out of the CMP over the years, including Fresno, San Diego, San Luis Obispo, and Santa Cruz. The reasons for doing so are varied but generally include redundant administrative processes that come with great expense with little to no congestion management benefit along with the continued mandate of using LOS to determine roadway deficiencies.

Over the last several years, the CMP has become increasingly outdated in relation to the direction of regional, State, and Federal transportation planning requirements. Additional reasons to opt-out of the CMP include:

Opting out of the CMP relieves the County from:

• Having to use a single measure LOS to determine roadway deficiencies.
• Losing State gas tax funds or being ineligible to receive State and Federal Transportation Improvement Program funds, as a result of not being in compliance with CMP requirements or performance standards.
• Administrative and financial burden associated with the preparation of documents to demonstrate conformance with the CMP.

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated and expensive.

Metro has been designated as the Congestion Management Agency responsible for administering the County's region CMP. On June 28, 2018, the Metro Board of Directors acted to initiate the process to opt-out of the State-mandated program and directed Metro to consult with local jurisdictions to consider and prepare the necessary resolutions for jurisdictions to exempt themselves from the program. The California Government Code Section 65088.3 states that jurisdictions within a county may opt-out of the CMP requirement without penalty, if a majority of local jurisdictions

representing a majority of the County's population formally adopt resolutions requesting to opt-out of the program. If Metro is successful in opting out of the CMP, it will allow the region to use different performance measures consistent with State-mandates to determine roadway deficiencies and ensure adequate planning.

**Implementation of Strategic Plan Goals**

The County Strategic Plan directs the provision of Strategy III.3, Pursue Operational Effectiveness, Fiscal Responsibility, and Accountability. The recommended actions will maximize the use of County assets by exercising fiscal responsibility of County funds.

## FISCAL IMPACT/FINANCING

There will be no impact to the County's General Fund.

Opting out of this program will alleviate the County obligation on the CMP costs.

## FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The resolution has been reviewed and approved by County Counsel.

## ENVIRONMENTAL DOCUMENTATION

The proposed project is exempt from CEQA. It can be seen with certainty that there is no possibility that the project may have a significant effect on the environment pursuant to State CEQA Guidelines Section 15061(b)(3). The proposed project is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment. The adoption of the resolution exempting the County from the CMP is exempt under this common-sense exemption because the CMP is an obsolete performance-based planning program that is not consistent with current transportation metrics used for CEQA analysis. Furthermore, other similar, applicable regional, State, and Federal transportation planning processes and requirements have weakened and supplanted the CMP. Thus, exemption from the CMP can have no potential significant impact on the environment. Upon the Board's approval of the recommended actions, Public Works will file a Notice of Exemption with the County Clerk in accordance with Section 21152 of the California Public Resources Code.

## IMPACT ON CURRENT SERVICES (OR PROJECTS)

There are no negative impacts anticipated from opting out of this program and the enclosed resolution will continue to enable the County to preserve gasoline tax subvention funds.

**CONCLUSION**

Please return two adopted copies of the letter and resolution to Public Works, Transportation Planning and Programs Division.

Respectfully submitted,



MARK PESTRELLA
Director

MP:DBM:pr

Enclosures

c: Chief Executive Office (Chia-Ann Yen)
County Counsel (Laura Jacobson)
Executive Office

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES, CALIFORNIA, ELECTING TO BE EXEMPT FROM THE CONGESTION MANAGEMENT PROGRAM**

WHEREAS, California voters passed Proposition 111 in June of 1990 requiring urbanized counties to develop and implement a Congestion Management Program (CMP); and

WHEREAS, Metro is the Congestion Management Agency responsible for the County's CMP; and

WHEREAS, California Government Code Section 65088.3 states that the CMP requirements do not apply in the County in that the majority of local governments comprised of City councils and the Board, and representing a majority of the population within the county, each adopt resolutions electing to be exempt from the CMP; and

WHEREAS, over time the CMP has become increasingly out of step with current regional, State, and Federal planning processes and requirements, including new State requirements for transportation performance measures related to greenhouse gas reduction; and

WHEREAS, on June 28, 2018, the Metro Board of Directors directed Metro staff to work with the various local governments within the County to gauge the level of interest in pursuing exemption from the CMP, and assisting with preparing the resolutions required under Government Code Section 65088.3.

NOW, THEREFORE BE IT RESOLVED by the Board that:

1. The Board, pursuant to the California Government Code Section 65088.3 does hereby elect to be exempt from the CMP as described in the California Government Code Sections 65088 to 65089.10.

On the 16th day July, 2019, the foregoing resolution was adopted by the Board of Supervisors of the Los Angeles County.

CELIA ZAVALA
Executive Officer of the
Board of Supervisors of the
Los Angeles County

By _____
Deputy

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By _____
Deputy

P:\TPPUB\FED\ST CRDNTN UNIT\CMP\2018 BD LTR-OPT OUT\CMP-ENC

San Gabriel
CITY WITH A MISSION

City of San Gabriel

# STAFF REPORT

DATE: February 19, 2019

TO: Honorable Mayor and City Council

FROM: Mark Lazzaretto, City Manager

BY: Greg de Vinck, P.E., Public Works Director/City Engineer
Algis J. Marciuska, P.E., Principal Civil Engineer

SUBJECT: **Metro / California Congestion Management Program (CMP) - Opt Out Resolution No. 19-05**

## SUMMARY

*Staff recommends that City Council adopt Resolution No. 19-05 electing that the City join the process for Metro and all Los Angeles County local jurisdictions to opt out of the California Congestion Management Program (CMP) in accordance with State CMP statute.*

## INTRODUCTION

Metro is required by state law to prepare and update on a biennial basis a Congestion Management Program (CMP) for the County of Los Angeles. The CMP process was established as part of a 1990 legislative package to implement Proposition 111, which increased the state gas tax from 9 to 18 cents. The intent of the CMP was to tie the appropriation of new gas tax revenues to congestion reduction efforts by improving land use/transportation coordination. While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated and expensive. CMP primarily uses a level of service (LOS) performance metric which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles travelled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

Pursuant to California Government Code §65088.3 (Attachment A, C.G.C. §65000 et seq.), jurisdictions within a county may opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county's population formally adopt resolutions requesting to opt out of the program. Given that the CMP has become increasingly out of step with regional, state, and federal planning processes and requirements, staff recommends that

Metro initiate the process to gauge the interest of local jurisdictions and other stakeholders in opting out of State CMP requirements.

## ANALYSIS

Under the CMP, the 88 incorporated cities plus the County of Los Angeles share various statutory responsibilities, including monitoring traffic count locations on select arterials, implementing transportation improvements, adoption of travel demand management and land use ordinances, and mitigating congestion impacts.

The framework for the CMP is firmly grounded in the idea that congestion can be mitigated by continuing to add capacity to roadways. This is evidenced by the primary metric that drives the program which is LOS. Recent state laws and rulemaking, namely AB 32 (California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006), all move away from LOS directly or indirectly. Therefore, the CMP contradicts these key state policies and Metro's own efforts to promote a more sustainable and equitable region.

A number of counties have elected to opt out of the CMP over the years including San Diego, Fresno, Santa Cruz and San Luis Obispo counties. The reasons for doing so are varied but generally concern redundant, expensive, administrative processes that come with great expense, little to no congestion benefit and continue to mandate the use of LOS to determine roadway deficiencies.

The passage of Measure M and the update of the Long Range Transportation Plan present Metro with an opportunity to consider new ways to measure transportation system performance, measures that complement efforts to combat climate change, support sustainable and vibrant communities, and improve mobility. For Metro and cities alike, the continued administration of the CMP is a distraction at best or an impediment at worst to improving our transportation system.

Over the last several years, the CMP has become increasingly outdated in relation to the direction of Metro's planning process and regional, state, and federal transportation planning requirements. Additional reasons to opt out of the CMP include:

1. Relieves Metro and local jurisdictions of a mandate to use a single measure (LOS) to determine roadway deficiencies.
2. Eliminates the risk to local jurisdictions of losing their state gas tax funds or being ineligible to receive state and federal Transportation Improvement Program funds, as a result of not being in compliance with CMP requirements or performance standards.
3. Eliminates the administrative and financial burden to cities associated with the preparation of documents to demonstrate conformance with the CMP.

Metro could continue to implement the CMP as adopted by the Board or look to update the program. After examining multiple ways to adapt state legislative requirements, Metro does not recommend either of those options. Metro has not been able to fit Los Angeles County mobility complexities to statutory requirements in a manner that achieves consensus of the stakeholders over the twenty-five-year life of the program. Opting out of the CMP gives Metro the flexibility to implement mobility improvements through the programs and projects in the Long Range Transportation Plan adopted by the Board. This will allow more appropriate improvements to transportation capacity, choice and cost-effectiveness.

Metro is working with all the cities in the county to obtain enough resolutions to allow opting-out of the CMP and is hopeful the minimum required number of resolutions is obtained. However, if that effort is unsuccessful, then Metro would continue to enforce the requirements of the CMP.

## FISCAL IMPACT

There is no impact to the current fiscal year budget, nor any anticipated impact to future budgets or the continued flow of state gas tax revenues to local jurisdictions. The recommended action may have a positive impact on Metro and local jurisdiction budgets in future years by eliminating the annual costs associated with implementing the CMP. Annual costs to local agencies vary based on size, but generally there is a staff commitment of 25-60 hours per jurisdiction plus the cost of conducting traffic counts at the 164 CMP intersections throughout the County at a cost of approximately $250 per intersection. For Metro, the annual burden of administering the CMP is approximately 1.2 Full Time Equivalents (FTE).

## ENVIRONMENTAL ANALYSIS

The proposed action is exempt from CEQA per section 15061 (b) (3), the General Rule. The General Rule can be applied when it can be seen with certainty that the activity will not have a significant effect on the environment.

## RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. 19-05 electing to be exempt from the Congestion Management Program (CMP) in accordance with the CMP State statute.

## ATTACHMENTS

Attachment A – Resolution 19-05
Attachment B - CMP Opt-Out Supporting Information from Metro

**Attachment A**

**RESOLUTION NO. 19-05**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN GABRIEL, CALIFORNIA, ELECTING TO BE EXEMPT FROM THE CONGESTION MANAGEMENT PROGRAM**

WHEREAS, in 1990 the voters of California passed Proposition 111 and the requirement that urbanized counties develop and implement a Congestion Management Program; and

WHEREAS, the legislature and governor established the specific requirements of the Congestion Management Program by passage of legislation which was a companion to Proposition 111 and is encoded in California Government Code Sections 65088 to 65089.10; and

WHEREAS, the Los Angeles County Metropolitan Transportation Authority (Metro) has been designated as the Congestion Management Agency responsible for Los Angeles County's Congestion Management Program; and

WHEREAS, California Government Code Section 65088.3 allows urbanized counties to be exempt from the Congestion Management Program based on resolutions passed by local jurisdictions representing a majority of a county's jurisdictions with a majority of the county's population; and

WHEREAS, the Congestion Management Program is outdated and increasingly out of step with current regional, State, and federal planning processes and requirements, including new State requirements for transportation performance measures related to greenhouse gas reduction; and

WHEREAS, on the 20th of June 2018, the Metro Board of Directors took action to direct Metro staff to work with local jurisdictions to prepare the necessary resolutions to exempt Los Angeles County from the Congestion Management Program.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of the City of San Gabriel, California, as follows:

1. That the above recitations are true and correct.

2. That the City of San Gabriel hereby elects to be exempt from the Congestion Management Program as described in California Government Code Section 65088 to 65089.10.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of San Gabriel on the 19th day of February 2019 by the following vote, to wit:

_____
John R. Harrington, Mayor
City of San Gabriel

Attest:

_____
Julie Nguyen
City Clerk

**Attachment B**

# Metro

Metro

## Board Report

Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

**File #:** 2018-0122, **File Type:** Program

**Agenda Number:** 22.

**PLANNING AND PROGRAMMING COMMITTEE**
**JUNE 20, 2018**

**SUBJECT: CONGESTION MANAGEMENT PROGRAM OPT-OUT**

**ACTION: APPROVE RECOMMENDATION**

## RECOMMENDATION

APPROVE initiating the process for Metro and all Los Angeles County local jurisdictions to opt out of the California Congestion Management Program (CMP), in accordance with State CMP statute.

## ISSUE

Metro is required by state law to prepare and update on a biennial basis a Congestion Management Program (CMP) for the County of Los Angeles. The CMP process was established as part of a 1990 legislative package to implement Proposition 111, which increased the state gas tax from 9 to 18 cents. The intent of the CMP was to tie the appropriation of new gas tax revenues to congestion reduction efforts by improving land use/transportation coordination.

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated and expensive. CMP primarily uses a level of service (LOS) performance metric which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles travelled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

Pursuant to California Government Code §65088.3 (Attachment A, C.G.C. §65000 et seq.), jurisdictions within a county may opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county's population formally adopt resolutions requesting to opt out of the program. Given that the CMP has become increasingly out of step with regional, state, and federal planning processes and requirements, staff recommends that Metro initiate the process to gauge the interest of local jurisdictions and other stakeholders in opting out of State CMP requirements.

## DISCUSSION

Under the CMP, the 88 incorporated cities plus the County of Los Angeles share various statutory responsibilities, including monitoring traffic count locations on select arterials, implementing transportation improvements, adoption of travel demand management and land use ordinances, and mitigating congestion impacts.

The framework for the CMP is firmly grounded in the idea that congestion can be mitigated by continuing to add capacity to roadways. This is evidenced by the primary metric that drives the program which is LOS. Recent state laws and rulemaking, namely AB 32 (California Global Warming Solutions Act of 2006), SB 375 (Sustainable Communities and Climate Protection Act of 2008), SB 743 (Environmental quality: transit oriented infill projects, judicial review streamlining for environmental leadership development projects) and SB 32 (California Global Warming Solutions Act of 2006), all move away from LOS directly or indirectly. Therefore, the CMP contradicts these key state policies and Metro's own efforts to promote a more sustainable and equitable region.

A number of counties have elected to opt out of the CMP over the years including San Diego, Fresno, Santa Cruz and San Luis Obispo counties. The reasons for doing so are varied but generally concern redundant, expensive, administrative processes that come with great expense, little to no congestion benefit and continue to mandate the use of LOS to determine roadway deficiencies.

The passage of Measure M and the update of the Long Range Transportation Plan present Metro with an opportunity to consider new ways to measure transportation system performance, measures that complement efforts to combat climate change, support sustainable, vibrant communities and improve mobility. For Metro and cities alike, the continued administration of the CMP is a distraction at best or an impediment at worst to improving our transportation system.

Over the last several years, the CMP has become increasingly outdated in relation to the direction of Metro's planning process and regional, state, and federal transportation planning requirements. Additional reasons to opt out of the CMP include:

- Relieves Metro and local jurisdictions of a mandate to use a single measure (LOS) to determine roadway deficiencies.
- Eliminates the risk to local jurisdictions of losing their state gas tax funds or being ineligible to receive state and federal Transportation Improvement Program funds, as a result of not being in compliance with CMP requirements or performance standards.
- Eliminates the administrative and financial burden to cities associated with the preparation of documents to demonstrate conformance with the CMP.

## ALTERNATIVES CONSIDERED

Metro could continue to implement the CMP as adopted by the Board or look to update the program. We do not recommend this as we have examined multiple ways to adapt state legislative requirements, but we have been unable to fit Los Angeles county mobility complexities to statutory requirements in a manner that achieves consensus of our stakeholders over the twenty-five-year life of the program. Opting out of the CMP gives Metro the flexibility to implement mobility improvements through the programs and projects in the Long Range Transportation Plan adopted by the Board, while furthering improvements to transportation capacity, choice and cost-effectiveness.

## DETERMINATION OF SAFETY IMPACT

This Board action will have no adverse impact on safety standards for Metro.

## FINANCIAL IMPACT

There is no impact to the current fiscal year budget, nor any anticipated impact to future budgets or the continued flow of state gas tax revenues to local jurisdictions. The recommended action may have a positive impact on Metro and local jurisdiction budgets in future years by eliminating the annual costs associated with implementing the CMP. Annual costs to local agencies vary based on size but generally require a staff commitment of 25-60 hours per jurisdiction plus the cost of conducting traffic counts at the 164 CMP intersections at a cost of approximately $250 per intersection. For Metro the annual burden of administering the CMP is approximately 1.2 Full Time Equivalents (FTE).

## NEXT STEPS

Upon Board approval, staff will proceed in consulting with local jurisdictions and other interested stakeholders as follows:

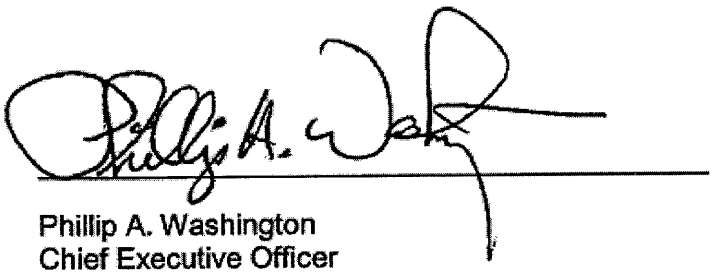
- Consult with the Metro Technical Advisory Committee (TAC) regarding opting out of the CMP and conduct a workshop of our stakeholders to receive input on the interest in opting out of the CMP.
- With the concurrence of the TAC and workshop participants, request local jurisdictions to consider adopting draft resolution (Attachment B) to opt out of the program.
- Upon receipt of formally-adopted resolutions from a majority of local jurisdictions representing a majority of the population, notify the State Controller, Caltrans, and SCAG that Los Angeles County has opted out of the CMP in accordance with statutory requirements.

## ATTACHMENTS

Attachment A - CMP legislation
Attachment B - Draft Resolution to Opt Out of the Congestion Management Program in Los Angeles County

Prepared by: Paul Backstrom, Manager, Countywide Planning & Development, (213) 922-2183
Mark Yamarone, DEO, Countywide Planning & Development, (213) 418-3452
Kalieh Honish, EO, Countywide Planning & Development, (213) 922-7109
Manjeet Ranu, SEO, Countywide Planning & Development, (213) 418-3157

Reviewed by: Therese W. McMillan, Chief Planning Officer, (213) 922-7077



Phillip A. Washington
Chief Executive Officer

Los Angeles County
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Los Angeles, CA 90012-2952

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Metro

# LA Metro Congestion Management Program
# Opt-Out FAQ

**What is the Congestion Management Program (CMP)?**

The CMP is a 1990 era state-mandated performance-based planning program that attempts to link land use and transportation decisions.

**Who are the parties responsible for implementation of the CMP?**

Metro is the Congestion Management Agency charged with administering the state-mandated program. All 89 jurisdictions (88 cities plus the County of Los Angeles) are responsible for compliance with the provisions of the program.

**Why is Metro recommending an opt-out of the CMP?**

While the CMP requirement was one of the pioneering efforts to conduct performance-based planning, the approach has become antiquated. CMP primarily uses a level of service (LOS) performance metric which is a measurement of vehicle delay that is inconsistent with new state-designated performance measures, such as vehicle miles travelled (VMT), enacted by SB 743 for California Environmental Quality Act (CEQA) transportation analysis.

**Is Metro replacing the CMP?**

No, this is not a replacement effort. The opt-out is strictly about removing the LA County region from the state-mandated requirements of the CMP. Cities will retain local control over land use decisions.

**What are the requirements to opt out of the CMP?**

A majority consensus of 45 jurisdictions representing approximately 5.1 million people in the County of Los Angeles is required to opt out formally.

September 28, 2018

Pursuant to California Government Code §65088.3 (Attachment A, C.G.C. §65000 et seq.), jurisdictions within a county may opt out of the CMP requirement without penalty, if a majority of local jurisdictions representing a majority of the county's population formally adopt resolutions requesting to opt out of the program.

**Has Metro contacted representatives from the City of LA and or the County?**

Recognizing the population that needs to be achieved for a successful opt-out, Metro did consult with City and County of Los Angeles officials to ensure that their respective agencies were amenable to the idea. Any final decision to opt out would require approval from their respective governing bodies.

**Has Metro contacted anyone from the state about the decision to proceed with an opt-out?**

Yes. Metro consulted with the State Controller's Office, Office of Planning and Research, Caltrans and the California Transportation Commission prior to initiating the opt-out process. None of the state agencies referenced raised any concerns.

**Will local jurisdictions continue to receive their apportionment of 2105 gas tax funds if the opt-out is successful?**

Yes. Cities will continue to receive gas taxes tied to the CMP.

**Have other regions have opted out of the CMP?**

Yes. Some of the regions that have opted out of the CMP include: Fresno, Santa Cruz, San Luis Obispo, Sacramento, Sonoma and San Diego.

**What does Metro need from local jurisdictions who wish to opt out of the CMP?**

Metro needs local jurisdictions to formally adopt resolutions requesting to opt out of the program. A sample resolution is attached to this email. Once your governing body has adopted the resolution, please scan and send the final signed copy to Paul Backstrom backstromp@metro.net.

**What is your timeline for completing the opt-out?**

Metro encourages local jurisdictions to adopt resolutions as soon as possible. Metro intends to provide an update to our Board in June. To meet that internally imposed timeline, Metro asks that local jurisdictions do their best to provide Metro with adopted resolutions by March 29, 2019.

**What happens to our debits and credits accumulated under the CMP?**

The debits and credits will exist and remain in our records but hold no current value outside of the CMP program.

**What happens to the transportation demand ordinances that cities adopted to comply with the provisions of the CMP?**

The ordinances remain intact as part of each city's municipal code. The only thing that would change is that cities would retain the option to remove or update those ordinances at their own discretion.

**What if the effort to opt out is unsuccessful?**

Should efforts to opt-out fail, Metro would continue to enforce the requirements of the CMP.

**Who can I contact for more information?**

Paul Backstrom by email backstromp@metro.net or by phone 213.922.2183.

RESOLUTION 2020-_____

EXEMPTING THE CITY OF TRACY FROM THE STATE-MANDATED CONGESTION MANAGEMENT PROGRAM IN CONJUNCTION WITH SAN JOAQUIN COUNCIL OF GOVERNMENTS' (SJCOG) EFFORT TO ACHIEVE COUNTYWIDE EXEMPTION ONCE A MAJORITY OF THE SAN JOAQUIN COUNTY'S LOCAL GOVERNMENTS HAD ADOPTED SIMILAR RESOLUTIONS

WHEREAS, Following the passage of Proposition 111 in 1990, one of the SJCOG's programs (i.e. SJCOG's Regional Congestion Management Program (RCMP)) is required to abide by SCMP and pursuant to California Government Code 65088.3, an exemption clause allows a county to "opt out" of SCMP after the majority of the jurisdictions that account for the majority of the county's population adopt resolutions that exempts them from the SCMP, and

WHEREAS, SJCOG took notice of this exemption clause as Senate Bill (SB) 743 implementation nears and level of service (LOS) as the primary performance metric is replaced by vehicle miles traveled (VMT), and SJCOG is currently collaborating with jurisdictions in San Joaquin County to "opt out" of SCMP, and

WHEREAS, In December 2019, SJCOG's Board of Directors passed Resolution R-20-16 and authorized SJCOG's Executive Director to start the process of "opting out" of SCMP, and

WHEREAS, SJCOG's December 2019 Board Staff Report, Resolution R-20-16 references the administrative benefits and cost savings of exempting from SCMP, and

WHEREAS, If SJCOG is successful in "opting out" of SCMP, SJCOG can rebuild their RCMP to fulfill federal CMP requirements along with considering the incorporation of data that meets the information demands of jurisdictions, and

WHEREAS, If SJCOG successfully "opts out" of the SCMP, the City provided its support given the following elements are included in subsequent updates to the region's Congestion Management Program (CMP):

1) SJCOG should ensure that the current proportion of the CMP funding to the City is preserved, and
2) SJCOG should ensure traffic operations are taken into account by providing funding to help Tracy maintain operations at acceptable level, and
3) The CMP should accommodate funding projects that addresses the cut-through traffic in the City, and

WHEREAS, The proposed action is exempt from CEQA per section 15061 (b) (3), the General Rule and the General Rule can be applied when it can be seen with certainty that the activity will not have a significant effect on the environment;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby elects for the City of Tracy to be exempt from the Congestion Management Program as described in the California Government Code Section 65088 et seq.

* * * * * * * * *

The foregoing Resolution 2020-_____ was passed and adopted by the Tracy City Council on the 21st day of July, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 1.B

REQUEST

**ACCEPT THE CONSTRUCTION OF THE TRACY RECYCLED WATER TRANSMISSION MAINS AND WASTEWATER TREATMENT PLANT PUMP STATION, PHASE 1 OF CIP 74091, COMPLETED BY MOUNTAIN CASCADE INC. (MCI), AUTHORIZE THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER AND AUTHORIZE THE UTILITIES DIRECTOR TO RELEASE THE BONDS AND RETENTION PAYMENT**

EXECUTIVE SUMMARY

The Contractor, Mountain Cascade Inc. (MCI) has completed construction of the Tracy Recycled Water Transmission Mains and Wastewater Treatment Plant (WWTP) Pump Station – CIP 74091 Phase 1. This project is the initial phase of the Tracy Recycled Water Infrastructure improvement project funded by the Proposition 84 grant in the amount of $18 million, awarded to the City of Tracy by the State of California Department of Water Resources per Agreement No. 4600011424. The City provides matching funds in the amount of $6 million. Staff recommends City Council accept construction of this project to enable the Utilities Director to release the contractor's bonds and retention.

DISCUSSION

The State of California Department of Water Resources awarded a Proposition 84 grant to the City in the amount of $18 million for construction of the recycled water backbone infrastructure for irrigation purposes starting from the City's existing Wastewater Treatment Plant (WWTP). The grant agreement No. 4600011424 required City matching funds in the amount of $6 million. The grant agreement also required completion of the design and construction of this project within a relatively short period, by March 31, 2020, to be eligible for reimbursement of costs. The recycled water is intended to irrigate sports fields, parks, street medians, and side landscaping once additional infrastructure is constructed in the future in accordance with the City's Recycled Water Master Plan.

The project improvement plans, specifications and bid documents were jointly prepared by consultant CH2MHILL and West Yost and Associates. The recycled water transmission line aligns through the County jurisdiction areas and urban areas of the City. Due to fluctuations of underground water levels during different months of the year, especially north of I-205 in the agricultural area, uncertainty of the bid amounts, coordination and acquisition of easements and properties, shorter project completion timeline and unforeseen conditions, the initial phase of the recycled water infrastructure improvements was made part of this Recycled Water Transmission Mains and WWTP Pump Station project. The scope of bid for the project involved installation of 5.6 miles of 24" and 30" diameter recycled water lines from the WWTP up to the intersection of Grant Line Road and Lammers Road. Bid Alternate 1 included construction of a pump station at the WWTP.

A second project was intended to be completed with left over funds from this grant if competitive bids were received and funds were available after award of construction contract of this project.

On October 16, 2018, City Council awarded a construction contract for base bid and bid alternate 1 for the Tracy Recycled Water Transmission Mains and WWTP Pump Station (CIP 74091), to MCI in the amount of $10,245,529.

Construction of the project has been completed in accordance with City standards, project specifications and improvement plans, within budget and schedule. Five change orders in the net amount of $7,131 were issued for the project mainly due to unforeseen site conditions and other changes. Project costs are as follows:

| | | | |
|---|---|---|---|
| A. | Construction Contract Amount | $ | 10,245,529 |
| B. | Approved Change orders | $ | 7,131 |
| C. | Design, construction management, inspection, Testing & miscellaneous project management expenses | $ | 2,314,083 |
| | Total Project Costs Phase 1 | $ | 12,566,743 |
| | Total Available funds for this project | $ | 24,000,000 |
| | Budget Remaining Phase 2 | $ | 11,433,257 |

## STRATEGIC PLAN

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

## FISCAL IMPACT

The Tracy Recycled Water Infrastructure Improvements Project, CIP 74091, is an approved Capital Improvement Project with a project budget of $24,000,000. This project has been separated into two phases; Phase 1 has been completed with a project cost of $12,566,743 and the balance remaining in the amount of $11,433,257 is being utilized towards Phase 2.

## RECOMMENDATION

Staff recommends that the City Council accept the construction of the Tracy Recycled Water Transmission Mains and Wastewater Treatment Plant Pump Station (Phase 1 CIP 74091) completed by Mountain Cascade Inc., authorize the City Clerk to file a Notice of Completion with the San Joaquin County Recorder and authorize the Utilities Director to release bonds and retention payment.

Prepared by: Kul Sharma, Utilities Director

Reviewed by: Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2020-_____

ACCEPTING THE CONSTRUCTION OF THE TRACY RECYCLED WATER TRANSMISSION MAINS AND WASTEWATER TREATMENT PLANT PUMP STATION, PHASE 1 OF CIP 74091, COMPLETED BY MOUNTAIN CASCADE INC. (MCI), AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER AND AUTHORIZING THE UTILITIES DIRECTOR TO RELEASE THE BONDS AND RETENTION PAYMENT

WHEREAS, The State of California Department of Water Resources awarded a Proposition 84 grant to the City in the amount of $18M for construction of the recycled water backbone infrastructure for irrigation purposes starting from the City's existing Wastewater Treatment Plant, and

WHEREAS, The grant agreement No. 4600011424 required City matching funds in the amount of $6M, and

WHEREAS, The grant agreement also required completion of the design and construction of this project during a relatively short period by March 31, 2020, to be eligible for reimbursement of costs, and

WHEREAS, The project improvement plans, specifications and bid documents were jointly prepared by consultant CH2MHILL and West Yost and Associates, and

WHEREAS, The scope of bid for the project involved installation of 5.6 miles of 24" and 30" diameter recycled water lines from the WWTP up to the intersection of Grant Line Road and Lammers Road. Bid Alternate 1 included construction of a pump station at the WWTP, and

WHEREAS, On October 16, 2018, City Council awarded a construction contract for base bid and bid alternate 1 for the Tracy Recycled Water Transmission Mains and WWTP Pump Station (CIP 74091), to MCI in the amount of $10,245,529, and

WHEREAS, Construction of the project has been completed in accordance with City standards, project specifications and improvement plans, within budget and schedule. Five change orders in the net amount of $7,131 were issued for the project mainly due to unforeseen site conditions and other changes, and

WHEREAS, Project costs are as follows:

| | | | |
|---|---|---|---|
| A. | Construction Contract Amount | $ | 10,245,529 |
| B. | Approved Change orders | $ | 7,131 |
| C. | Design, construction management, inspection, Testing & miscellaneous project management expenses | $ | 2,314,083 |
| | Total Project Costs Phase 1 | $ | 12,566,743 |
| | Total Available funds for this project | $ | 24,000,000 |
| | Budget Remaining Phase 2 | $ | 11,433,257 |

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby accepts the construction of the Tracy Recycled Water Transmission Mains and Wastewater Treatment Plant Pump Station (Phase 1 CIP 74091) completed by Mountain Cascade Inc., authorizes the City Clerk to file a Notice of Completion with the San Joaquin County Recorder and authorizes the Utilities Director to release bonds and retention payment.

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

The foregoing Resolution 2020-____ was adopted by the Tracy City Council on the 21st day of July, 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 1.C

REQUEST

## APPROVE THE 2020 WASTEWATER TREATMENT DISCHARGE AGREEMENT WITH LEPRINO FOODS

EXECUTIVE SUMMARY

Leprino Foods has operated pretreatment facilities on City property at the Wastewater Treatment Plant (WWTP) for over 40 years under an agreement for pretreatment of food process wastewater. The initial agreement from 1977 had a term of 20 years and was renewed for another 20 years by an amendment to the agreement in 1998 (1988 Amendment). The term of the 1998 Amendment was to expire on June 30, 2018, but the agreement has been extended until July 31, 2020 to complete negotiations and finalize the agreement. The City and Leprino Foods have completed negotiations for the new agreement and staff recommends the City Council approve the subject agreement. The term of the agreement is for fifteen years until July 30, 2035, with an option to extend the term for an additional fifteen years.

DISCUSSION

In 1977, the City and California Cooperative Creamery entered into an agreement for pretreatment of food process wastewater from their facilities in the City's WWTP. In late 1977, this agreement was assigned to Leprino Foods. In 1998, the agreement was modified by an amendment to extend the term of the agreement until 2018 (20 years). The 1998 Amendment also updated other terms of the agreement. City Council authorized multiple extensions of this agreement to complete negotiations and finalize the agreement. The most recent extension is set to expire on July 30, 2020. Leprino Foods and the City have completed negotiations and finalized the terms. If approved, the new agreement will supersede all previous agreements and amendments.

The agreement provides for Leprino Foods to continue discharge of up to 0.85 million gallons per day into the City wastewater treatment plant and continues the current strength of wastewater loadings. The agreement provides for continued use of the aerated ponds currently used by Leprino Foods for pretreatment. The agreement also increases rent to $30,000 per year from the existing rent of $2,750 per year.

In the new agreement, Leprino Foods will continue to own and maintain a pipeline from their facility on Grant Line Road to the WWTP. This pipeline conveys Leprino food process wastewater directly to aerated lagoons on land leased (11.1 acres) from the City at the WWTP. Aerated lagoons are used to pre-treat the Leprino food process wastewater before it enters the City's WWTP. Pretreatment is effective for industrial wastes because of the high strength of the wastewater. Pretreatment greatly reduces wastewater strength resulting in reduced wastewater billings from the City. Leprino Foods operates its pretreatment system at no cost to the City. Domestic wastewater from the Leprino Foods facility is discharged into the City wastewater collection system.

## STRATEGIC PLAN

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

## FISCAL IMPACT

The Wastewater Fund currently receives revenue of $2,750 per year in rent for the pretreatment facilities. The new agreement will increase the rent to $30,000 per year. Leprino Foods pays wastewater user charges of approximately $400,000 per year.

## RECOMMENDATION

That the City Council, by resolution, approve the 2020 Wastewater Treatment Discharge Agreement with Leprino Foods.

Prepared by: Steve Bayley, Project Specialist

Reviewed by: Kul Sharma, Utilities Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## ATTACHMENTS

Attachment A: 2020 Wastewater Treatment Discharge Agreement

Prepared By:

After Recording Return To:

Space above This Line for Recorder's Use

# 2020 WASTEWATER TREATMENT DISCHARGE AGREEMENT

This 2020 Wastewater Treatment Discharge Agreement ("Agreement") is entered into by and between the City of Tracy, California ("City") and Leprino Foods Company ("Leprino") – also referred to each individually as a "Party" and collectively as "Parties".

## RECITALS

A. Leprino operates a dairy-products manufacturing facility in Tracy, California (the "Facility"). The Facility generates up to 0.85 million gallons of wastewater per day ("MGD"), which is treated at Leprino's wastewater treatment facility located on land that Leprino has historically leased from the City (the "Leprino WWTF"), and which was originally leased from the City by agreement with the California Cooperative Creamery (Leprino's predecessor at the Facility and assignor) as early as 1977 (the "1977 Agreement"). The Leprino WWTF is shown on ***Exhibit A***.

B. In 1998, Leprino entered into an amendment to the 1977 Agreement (the "Amendment") with the City which, among other things, increased the amount of land that Leprino leased from the City in order to incorporate one of the City-owned wastewater treatment ponds into the lease agreement and increased the amount of wastewater that Leprino is permitted to discharge to the City's owned and operated wastewater treatment plant ("City WWTP") from 0.3 MGD up to 0.85 MGD. The City WWTP includes the wastewater treatment ponds 1, 3, 4, and 5 as shown on ***Exhibit A***.

C. The Amendment and the 1977 Agreement were originally scheduled to expire on June 30, 2018. On July 1, 2018, the City and Leprino entered into an extension to the Amendment and 1977 Agreement, extending the term thereof until June 30, 2019. The City and Leprino, effective July 1, 2019, entered into the second extension to the Amendment and 1977 Agreement, extending the term thereof until December 31, 2019.

D. Salinity management and groundwater degradation are important issues in the Central Valley. The City and Leprino work cooperatively together to minimize impacts from salinity to the environment and groundwater as evidenced in participation in Central Valley Salinity Alternatives for Long-term Sustainability ("CV Salts") and participation in a proposed desalination project.

E. The City and Leprino jointly have a permit issued by the Central Valley Regional Water Quality Control Board ("RWQCB") titled WASTE DISCHARGE REQUIREMENTS FOR CITY OF TRACY AND LEPRINO FOODS COMPANY, LAND DISCHARGE UNITS OF THE TRACY WASTEWATER TREATMENT PLANT, ORDER NO. R5-2007-0038, which regulates the aerated lagoons, holding ponds, sludge drying beds, and sludge storage basins, and is attached hereto as ***Exhibit B***.

F. In addition to the agreements that have historically governed Leprino's discharge of pretreated wastewater to the City WWTP and lease of City-owned land, the City also issues an annual permit to Leprino that sets forth the specific conditions under which Leprino can discharge pretreated wastewater to the City WWTP (the "Discharge Permit"). The current Discharge Permit expires on May 31, 2021, and is attached hereto as ***Exhibit C***.

G. Leprino's original discharge capacity in 1977 was 0.3 MGD. This discharge capacity was increased up to 0.85 MGD in the 1998 Amendment. Leprino did not contribute capital funds towards the City's expanded outfall pipeline project and therefore Leprino discharge volume is restricted to 0.3 MGD when unused capacity in the outfall pipeline is unavailable.

H. Leprino desires to continue to utilize land owned by the City for pre-treatment purposes and continue to discharge up to 0.85 MGD of wastewater to the City WWTP. Similarly, the City desires to continue to allow Leprino to utilize land owned by the City for pre-treatment purposes and continue to allow Leprino to discharge up to 0.85 MGD of wastewater to the City WWTP.

I. The City and Leprino have been engaged in negotiations to enter into a new agreement that set forth the terms and conditions under which (1) Leprino will continue to discharge pre-treated wastewater to the City; and (2) Leprino will continue to utilize the land owned by the City. Among other things, this Agreement delineates the terms and conditions under which Leprino will continue to discharge pre-treated wastewater to the City WWTP.

## AGREEMENT

NOW, THEREFORE, in consideration of the recitals (which are a material part of this Agreement), promises and agreements herein contained, the sufficiency of which are hereby acknowledged, Leprino and the City agree as follows:

1. **Term.** The term of this Agreement shall commence on July 1, 2020, and it shall expire on June 30, 2035 (the "Term"); subject, however, to earlier termination as hereinafter provided. Ninety (90) days prior to the expiration of the term of this Agreement, either Party may provide written notice to the other Party pursuant to Section 37, to extend the term of this Agreement for an additional 15 year period and to propose any amendments to the Agreement. Either party

may terminate this Agreement before expiration of the Term pursuant to section 19 of this Agreement.

2. **Discharge Volume**. During the term of this Agreement, Leprino shall be permitted to discharge up to 0.85 MGD of effluent from the Leprino WWTF to the City's WWTP, averaged over a rolling consecutive seven-day period; recognizing, however, that during any months when the City's flow is restricted under the RWQCB Permit (i.e., June, July, August, and September), the City may direct Leprino to discharge up to 0.55 MGD into the City's treatment ponds located north of Arbor Avenue and remaining flow up to an average aggregate of 0.85 MGD will be discharged to the City WWTP. Leprino discharge volume is restricted, as further described in Section 4, when unused capacity in the outfall pipeline is unavailable. If Leprino no longer uses Pond 2, Leprino shall be permitted to discharge up to 0.3 MGD. Leprino shall maintain metering and sampling facilities for all flows.

3. **Increase in Discharge Quantity**. In the event that Leprino makes changes or expansions to its Facility that have the potential to increase the volume of effluent to the City WWTP, the City will work in good faith with Leprino to accommodate such additional volume by, among other things, modifying this Agreement and the Discharge Permit, as necessary, to allow for such additional volume. In the event that capital improvements are required to accommodate any potential increased volume to the City WWTP from Leprino, the City will work in good faith with Leprino to reach an agreement on the cost and implementation of such improvements.

4. **Timing of Wastewater Discharge / Discharge Point**. In general, Leprino shall be permitted to discharge to the City WWTP at any time of day, 24 hours per day, 365 days per year. Notwithstanding the foregoing, to the extent possible Leprino shall not discharge any effluent to the City WWTP during "Wet Storm Events," defined as when the City WWTP effluent pumping plant is operating at 80% capacity. Leprino shall maintain and operate the Leprino WWTF in such a manner that there is adequate storage in the pretreatment pond to accommodate at least 72 hours of effluent during a Wet Storm Event. Notwithstanding anything herein to the contrary, the City will accommodate Leprino's discharge to prevent pretreatment pond overflow from the Leprino WWTF during any Wet Storm Event. The point of discharge from the Leprino WWTF to the City WWTP shall be the flume located at Pond 2, or other mutually agreed upon location.

5. **Discharge Quality**. In addition to any requirements set forth in the applicable wastewater Discharge Permit issued by the City to Leprino for discharge parameters not covered by the categories set forth below, Leprino shall be authorized to discharge effluent in accordance with the following specific discharge limitations:

   a. **Biological Oxygen Demand ("BOD") Limits**: Leprino shall not discharge effluent with greater than 500 pounds per day of BOD, based upon average daily inputs over a rolling seven-day consecutive period.

   b. **Total Suspended Solids ("TSS") Limits**: Leprino shall not discharge effluent with greater than 500 pounds per day of TSS, based upon average daily inputs over a rolling seven-day consecutive period.

Notwithstanding the foregoing contractual BOD and TSS Limits, pursuant to the terms of the Discharge Permit, the City will work in good faith to continue to provide Leprino with total BOD and TSS limits of 1050 pounds for both BOD and TSS on any single day, on an annual basis (consistent with the Discharge Permit schedule). The City will work in good faith to continue to provide such BOD and TSS limits in any Discharge Permit issued to Leprino during the term of this Agreement.

6. **Wastewater User Charges**. Leprino shall pay its pro-rata share (based on actual discharge volume and strength of wastewater from the Leprino WWTF to the City WWTP) of all costs of operation and maintenance of the City WWTP based upon the percentage of Leprino's wastewater volume and mass contribution to the City WWTP compared to the total volume and mass of wastewater influent to the City WWTP in accordance with the then current wastewater revenue and rate analysis. The Leprino flow and strength of wastewater shall be measured in accordance with its wastewater discharge permit. The wastewater billing shall be calculated and provided to Leprino monthly and the payment for the wastewater billing shall be due monthly. In the event that Leprino exceeds the maximum discharge limits established under this Agreement and the wastewater discharge permit, Leprino shall pay additional fees which have been established according to the terms and conditions of the City's ordinance controlling discharge of wastewater. The wastewater user charges attributable to Leprino may be modified by the wastewater revenue and rate analysis to reflect the actual "cost of service" associated with treating the Leprino WWTF effluent.

7. **Operation of the Leprino WWTF**. Leprino agrees to operate and maintain the Leprino WWTF consistent with the requirements of this Agreement and all applicable permits, including the Discharge Permit. Specifically:

a. Leprino shall pay all costs associated with the operation and maintenance of the Leprino WWTF.
b. Leprino shall operate and maintain the Leprino WWTF in a manner which will minimize odors, and abate all citations related to odor violations.

8. **Modifications to the Leprino WWTF**.

a. **Discharge Point Relocation**. Upon request of the City, Leprino will divert its current discharge point from Pond 2 to pond 1, to a new discharge point from Pond 2 to pond 3 and then pond 4 (the "Discharge Point Relocation"). Leprino will coordinate with the City and will make all good faith efforts to timely accomplish the Discharge Point Relocation as required to ensure the new discharge point is consistent with the City's efforts to repurpose pond 5. Leprino will pay for all costs and expenses associated with the Discharge Point Relocation.

b. It is specifically understood the City may request that Leprino relocate its pipelines and utilities within the City WWTP from time to time and Leprino agrees to coordinate and comply with such requests to do so at Leprino's sole cost and expense within thirty (30) days of receiving notice to relocate.

10. **Permits.** This Agreement shall not relieve Leprino from obtaining all permits required by ordinance, law, statute or regulation.

11. **Leased Land.** The City hereby leases to Leprino for the term of the Agreement the real property described in Exhibit "A," attached hereto and incorporated herein by reference (hereinafter "Leased Land"). The Leased Land described in Exhibit "A" shall include the existing 2.15 acre parcel containing the two smaller aerated ponds (Improvements), and the 8.9 acre pretreatment Pond 2.

Any holding over by Leprino after the termination of this Agreement or expiration of the term of the Agreement shall not constitute a renewal hereof or give Leprino any rights hereunder in or to the Leased Land.

Upon termination or expiration of this Agreement, Leprino shall remove any and all fixtures, equipment, and Improvements from Leased Land. Leprino shall also remove and dispose of all Leprino-generated sludge from Leased Land. Leprino shall provide security, as specified in Section 18, to ensure its faithful performance of all terms and conditions set forth in this paragraph.

12. **Use.** During the term of this Agreement, Leprino shall use and occupy the Leased Land for the construction, maintenance, and operation of pretreatment wastewater facilities. All improvements constructed and maintained thereon shall be used by Leprino for the use specified and for no other use or purpose. Leprino shall not use or permit any other person to use the premises, or any part thereof for any improper or offensive use or to constitute a nuisance; and Leprino shall at all times during said term of Agreement conform to, and cause all persons using or occupying any part of said premises to comply with, all public laws, ordinances, and regulations from time to time applicable thereto and to all operations thereon.

Leprino shall maintain a maintenance and operations manual for Leprino WWTF. The Leprino WWTF shall be operated and maintained according to said manual. If at any time the Leprino WWTF, in the opinion of the Utilities Director, is not operated and maintained in accordance with the manual, City shall give Leprino written notice of the deficiency and Leprino shall within seven (7) days to correct said deficiency or commence to cure such deficiency and shall thereafter diligently continue said correction until complete. If Leprino fails to make such correction as specified, they are in default of this Agreement.

13. **Construction by Leprino.** Before the commencement of any work of construction of any building, structure, or other improvement on the Leased Land, or of any substantial repairs, alterations, or additions, replacement, or restoration in and about said premises as herein provided, Leprino shall give to City written notice thereof, specifying the nature and location of the intended work and the expected date of commencement thereof.

No structure or other improvement, the plans, specifications, and proposed location of which have not first received the written approval of City, or which do not comply with such approved plans, specification, and locations, shall be constructed or maintained on the Leased Land. Leprino shall provide City with one complete electronic set of "As Built" drawings and specifications.

Leprino agrees that any and all costs of improvement in connection with the location or relocation of the facilities described herein on the City WWTP, easement or right-of-way shall be paid for by Leprino without any cost to City.

14. **Environmental Review.** Leprino shall take all steps necessary to ensure that the design,and construction or modification or demolition of any improvements comply with all required environmental review, including the requirements of the California Environmental Quality Act ("CEQA"). For its part, City shall cooperate fully with Leprino in connection with obtaining all required reviews and approvals including those related to environmental review under the CEQA.

15. **Encumbrance of Leasehold Estate.** Leprino shall not at any time encumber the leasehold interest created herein nor cause or permit a lien on the fee title of City.

16. **Repairs and Restoration** With the exception of roads and other appurtenances necessary to access the Leased Land, City shall not be required or obligated to make any changes, alterations, additions, improvements, or repairs in or on the Leased Land, or any part thereof, during the term of this Agreement.

Leprino at all times during the term of this agreement shall, at its cost and expense, keep and maintain said Leased Land and all improvements thereon and all facilities appurtenant thereto in good order and repair and safe condition, and the whole of the Leased Land and improvements in a clean, sanitary, orderly, and attractive condition. Leprino shall make any and all additions to or alterations or repairs in and about the Leased Land and the improvements which may be required by and shall otherwise observe and comply with all public laws, ordinances, and regulations from time to time applicable to the Leased Land.

17. **Rent.** Leprino agrees to pay City as rental for the use and occupancy of the Leased Land under this agreement the annual sum of $30,000, payable upon execution hereof, in advance, commencing on the first business day of July, 2020 and continuing on the first of July each year during the term of this agreement.

18. **Security.** Concurrently with Leprino's execution of this Agreement, Leprino shall furnish the City with a letter of credit or other comparable form of security, acceptable to the City Attorney, in the amount of $2,600,000 for the faithful performance by Leprino of all the terms and conditions set forth in this Agreement ("Security"). The City shall hold the Security for Leprino's obligations under this Agreement to remove any and all fixtures, equipment, and Improvements placed on Leased Land by Leprino, and to remove and dispose of all sludge and residuals on Leased Land from use by Leprino WWTF. The Security is not an advance payment of Rent or a measure or a limit of Leprino's liability for damages.

    Leprino waives the provisions of California Civil Code Section 1950.7, and all other provisions of law now in force or that become in force after the date of execution of this Lease, that provide that City may claim from a security deposit only those sums reasonably necessary to remedy defaults in the payment of accrued Rent, to repair damage caused by Leprino, or to clean the Leased Land.

19. **Termination.** Either Party may terminate this Agreement upon providing eighteen (18) months' written notice to the other Party.
    a. Upon termination of this Agreement:
        i. Leprino's obligation to operate and maintain the Leprino WWTF shall cease and Leprino shall no longer discharge wastewater to the City WWTP.
        ii. All discharge volume entitlement is the property of the City and may not be transferred to other locations or for other uses, and may only be used to serve subsequent uses on the Facility.
        iii. Leprino shall surrender to City possession of the Leased Land and remove all fixtures, equipment, and improvements and remove all sludge and residuals from Leased Land as provided in Section 11.
        iv. Leprino shall not be relieved of payment of any sum or sums that shall then be due and payable to City hereunder or any claim for damage accruing against Leprino.
        v. The obligations set forth in Sections 22 and 24 shall survive any termination or expiration of this Agreement.

20. **Leprino's Direct Discharge Permit**. In the event that Leprino determines in the exercise of its sole discretion that it is beneficial to obtain its own direct discharge permit, the City will cooperate fully with Leprino in connection with obtaining all permits (including a direct discharge permit from the RWQCB) and approvals necessary to discharge directly to the waters of the State of California.

21. **Taxes:** Leprino shall pay, when due, any real property taxes levied against the Leased Land and Leprino WWTF as a result of any possessory interest taxes which may be imposed on Leprino's interest in the Leprino WWTF. This provision constitutes written notice to Leprino pursuant to California Revenue and Taxation Code Section 107. City shall not be responsible for payment of any such tax. No such tax shall in any way reduce or substitute for the charges of fees required to be paid as a condition of this Agreement or as otherwise required by the City.

    If the Leased Land is assessed for taxation purposes with other lands of the City, all real estate taxes and assessments imposed upon the entire parcel of which the Leased Land is a part shall be prorated and Leprino shall pay that portion that the area of the Leased Land hereunder bears to the total area of all land within the assessment block.

    During the Agreement term, Leprino shall cause all taxes, assessments, and other charges levied upon or imposed upon any personal property situated in, on, or about the Leased Land to be levied or assessed separately from the Leased Land and not as a lien thereon.

22. **Indemnification**. Leprino shall indemnify, defend, and hold harmless the City (including its elected officials, officers, agents, and employees) from and against any and all claims (including all litigation, demands, damages, liabilities, costs, and expenses) resulting from or arising out of the performance or non-performance of any of Leprino's obligations under this Agreement (including Leprino's agents, representatives, contractors, subcontractors, and employees), except to the extent such claims are the result of the active negligence or willful misconduct of the City or its agents,

representatives, contractors, subcontractors, and employees. Leprino's indemnification shall specifically include, but not be limited to, all claims arising out of: property damage and personal injury. Leprino's indemnification shall include any and all costs, expenses, court costs, attorneys' fees and liability incurred by the City in enforcing the provisions of this section, and in defending against such claims, whether the same proceed to judgment or not. Leprino shall reimburse City for any expenditures City incurs by reason of such matters.

City shall indemnify, defend and hold harmless Leprino from and against any claims (including all litigation, demands, damages, liabilities, costs, and expenses) arising from or arising out of the performance or non-performance of any of City's obligations under this Agreement, except to the extent such claims are the result of the active negligence or willful misconduct of Leprino or its agents, representatives, contractors, subcontractors, and employees. City's indemnification shall specifically include, all claims arising out of: property damage and personal injury.

23. **Business License.** Leprino shall, at all times during term of this Agreement, have a City of Tracy Business License.

24. **Insurance**. Concurrently with the execution of this Agreement by Leprino, Leprino shall furnish evidence to the City that all of the following insurance requirements have been satisfied.

**General.** Leprino shall, throughout the duration of this Agreement, maintain insurance to cover Leprino, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth here.

a. **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 $4,000,000 general aggregate and $1,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

b. **Automobile Liability** (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

c. **Workers' Compensation** coverage shall be maintained as required by the State of California.

d. **Endorsements** Leprino shall obtain endorsements with the following provisions:
**d.1** The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."
**d.2** For any claims related to this Agreement, Leprino's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Leprino's insurance and shall not contribute with it.

e. **Notice of Cancellation.** Leprino shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material

change in the policy prior to the expiration shall be considered a cancellation. Leprino shall immediately obtain a replacement policy.

f. **Authorized Insurers.** All insurance companies providing coverage to Leprino 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.

g. **Insurance Certificate.** Leprino shall provide evidence of compliance with the insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City, before the City signs this Agreement.

h. **Substitute Certificates.** No later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement, Leprino shall provide a substitute certificate of insurance.

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

25. **Compliance with the Law.** Leprino shall comply with all applicable local, state, and federal laws, whether or not those laws are expressly stated in this Agreement.

26. **Independent Contractor.** Leprino is an independent contractor and is solely responsible for all acts of its employees, agents, or contractors, including any negligent acts or omissions. Leprino is not City's employee and Leprino 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 Company.

27. **Conflicts of Interest.** Leprino (including its employees, agents, and contractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Leprino maintains or acquires such a conflict interest, any contract (including this Agreement) involving Leprino's conflicting interest may be terminated by the City.

28. **Time of Performance.** Time is of the essence in the performance of services under this Agreement and the timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Leprino 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.

29. **Advice of Counsel and Preparation of Agreement.** Each Party is represented by counsel and/or has been advised to obtain such representation. The Parties have read this Agreement, and have had the terms used herein, and the consequences thereof, explained to them by their respective counsel, legal or otherwise, prior to the execution hereof, to the extent each Party has deemed it necessary, reasonable, or appropriate to protect its interest. Each Party knowingly, willingly, and voluntarily executes this Agreement after such advice and counsel and with the understanding and intent that this Agreement will be enforceable by and against the Parties in accordance with its terms, and the Parties agree that they each are estopped to contend other than that this Agreement must be construed fairly and evenly and without regard to California Civil Code § 1654, and not

strictly for or against any Party, and without regard to which Party caused this Agreement or any provision to be drafted.

30. **Amendment; Assignment.** The terms, covenants, and conditions of this Agreement may not be altered, changed or modified except by a writing signed by all of the Parties. This Agreement may not be assigned by either Party without the written consent of the other Party.

31. **Computation of Time.** Days will be counted by excluding the first day and including the last day, unless the last day is a Saturday, a Sunday, or a legal holiday, and then it will be excluded also. Any act required by this Agreement to be performed by a certain day will have been timely performed if completed before 4:00 p.m., Pacific Time, on that date. If the day for performance of any obligation under this Agreement is a Saturday, a Sunday, or a legal holiday, the time for performance of that obligation will be extended to 4:00 p.m., Pacific Time, on the first following day that is not a Saturday, Sunday, or legal holiday.

32. **Cooperation; Further Assurances.** The Parties shall take such actions, or execute, acknowledge and deliver, or obtain the execution, acknowledgment, and delivery of such instruments as are reasonably necessary, appropriate or desirable to give effect to the provisions of this Agreement.

33. **Counterparts.** This Agreement may be executed in any number of counterparts, and each such counterpart will be deemed to be an original instrument, and all of which together will constitute but one and the same instrument.

34. **Effect of Headings.** The subject headings of the Paragraphs of this Agreement are included for purposes of convenience only, and will not affect the meaning or the construction or interpretation of any of the provisions of this Agreement.

35. **Entire Agreement; Consent Freely Given.** This Agreement constitutes the sole, final and only agreement among the Parties respecting the subject matters of this Agreement and sets forth the Parties' obligations to each other as of the January 1, 2020. Any prior agreements or representations which are not contained in this Agreement respecting the same or the duties of the Parties not expressly set forth in this Agreement are null and void. Each Party represents and warrants to the other Parties that it has conducted its own investigation and due diligence about the subject matter of this Agreement and the individuals who are the principal owners or agents of the Parties to this Agreement, and that based on their own investigation and due diligence, this Agreement is freely and voluntarily executed by the Parties, and each of them, after consultation with the legal counsel and other experts and consultants of their own choosing. The Parties acknowledge and warrant that in entering into this Agreement, they did not rely upon any inducements, promises, representations or warranties made by any party, or its representative which are not contained in this Agreement.

36. **Governing Law; Venue.** This Agreement is controlled by and is to be construed under the laws of the State of California. Any action arising under this Agreement must be filed in the Superior Court of San Joaquin, California.

37. **Notices.** Notices provided under this Lease shall be sent via email and First Class U.S. Mail to the following addresses:

| **If to City:** | **If to Leprino:** |
|---|---|
| Kuldeep Sharma<br>Utilities Director<br>Utilities Department<br>3900 Holly Drive<br>Tracy, CA 95304 | Ben Schlegelmilch<br>Engineering Manager<br>Leprino Foods Company<br>2401 N MacArthur Dr<br>Tracy, CA 95376 |
| **With a copy to:** | **With a copy to:** |
| City of Tracy<br>Attn: City Attorney<br>333 Civic Center Plaza<br>Tracy, CA 95376 | Leprino Foods Company<br>Attn: General Counsel<br>1830 W. 38th Ave<br>Denver, CO 80211 |

A Party may change the above contact-persons and addresses by sending notice to the other Party.

38. **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 Leprino and the City. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

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

**City of Tracy**

_____

By: Robert J. Rickman
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Leticia Ramirez, City Attorney

**Leprino Foods**

_____

By: Scott Conant

Title: Plant Manager

Date: 4-2-2020

Federal Employer Tax ID No. 84-0500292

Approved as to form:

_____
Erik Nielsen, Esq., Associate General Counsel

EXHIBIT A

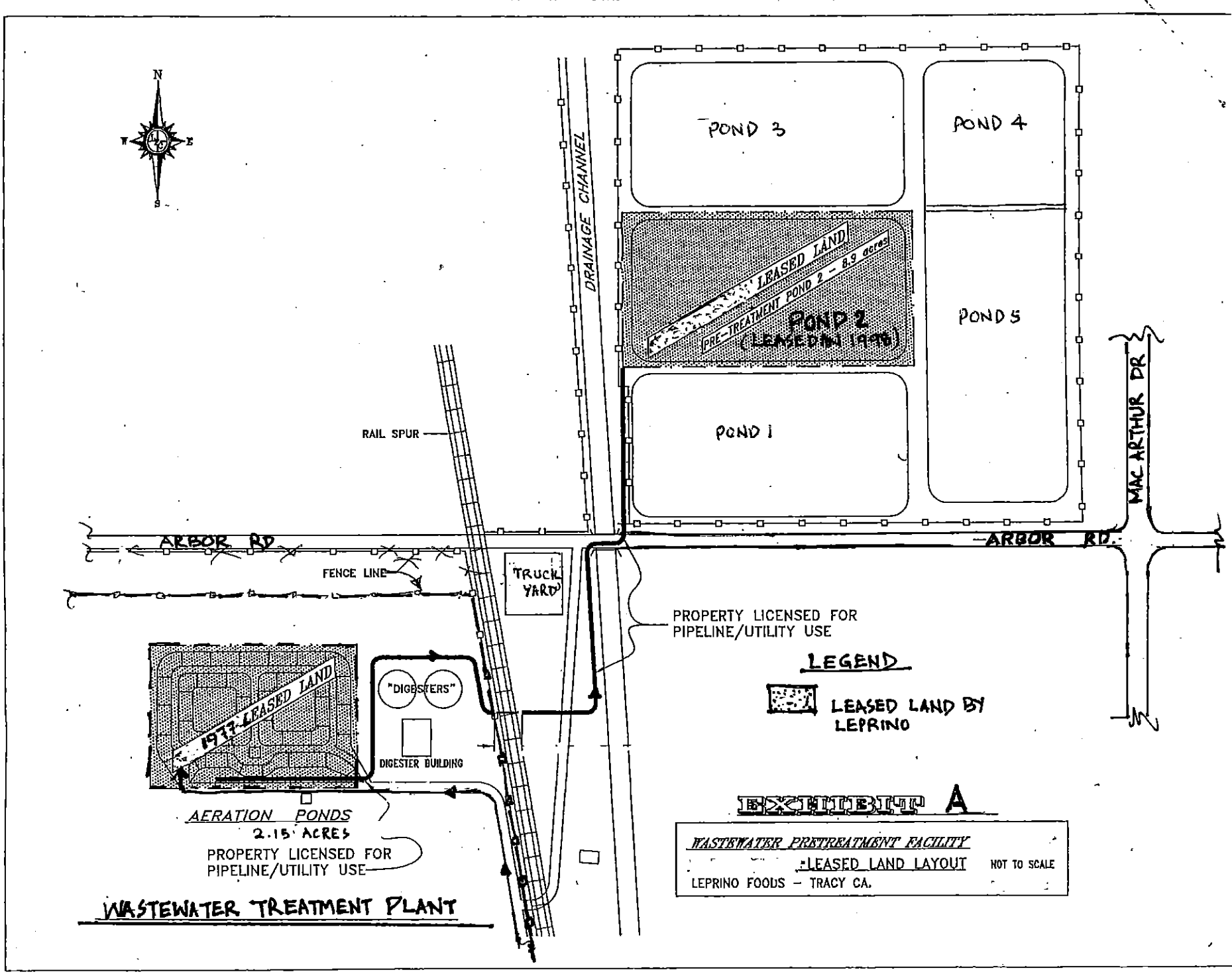



EXHIBIT A

WASTEWATER PRETREATMENT FACILITY
LEASED LAND LAYOUT NOT TO SCALE
LEPRINO FOODS – TRACY CA.

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ORDER NO. R5-2007-0038

WASTE DISCHARGE REQUIREMENTS
FOR
CITY OF TRACY AND LEPRINO FOODS COMPANY
LAND DISCHARGE UNITS OF THE TRACY WASTEWATER TREATMENT PLANT
SAN JOAQUIN COUNTY

The California Regional Water Quality Control Board, Central Valley Region, (hereafter Regional Water Board) finds that:

1. The City of Tracy Wastewater Treatment Plant (hereafter Facility) treats primarily domestic wastewater collected via the City of Tracy's wastewater collection system. The Facility also accepts industrial food processing wastewater through a segregated collection system from Leprino Foods Company (Leprino), a local cheese manufacturer. Leprino operates pretreatment ponds at the Facility to treat its industrial food processing wastewater prior to discharge to the City of Tracy's industrial holding ponds. The industrial wastewater is held in the ponds prior to final treatment at the main treatment plant. After treatment, all wastewater is discharged to Old River, under a separate NPDES permit.

2. The City of Tracy submitted a Report of Waste Discharge (ROWD) on 1 November 2000, to update its NPDES permit. Subsequently, on 3 February 2003**,** the City of Tracy submitted a modified ROWD, which included a request to increase the discharge from 9.0 million gallons per day (mgd) to 16 mgd. Because the discharge of waste may impact groundwater at the site, the Facility will be regulated by separate waste discharge requirements (WDRs) in addition to the NPDES permit.

3. These WDRs regulate the industrial pretreatment ponds, industrial holding ponds, sludge drying beds, and biosolids storage areas of the Facility. The remainder of the Facility is regulated under Order No. R5-2007-0036 (NPDES No. CA0079154), not incorporated by reference herein.

4. The close proximity of the City of Tracy's and Leprino's waste units makes it difficult to distinguish between any infiltration to groundwater from the facilities operated by the City of Tracy and from those operated by Leprino. Therefore, where applicable, this Order refers to the City of Tracy and Leprino Foods Company individually and/or jointly as "Discharger." Leprino is solely responsible for discharges from its segregated industrial pipeline and the treatment units it operates at the Facility. The City of Tracy is the owner of the Facility and is responsible for all discharges from the Facility, including the discharges from the Leprino-operated treatment units.

## Background

5. The City of Tracy Wastewater Treatment Plant is located north of Interstate 205 on the northern edge of the City of Tracy in San Joaquin County in Section 16, T1S, R5E, MDB&M, as shown in Attachment A, which is attached hereto and made part of this Order by reference.

6. The Facility is composed of a main treatment facility and an industrial treatment facility. The main treatment facility is owned and operated by the City of Tracy and consists of raw influent bar screening, primary sedimentation, biofiltration, conventional activated sludge, and secondary sedimentation. Secondary effluent is disinfected by chlorination and dechlorinated prior to final discharge to Old River. Biosolids are thickened by dissolved air flotation, anaerobically digested, and dewatered in unlined sand drying beds. The dried biosolids are disposed in a landfill or hauled off-site for land application. A flow schematic of the main treatment facility is shown in Attachment B, which is attached hereto and made part of this Order by reference. A plant layout of the main facility is shown in Attachment D, which is attached hereto and made part of this Order by reference.

7. The industrial facility consists, in part, of pretreatment units owned by the City of Tracy and operated by Leprino under an industrial pretreatment permit issued by the City of Tracy, and holding ponds located north east of the main treatment facility site. Leprino is authorized to discharge up to 850,000 gpd of pretreated wastewater in accordance with the industrial wastewater discharge permit.

   The pretreatment units operated by Leprino include two identical lined lagoons constructed in 1977 of compacted berms that rise above the base level of the surrounding ground. The berms are of 1.5:1 slope on the interior and meet a concrete floor 94-ft square, and the floor slab is between 8 – 12 inches thick. The concrete floor serves as the base for grouted threaded supports holding an EDI fine air tube diffuser system 18-inches off the floor. The sloped interior sides of the aerated lagoons are lined with an impermeable Hypalon/EPDM reinforced geotextile fabric specifically designed to seal active lagoon systems. The liner is sealed to the floor of the lagoons with a perimeter-bolted frame completely wrapped by the liner material and grouted in place, and the liner itself is vulcanized into a single continuous sheet. The top of the liner is buried in a trench dug 12-inches deep along the top perimeter of the lagoon system to prevent pullout of the liner top. The freeboard design allows for 2-feet of freeboard.

   The lagoon system is built almost entirely above the surrounding grade. This kind of construction ensures that any liner punctures below the water line will result in saturation of the berm and visual indications of leaking wastewater would be visible on the surrounding berm slopes. Leprino lowers the level of the lagoons periodically to inspect the aeration system and the lagoon liners for signs of wear, and replaces or repairs the lagoon components as needed.

   The purpose of the aerated, lined lagoon system is to allow for reduction of the organic components of the food processing wastewater produced from Leprino's cheese and whey manufacturing process. The process is operated in an aerobic mode that promotes the natural growth of microscopic organisms that consume the soluble portion of the organic materials in the wastewater. The resulting reduction in organic loading is measured as a reduction in $BOD_5$ in the clarified effluent.

   Following the active aerobic treatment, the pretreated industrial food processing wastewater is transferred to one of the City owned lagoons located north east of the main

plant site. The unlined 8-acre lagoon, known by the City as Pond 2, is leased for operation by Leprino. The secondary lagoon is divided into two sections by a floating baffle to allow for settling of the biosolids and clarification of the pretreated wastewater. A rotary screen polishes the pretreated water just prior to discharge to an adjacent 8-acre unlined lagoon owned and operated by the City known as Pond 1. The operation of the rotary screen is enhanced by addition of a flocculent emulsion polymer prior to screening. Biosolids are stored in the main lagoon section and are allowed to stabilize in a facultative mode. Operation of the Leprino lagoon is regulated by the industrial pretreatment permit issued to Leprino.

Pretreated wastewater may infiltrate into the underlying groundwater from the City's Pond 2, which is leased and operated by Leprino. Therefore, discharges from Pond 2 are regulated by this Order.

8. The City's unlined industrial holding ponds cover approximately 52 acres. According to the City, most of the ponds were constructed over a layer of compacted clay, however the ponds were not designed to be impermeable. The holding ponds were originally constructed to provide storage of peak industrial wastewater flows during the summer canning season to prevent overloading of the main treatment facility. Since there are no longer canneries in the Tracy area that discharge to the Facility, the holding ponds are currently used to store food processing wastewater from Leprino, water from construction dewatering, and process wastewater from the main treatment facility (e.g. digester supernatant, pump seal water, boiler cooling water, etc.). Effluent from the holding ponds enters the main treatment facility at the primary sedimentation basins. A flow schematic of the industrial facilities is shown in Attachment C, which is attached hereto and made part of this Order by reference. The holding ponds allow the pretreated wastewater to percolate to groundwater. Therefore, discharges from the holding ponds are regulated by this Order.

9. The wastewater contained in the holding ponds include constituents such as total dissolved solids (TDS), electrical conductivity (EC), $BOD_5$, and total suspended solids (TSS). The following table presents wastewater concentrations for selected constituents collected from the unlined holding ponds from 2000-2004:

| **Constituent** | **Units** | **Average** | **Maximum** |
|---|---|---|---|
| $BOD_5$ | mg/L | 84(1) | 479(1) |
| TSS | mg/L | 179(1) | 1580(1) |
| EC | µmhos/cm | 3,669(2) | 4,773 |
| TDS | mg/L | 2,331(2) | 2,942 |
| Chloride | mg/L | 496(2) | 533 |

| Constituent | Units | Average | Maximum |
|---|---|---|---|
| Sulfate | mg/L | 198(2) | 270 |
| Nitrate-N | mg/L | 5(2) | 7 |
| Nitrite-N | mg/L | 4(2) | 5 |
| Arsenic | µg/L | ND(2) | 6.9 |
| Manganese | µg/L | 51(2) | 91 |

(1) Leprino influent to Pond 2.

(2) Average of Ponds 1 through 5. Actual constituent concentrations vary from pond to pond.

10. The City utilizes sand sludge drying beds for dewatering its anaerobically digested sludge. The Facility includes 12 drying beds with a total surface area of approximately 8.2 acres. The drying beds use an underdrain system to return residual liquid to the plant sewer pump station, which is returned to the facility headworks. However, the beds are not lined to prevent seepage to groundwater. Therefore, discharges from the sludge drying beds are regulated by this Order.

11. The City stores the dried biosolids onsite in an unlined pond prior to final disposal in a landfill or by land application. There is the potential for seepage to groundwater during rainfall events. Therefore, discharges from the biosolids storage area are regulated by this Order.

## Site-Specific Conditions

12. Driller's logs from wells in the vicinity of the holding ponds show alternating sands and clays with no predominance of fine- or coarse-grained deposits. Depth to groundwater ranges from 14 to 18 feet below ground surface (bgs) near the holding ponds. Groundwater flows to the north.

13. As shown on Attachment E (which is attached hereto and made part of this Order by reference), the City has installed five groundwater monitoring wells around its unlined holding ponds. These are the only groundwater monitoring wells at the Facility. Additional groundwater studies or monitoring wells may be required to determine if the sludge drying beds, biosolids storage area, and/or Leprino's pretreatment lagoons are adversely affecting groundwater quality. Provisions E.1.b. requires the Discharger to ensure the groundwater monitoring network includes one or more background monitoring wells and a sufficient number of monitoring wells downgradient of every treatment, storage, and disposal unit that does or may release waste constituents to groundwater.

## Basin Plan, Beneficial Uses, and Regulatory Considerations

14. The *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, Fourth Edition*, revised August 2006 (hereafter Basin Plan) designates beneficial uses, establishes water quality objectives, contains implementation plans and policies for protecting waters of the basin, and incorporates by reference plans and policies adopted by the State Water Resources Control Board (State Water Board). Pursuant to section 13263(a) of the California Water Code (CWC), waste discharge requirements (WDRs) must implement the Basin Plan and must take into consideration the beneficial uses to be protected, the water quality objectives reasonably required for that purpose, other waste discharges, the need to prevent nuisance, and the provisions of Section 13241.

15. The Basin Plan designates the beneficial uses of underlying groundwaters as municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.

16. The Basin Plan establishes numerical and narrative water quality objectives for surface water and groundwater within the basin. Numerical and narrative water quality objectives are maximum limits directly applicable to the protection of designated beneficial uses of the water unless higher levels are the result of factors that cannot be reasonably controlled or are not subject to the authority of the State and Regional Water Boards. The Basin Plan requires that the Regional Water Board, on a case-by-case basis, follow specified procedures to determine maximum numerical limitations that apply the narrative objectives when it adopts waste discharge requirements.

17. The Regional Water Board applies the bacteria objective to all groundwaters designated as municipal or domestic supply (MUN), not just those waters currently used for MUN. This interpretation is consistent with the CWC and the Basin Plan. The Regional Water Board has consistently interpreted the objective to apply to groundwater designated for MUN. The Regional Water Board has a long-standing pattern and practice of adopting WDRs that reflect this interpretation. The following excerpts from the Basin Plan clearly support the plain meaning of the Basin Plan as well as the Regional Water Board's established pattern and practice:

    a. The introductory paragraph on Water Quality Objectives for Ground Waters (page III-9.00 of the Basin Plan) states: *"The following objectives apply to all ground waters of the Sacramento and San Joaquin River Basins, as the objectives are relevant to the protection of designated beneficial uses."*

    b. The Policy for Application of Water Quality Objectives (page IV-16.00) states: *"Water quality objectives apply to all waters within a surface water or ground water resource for which beneficial uses have been designated, rather than at intake, wellhead, or other point of consumption."* Consistent with the CWC and the Basin Plan, the Regional Water Board applies the bacteria objective to all groundwaters designated as MUN, not just those waters currently used for MUN.

c. The Regional Water Board has implemented State Water Board Resolution No. 88-63 (Adoption of Policy Entitled "Sources of Drinking Water") by designating all groundwaters of the State to be suitable or potentially suitable for MUN uses, unless otherwise designated by the Regional Water Board or unless at least one the following three criteria for exceptions apply:

- The total dissolved solids concentration of the resource exceeds 3,000 mg/L (5,000 µmhos/cm, electrical conductivity) and it is not reasonably expected by the Regional Water Board to supply a public water system, or
- There is contamination, either by natural processes or human activity (unrelated to a specific pollution incident), that cannot reasonably be treated for domestic use using either Best Management Practices or best economically achievable treatment practices, or
- The water source does not provide sufficient water to supply a single well capable of producing an average sustained yield of 200 gallons per day.

The Regional Water Board can only "de-designate" beneficial uses of a specific water body through amendment of the Basin Plan.

18. State Water Board Order No. WQO-2003-0014 upheld the Regional Water Board's interpretation of the Basin Plan with respect to implementation of the bacteria objective, stating: *"The Basin Plan contains a water quality objective for bacteria that applies to groundwater that states: 'In groundwaters used for domestic or municipal supply (MUN) the most probable number of coliform organisms over any seven-day period shall be less than 2.2/100 mL.' Since the groundwater is designated for municipal or domestic supply, a groundwater limitation for coliform of less than 2.2MPN/100 mL is appropriate."*

19. The Basin Plan includes a water quality objective for Chemical Constituents that, at a minimum, requires waters designated as domestic or municipal supply to meet the maximum contaminant levels (MCLs) specified in the following provisions of Title 22, California Code of Regulations: Tables 64431-A (Inorganic Chemicals) and 64431-B (Fluoride) of Section 64431, Table 64444-A (Organic Chemicals) of Section 64444, Table 64449-A (Secondary Maximum Contaminant Levels-Consumer Acceptance Limits) of Section 64449, and 64449-B (Secondary Maximum Contaminant Levels-Ranges) of Section 64449. The Basin Plan's incorporation of these provisions by reference is prospective, and includes future changes to the incorporated provisions as the changes take effect. The Basin Plan recognizes that that the Regional Water Board may apply limits more stringent than MCLs to ensure that waters do not contain chemical constituents in concentrations that adversely affect beneficial uses.

20. The Basin Plan contains narrative water quality objectives for Chemical Constituents, Tastes and Odors, and Toxicity. The Toxicity objective, in summary, requires that groundwater be maintained free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life associated with designated beneficial uses. The Chemical Constituents objective requires that

groundwater "*shall not contain chemical constituents in concentrations that adversely affect beneficial uses.*" The Tastes and Odors objective requires that groundwater "*shall not contain taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses.*" Chapter IV, Implementation, of the Basin Plan contains the "Policy for Application of Water Quality Objectives." This Policy specifies, in part, that compliance with narrative water quality objectives may be evaluated considering numerical criteria and guidelines developed and/or published by other agencies and organizations.

**Groundwater Degradation**

21. The shallow groundwater in the vicinity of the Facility is high in salinity and exceeds water quality objectives. In situations where the background water quality exceeds water quality objectives, the Basin Plan at page IV-15.00 states that, "*Controllable water quality factors are not allowed to cause further degradation of water quality in instances where other factors have already resulted in water quality objectives being exceeded.*" The Basin Plan also states at page III-9.00 and page IV-17.00 that water quality objectives "*do not require improvement over naturally occurring background conditions."*

22. The record indicates that Regional Water Board staff have been concerned about possible groundwater degradation caused by the City's use of its unlined holding ponds dating back to 1989. A discussion of several groundwater studies performed by the City since that time is provided in the Information Sheet. Monitoring data provided by the City is not conclusive as to whether or not the unlined holding ponds may be adversely affecting groundwater. See Figure F-1 of Attachment F, which is attached hereto and made part of this Order by reference. The City has argued that the groundwater quality in the vicinity of the Facility is variable and naturally high in salinity, therefore, it is difficult to determine whether degradation has occurred, and if so, whether the ponds are the cause of the degradation.

23. The Discharger has utilized the ponds for many years (Leprino started to utilize Pond 2 in 1998), so any assimilative capacity in the shallow groundwater basin has likely been exhausted. In addition, as discussed in Finding 12, the depth to groundwater only ranges from 14 to 18 feet bgs near the holding ponds. Therefore, the attenuation of wastes in the soil column is likely minimal.

24. In a 1995 report regarding groundwater conditions, the City concludes that the unlined holding ponds percolate wastewater to the shallow groundwater. However, the City states that there is not adequate evidence that the ponds have degraded groundwater due to the variability of groundwater quality in the vicinity of the Facility.

25. Based on 28 samples collected by the City from 30 November 1994 to 25 May 2004 at upgradient well MW-5, the groundwater upgradient of the holding ponds contained an average TDS concentration of 1,740 mg/L. Groundwater underlying the ponds (as measured at MW-2, MW-3, and MW-4) contained an average TDS of 2273 mg/l. This data indicates that the unlined holding ponds may be adversely affecting groundwater quality, but additional studies are necessary to confirm this presumption.

26. In 1997, Heinz Food, Inc. ceased discharging up to 2.0 mgd of tomato processing wastewater to the holding ponds during the summer months. Since that time, Leprino has been the primary discharger to the City's holding ponds. Because less wastewater is discharged to the ponds, there is a longer detention time resulting in a greater evapo-concentration of salts. Pond monitoring data collected from October 2000 to March 2005 show an increase in EC from May to October each year and the EC measured in the downgradient wells follows the trend of the pond data (see Attachment F, Figure F-2).

27. On 15 June 2004, Regional Water Board staff issued a CWC Section 13267 Order requiring the City to (a) evaluate potential groundwater degradation from its sludge dewatering process, sludge storage practices, and industrial waste aeration ponds, (b) evaluate Best Practicable Treatment and Control (BPTC) practices for the sludge dewatering and storage practices, and (c) determine the appropriate classification for the wastewater in the holding ponds.

28. The Citywas unable to provide an adequate evaluation as to whether groundwater degradation has occurred as a result of the sludge dewatering, biosolids storage, and industrial waste aeration processes, because groundwater monitoring wells have not been installed downgradient of these treatment units. This Order requires that that analysis be completed. Provisions E.1.b. requires the Discharger to ensure that any studies undertaken using current or new wells as part of the groundwater monitoring network include one or more background monitoring wells and a sufficient number of monitoring wells downgradient of every treatment, storage, and disposal unit that may release waste constituents to groundwater.

## Antidegradation Analysis

29. State Water Board Resolution No. 68-16 (hereafter "Resolution 68-16" or the "Antidegradation Policy") requires the Regional Water Board in regulating the discharge of waste to maintain high quality waters of the state (i.e., background water quality) until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the state, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in the Regional Water Board's policies (e.g. exceeds water quality objectives or naturally occurring background concentrations).

30. This Order requires that the discharge be consistent with Resolution 68-16. Groundwater Limitations D.1. prohibits the release of waste constituents from any storage, treatment, or disposal component associated with the Facility, in combination with other sources of the waste constituents, to cause underlying groundwater to contain waste constituents in concentrations statistically greater than background water quality (i.e. no degradation). The wastewater contained in the holding ponds is primarily food processing wastewater from Leprino. Therefore, any groundwater degradation would not be consistent with maximum benefit to the people of the State. The sludge dewatering system is part of the domestic wastewater treatment plant. However, no groundwater degradation is allowed, because there are standard BPTC methods that will prevent degradation.

31. The Facility currently utilizes sand-lined sludge drying beds to dewater biosolids and the City stores dried biosolids in an unlined pond, which could allow wastewater to percolate to the groundwater. In addition, the Facility includes unlined holding ponds, which contain high salinity wastewater that percolates to groundwater. Resolution 68-16 requires that these facilities meet best BPTC. Provision E.1.c. of this Order requires the Discharger to evaluate and meet BPTC for these treatment units.

**Waste Characterization and Waste Management Unit Classification**

32. Water Code Section 13173 defines "designated waste" to include *"[n]on hazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations that exceed applicable water quality objectives or that could reasonably be expected to affect beneficial uses of waters of the state as contained in the appropriate state water quality control plan.*"

33. Discharge Prohibition A.2. prohibits the discharge of designated wastes, "*Discharge of waste classified as "hazardous" under Section 2521, Chapter 15 of Title 23 or "designated," as defined in Section 13173 of CWC is prohibited.*" Based on the data characterization summarized in Finding 9 of this Order, if not properly controlled, the wastes contained in the unlined holding ponds may be classified as designated waste if the concentration of total dissolved solids exceed the applicable water quality objectives or natural background conditions. Section 20210 of Title 27, California Code of Regulations, requires that such waste can only be discharged to a Class I or Class II surface impoundment equipped with engineered lining and a leachate collection and recovery system.

34. Pursuant to section 20090(b) of Title 27, California Code of Regulations, the discharge of wastewater to land, including but not limited to evaporation ponds, percolation ponds or subsurface leachfields, may be exempted from the State Water Board-promulgated provisions of this subdivision, as long as the activity meets, and continues to meet, all preconditions listed below:

    i. the applicable Regional Water Board has issued WDRs, reclamation requirements or waived such issuance;

    ii. the discharge is in compliance with the applicable water quality control plan; and

    iii. the wastewater does not need to be managed according to Chapter 11, Division 4.5, Title 22 of this code as a hazardous waste.

35. An additional Title 27 exemption, section 20090(a), is provided for discharges of domestic sewage or treated effluent associated with municipal wastewater treatment plants provided that the discharge is regulated under WDRs or a waiver of WDRs and that the discharge is consistent with applicable water quality objectives.

36. It remains uncertain whether any incidental discharge to groundwater meets the requirements for an exemption pursuant to section 20090(a) or 20090(b) of Title 27,

California Code of Regulations. The existing and proposed wastewater stored in the holding ponds may not be in compliance with the water quality control plan, because the analytical data show that the wastewater exceeds the Basin Plan's chemical constituents objective for groundwater. In addition, the wastewater treated in the holding ponds is not domestic sewage. It is primarily industrial food processing wastewater from Leprino.

37. Provision E.3. includes a compliance time schedule requiring the Discharger to comply with Discharge Prohibition A.2.

**Other Regulatory Considerations**

38. The United States Environmental Protection Agency (EPA) has promulgated biosolids reuse regulations in 40 Code of Federal Regulations (CFR) part 503, *Standard for the Use or Disposal of Sewage Sludge,* which establishes management criteria for protection of ground and surface waters, sets application rates for heavy metals, and establishes stabilization and disinfection criteria.

39. The Regional Water Board is using the Standards in 40 CFR 503 as guidelines in establishing this Order, but the Regional Water Board is not the implementing agency for 40 CFR 503 regulations. The City may have separate and/or additional compliance, reporting, and permitting responsibilities to the EPA. The ROWD states all biosolids will be hauled to a separate permitted facility.

40. U.S. EPA promulgated Federal Regulations for stormwater on 16 November 1990 in 40 CFR Parts 122, 123, and 124. The NPDES Industrial Storm Water Program regulates storm water discharges from wastewater treatment facilities. Wastewater Treatment Plants are applicable industries under the stormwater program and are obligated to comply with the Federal Regulations.

41. Section 13267(b) of the CWC provides that: "*In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of discharging, or who proposes to discharge within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of discharging, or who proposes to discharge waste outside of its region that could affect the quality of the waters of the state within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the board requires. The burden, including costs of these reports, shall bear a reasonable relationship to the need for the reports and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports.*"

The monitoring and reporting program required by this Order (Monitoring and Reporting Program No. R5-2007-0038) is necessary to assure compliance with these waste discharge requirements. The City owns and operates the facility that discharges the waste subject to this Order.

42. The California Department of Water Resources sets standards for the construction and destruction of groundwater wells (hereafter DWR Well Standards), as described in *California Well Standards Bulletin 74-90* (June 1991) and *Water Well Standards: State of California Bulletin 94-81* (December 1981). These standards, and any more stringent standards adopted by the state or county pursuant to CWC Section 13801, apply to all monitoring wells used to monitor the impacts of wastewater storage or disposal governed by this Order. Those wells that do not have a construction log, boring log, or County permit may not be used for monitoring associated with this Order.

43. Pursuant to CWC Section 13263(g), discharge is a privilege, not a right, and adoption of this Order does not create a vested right to continue the discharge.

44. The action to update waste discharge requirements for the City of Tracy Wastewater Treatment Plant is exempt from the provisions of the California Environmental Quality Act, in accordance with Title 14, CCR, Section 15301.

**Public Notice**

45. All the above and the supplemental information and details in the attached Information Sheet, which is incorporated by reference herein, were considered in establishing the following conditions of discharge.

46. The Discharger and interested agencies and persons have been notified of the Regional Water Board's intent to prescribe waste discharge requirements for this discharge, and they have been provided an opportunity for a public hearing and an opportunity to submit their written views and recommendations.

47. All comments pertaining to the discharge were heard and considered in a public meeting

**IT IS HEREBY ORDERED** that pursuant to Sections 13263 and 13267 of the California Water Code, the City of Tracy and Leprino Foods Company, their agents, successors, and assigns, in order to meet the provisions contained in Division 7 of the California Water Code and regulations adopted hereunder, shall comply with the following:

*[Note: Other prohibitions, conditions, definitions, and some methods of determining compliance are contained in the attached "Standard Provisions and Reporting Requirements for Waste Discharge Requirements" dated 1 March 1991.]*

## A. Discharge Prohibitions

1. Bypass or overflow of untreated or partially treated waste is prohibited.
2. Discharge of waste classified as "hazardous" under Section 2521, Chapter 15 of Title 23 or "designated," as defined in Section 13173 of CWC is prohibited.
3. The discharge of any waste material or constituent from the sludge drying beds or biosolids storage areas to surface waters is prohibited.

## B. Discharge Specifications

1. The wastewater treatment units shall not cause pollution or a nuisance as defined by Section 13050 of the CWC.

2. Public contact with wastewater shall be precluded or controlled through such means as fences, signs, or acceptable alternatives.

3. Objectionable odors originating at the facility shall not be perceivable beyond the limits of the property owned by the Discharger.

4. As a means of discerning compliance with Discharge Specification B.3, the dissolved oxygen content in the upper one foot of any wastewater treatment or storage pond shall not be less than 1.0 mg/L.

5. All treatment and storage facilities shall be designed, constructed, operated, and maintained to prevent inundation or washout due to floods with a 100-year return frequency.

6. Ponds shall be managed to prevent breeding of mosquitoes. In particular,

   a. An erosion control program shall be implemented to ensure that small coves and irregularities are not created around the perimeter of the water surface.

   b. Weeds shall be minimized through control of water depth, harvesting, or herbicides.

   c. Dead algae, vegetation, and debris shall not accumulate on the water surface.

7. Freeboard in any pond containing wastewater shall never be less than two feet as measured from the water surface to the lowest point of overflow.

8. No stored wastewater shall have a pH less than 6.5 or greater than 10.0.

## C. General Solids Disposal Specifications

Sludge means the solid, semisolid, and liquid residues removed during primary, secondary, or advanced wastewater treatment processes. Solid waste refers to grit and screenings generated during preliminary treatment. Residual sludge means sludge that will not be subject to further treatment at the facility. Biosolids refers to sludge that has undergone sufficient treatment and testing to qualify for reuse pursuant to federal and state regulations as a soil amendment for agriculture, silviculture, horticulture, and land recycling.

1. Collected screenings, residual sludge, biosolids, and other solids removed from liquid wastes shall be disposed of in a manner approved by the Executive Officer, and

consistent with *Consolidated Regulations for Treatment, Storage, Processing, or Disposal of Solid Waste,* as set forth in Title 27, CCR, Division 2, Subdivision 1, section 20005, et seq. Removal for further treatment, disposal, or reuse at sites (i.e., landfill, composting sites, soil amendment sites) that are operated in accordance with valid waste discharge requirements issued by a regional water quality control board will satisfy these specifications.

2. Sludge and solid waste shall be removed from screens, sumps, ponds, and clarifiers as needed to ensure optimal plant operation.

3. Treatment and storage of sludge shall be confined to the treatment facility property, shall be temporary, and shall be conducted in a manner that minimizes leachate formation and precludes infiltration of waste constituents into soils in a mass or at concentrations that will violate the Groundwater Limitations of this Order.

4. Use and disposal of biosolids shall comply with the self-implementing Federal regulations of 40 CFR 503, which are subject to enforcement by the U.S. EPA, not the Regional Water Board. If during the life of this Order, the state accepts primacy for implementation of 40 CFR 503, the Regional Water Board may also initiate enforcement where appropriate.

5. Any proposed change in biosolids use or disposal practice from a previously approved practice shall be reported to the Executive Officer and U.S. EPA Regional Administrator at least **90 days** in advance of the change.

6. The City of Tracy is encouraged to comply with the “Manual of Good Practice for Agricultural Land Application of Biosolids” developed by the California Water Environment Association.

7. Facilities for the storage of Class B biosolids shall be located, designed and maintained to restrict public access to biosolids.

8. Biosolids storage facilities shall be designed and maintained to prevent washout or inundation from a storm or flood with a return frequency of 100 years.

9. Biosolids storage facilities shall be designed and maintained to contain all storm water falling on the biosolids storage area during a rainfall year with a return frequency of 100 years.

## D. Groundwater Limitations

1. Release of waste constituents from any storage, treatment, or disposal component associated with the Facility shall not cause underlying groundwater to contain waste constituents in concentrations statistically greater than background water quality.

## E. Provisions

1. The following reports shall be submitted pursuant to Section 13267 of the CWC and shall be prepared as described in Provision E.2.

   a. **Groundwater Monitoring Workplan.** To determine compliance with Groundwater Limitations D.1., the groundwater monitoring network shall include one or more background monitoring wells and a sufficient number of designated monitoring wells downgradient of every treatment, storage, and disposal unit that does or may release waste constituents to groundwater. By **1 November 2007,** the Discharger shall submit a Groundwater Monitoring Work Plan prepared in accordance with, and including the items listed in, the first section of Attachment E: *"Requirements for Monitoring Well Installation Workplans and Monitoring Well Installation Reports."* All monitoring wells shall comply with the appropriate standards as described in California Well Standards Bulletin 74-90 (June 1991) and Water Well Standards: State of California Bulletin 74-81 (December 1981), and any more stringent standards adopted by the Discharger or County pursuant to CWC section 13801.

   b. **Groundwater Water Quality Characterization.** The Discharger, after two years of monitoring, shall characterize natural background quality of monitored constituents in a technical report, to be submitted by **1 August 2010**. For each groundwater monitoring parameter/constituent identified in the Monitoring and Reporting Program, the report shall present a summary of monitoring data, calculation of the concentration in background monitoring wells, and a comparison of background groundwater quality to that in wells used to monitor the facility. Determination of background quality shall be made using the methods described in Title 27 California Code of Regulations Section 20415(e)(10), and shall be based on data from at least eight consecutive quarterly (or more frequent) groundwater monitoring events. For each monitoring parameter/constituent, the report shall compare measured concentrations for compliance monitoring wells with the calculated background concentration.

   c. **Best Practical Treatment or Control (BPTC)**. If the groundwater monitoring results show that the discharge of waste is threatening to cause or has caused groundwater to contain waste constituents in concentrations statistically greater than background water quality, then by **1 December 2010**, the Discharger shall submit a BPTC Evaluation Workplan that sets forth a scope and schedule for a systematic and comprehensive technical evaluation of each component of the facilities' waste management system to determine best practicable treatment or control for each the waste constituents of concern. The workplan shall include a preliminary evaluation of each component of the waste management system and propose a time schedule for completing the comprehensive technical evaluation. The schedule to complete the evaluation shall be as short as practicable, and shall not exceed one year.

2. In accordance with California Business and Professions Code Sections 6735, 7835, and 7835.1, engineering and geologic evaluations and judgments shall be performed by or under the direction of registered professionals competent and proficient in the fields pertinent to the required activities. All technical reports specified herein that contain work plans for investigations and studies, that describe the conduct of investigations and studies, or that contain technical conclusions and recommendations concerning engineering and geology shall be prepared by or under the direction of appropriately qualified professional(s), even if not explicitly stated. Each technical report submitted by the Discharger shall bear the professional's signature and stamp.

3. **Compliance with Prohibition A.2.** Prohibition A.2. requires that the, "*Discharge of waste classified as "hazardous" under Section 2521, Chapter 15 of Title 23 or "designated," as defined in Section 13173 of CWC is prohibited.*" Based on available water quality data, it appears the holding ponds contain wastewater with constituent concentrations that exceed water quality objectives and may be classified as "designated" waste. However, it is necessary for the Discharger to adequately characterize background water quality to make a final determination. Upon completion of the Groundwater Water Quality Characterization study, required in Provisions E.1.b., if the any waste constituent in the holding ponds exceeds water quality objectives or background water quality, whichever is higher, the Discharger will be required to evaluate alternatives to comply with Prohibition A.2. The Discharger shall comply with the following time schedule:

| Task | Date Due |
|---|---|
| i. Submit Work Plan/Schedule to evaluate project alternatives | 120 days from notification by the Executive Officer |
| ii. Submit implementation schedule for selected project alternative | 1 year from Executive Officer approval of the Work Plan/Schedule required in Task i. |
| iii. Submit new Report of Waste Discharge[1] | 1 year from Executive Officer approval of the Work Plan/Schedule required in Task i. |
| iv. Submit Progress Reports[2] | 1 February, annually, after approval of the Work Plan/Schedule required in Task i. |
| v. Full compliance with Prohibition A.2. | Not to exceed 2 years from submission of |

| Task | Date Due |
| --- | --- |
| | the implementation schedule required in Task ii. |

[1] If necessary to implement an alternative project not prescribed by this Order.

[2] The progress reports shall detail what steps have been implemented towards achieving compliance with waste discharge requirements, including studies, construction progress, evaluation of measures implemented, and recommendations for additional measures as necessary to achieve full compliance by the final date.

4. The Discharger shall comply with Monitoring and Reporting Program No. R5-2007-0038, which is part of this Order, and any revisions thereto as ordered by the Executive Officer.

5. The Discharger shall comply with the "Standard Provisions and Reporting Requirements for Waste Discharge Requirements," dated 1 March 1991, which are attached hereto and made part of this Order by reference. This attachment and its individual paragraphs are commonly referenced as "Standard Provision(s)." To the extent there are duplicative requirements in the Standard Provisions, this Order, or Waste Discharge Requirements Order No. R5-2007-0036 (NPDES Permit No. CA007914), the requirements only apply once.

6. The Discharger shall use the best practicable cost-effective control technique(s) including proper operation and maintenance, to comply with discharge limits specified in this order.

7. The Discharger shall submit to the Regional Water Board on or before each compliance report due date, the specified document or, if appropriate, a written report detailing compliance or noncompliance with the specific schedule date and task. If noncompliance is being reported, then the Discharger shall state the reasons for such noncompliance and provide an estimate of the date when the Discharger will be in compliance. The Discharger shall notify the Regional Water Board in writing when it returns to compliance with the time schedule.

8. The Discharger must comply with all conditions of this Order, including timely submittal of technical and monitoring reports as directed by the Executive Officer. Violations may result in enforcement action, including Regional Water Board or court orders requiring corrective action or imposing civil monetary liability, or in revision or recession of this Order.

9. A copy of this Order shall be kept at the Facility for reference by operating personnel. Key operating personnel shall be familiar with its contents.

10. As described in the Standard Provisions, the Discharger shall report promptly to the Regional Water Board any material change or proposed change in the character, location, or volume of the discharge.
11. In the event of any change in control or ownership of land or waste discharge facilities described herein, the Discharger must notify the succeeding owner or operator of the existence of this Order by letter, a copy of which shall be immediately forwarded to this office. To assume operation as a Discharger under this Order, the succeeding owner or operator must apply in writing to the Executive Officer requesting transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, the name, address, and telephone number of the persons responsible for contact with the Regional Water Board, and a statement. The statement shall comply with the signatory paragraph of Standard Provision B.3 and state that the new owner or operator assumes full responsibility for compliance with this Order. Failure to submit the request shall be considered a discharge without requirements, a violation of the CWC. Transfer shall be approved or disapproved by the Executive Officer.
12. The Discharger shall report promptly to the Regional Water Board any material change or proposed change in the character, location, or volume of the discharge.
13. Leprino has been included in this Order and named as a "Discharger" along with the City of Tracy solely because Leprino operates City-owned Pond 2 under a lease arrangement. At such time that Leprino either ceases to utilize Pond 2 or has met its obligation under Prohibition A.2, Leprino will no longer be considered to be a "Discharger" under this Order and Leprino will no longer have any obligations under this Order.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on May 4, 2007.

_____
PAMELA C. CREEDON, Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

MONITORING AND REPORTING PROGRAM NO. R5-2007-0038

FOR

CITY OF TRACY AND LEPRINO FOODS COMPANY
LAND DISCHARGE UNITS OF THE TRACY WASTEWATER TREATMENT PLANT
SAN JOAQUIN COUNTY

This Monitoring and Reporting Program (MRP) describes requirements for monitoring the Discharger's holding ponds, groundwater, biosolids storage area, and sludge. This MRP is issued pursuant to California Water Code Section 13267. The Discharger shall not implement any changes to this MRP unless and until a revised MRP is issued by the Executive Officer. Regional Water Board staff shall approve specific sample station locations prior to implementation of sampling activities.

All samples shall be representative of the volume and nature of the discharge or matrix of material sampled. The time, date, and location of each grab sample shall be recorded on the sample chain of custody form. Field test instruments (such as those used to measure pH and dissolved oxygen) may be used provided that:

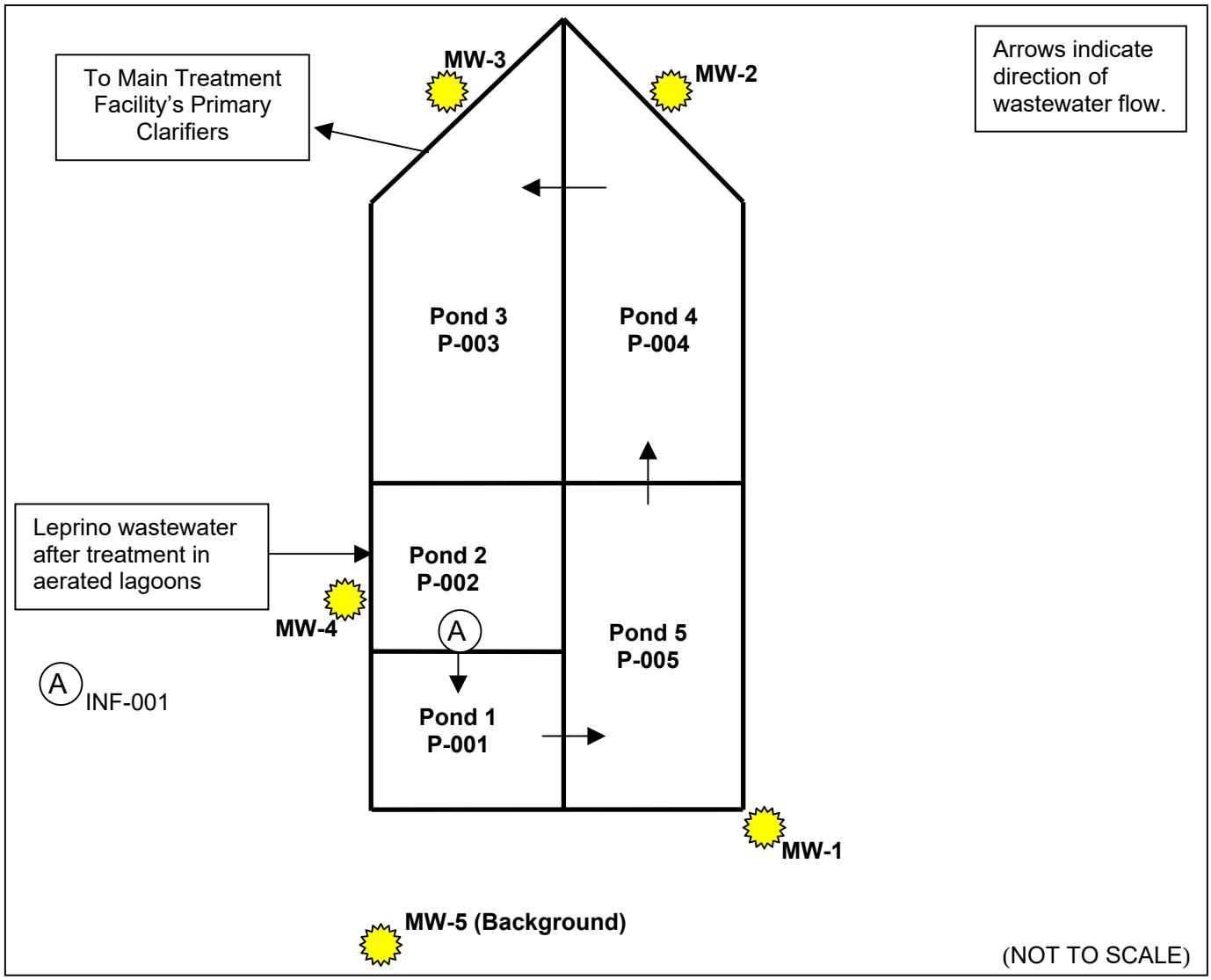
1. The operator is trained in proper use and maintenance of the instruments;
2. The instruments are calibrated prior to each monitoring event;
3. The instruments are serviced and/or calibrated by the manufacturer at the recommended frequency; and
4. Field calibration reports are submitted as described in the "Reporting" section of the MRP.

## MONITORING LOCATIONS

The Discharger shall establish the following monitoring locations to demonstrate compliance with the discharge specifications and other requirements in this Order:

| Monitoring Location Name | Monitoring Location Description |
|---|---|
| MW-2 | Groundwater monitoring well MW-2 (see Figure MRP-1) |
| MW-3 | Groundwater monitoring well MW-3 (see Figure MRP-1) |
| MW-4 | Groundwater monitoring well MW-4 (see Figure MRP-1) |
| MW-5 | Groundwater monitoring well MW-5 (see Figure MRP-1) |
| INF-001 | Leprino Influent to Holding Ponds (see Figure MRP-1) |
| P-001 | Pond 1, Industrial Holding Pond (see Figure MRP-1) |
| P-002 | Pond 2, Leprino Treatment Pond (see Figure MRP-1) |
| P-003 | Pond 3, Holding Pond (see Figure MRP-1) |
| P-004 | Pond 4, Holding Pond (see Figure MRP-1) |
| P-005 | Pond 5, Holding Pond (see Figure MRP-1) |
| B-001 | Biosolids prior to final disposal |

## Figure MRP-1 – Monitoring Locations



## INFLUENT MONITORING

The Discharger shall monitor Leprino's discharge to the Holding Ponds at INF-001 as follows:

| Parameter | Units | Sample Type | Minimum Sampling Frequency | Minimum Reporting Frequency |
|---|---|---|---|---|
| Flow | mgd | Meter | Continuous | 1/day |
| BOD 5-day 20°C | mg/L, lbs/day | Composite[1] | 1/day | 1/day |
| Total Suspended Solids | mg/L, lbs/day | Composite[1] | 1/day | 1/day |
| pH | Standard Units | Grab | 1/week | 1/week |
| Electrical Conductivity @ 25°C | µmhos/cm | Grab | 1/week | 1/week |
| Total Dissolved Solids | mg/L | Grab | 1/week | 1/week |

[1] 24-hour flow proportional composite

## POND MONITORING

The Discharger shall monitor the Holding Ponds at P-001, P-002, P-003, P-004, and P-005 as follows:

| Parameter | Units | Sample Type | Minimum Sampling Frequency |
|---|---|---|---|
| Freeboard | feet | Measurement | 1/week |
| Dissolved Oxygen | mg/L | Grab | 1/week |
| pH | Standard Units | Grab | 1/week |
| Electrical Conductivity @ 25°C | µmhos/cm | Grab | 1/week |
| Total Dissolved Solids | mg/L | Grab | 1/month |
| Volatile Dissolved Solids | mg/L | Grab | 1/month |
| Nitrate (as N) | mg/L | Grab | 1/quarter |
| Total Kjeldahl Nitrogen | mg/L | Grab | 1/quarter |
| Standard Minerals[1] | mg/L | Grab | 1/year |

[1] Standard Minerals shall include the following: boron, calcium, iron, magnesium, potassium, sodium, chloride, manganese, phosphorus, total alkalinity (including alkalinity series), and hardness.

## GROUNDWATER MONITORING

Prior to the construction and/or sampling of any new groundwater monitoring wells, the Discharger shall submit plans and specifications to the Regional Water Board for review and approval. Once installed, all new wells shall be added to the MRP and shall be sampled and analyzed according to the schedule below.

The Discharger shall monitor the groundwater at monitoring locations MW-2, MW-3, MW-4, and MW-5 as follows. Prior to sampling, the groundwater elevations shall be measured and the wells shall be purged of at least three well volumes until temperature, pH, and electrical conductivity have stabilized. Depth to groundwater shall be measured to the nearest 0.01 feet. Water table elevations shall be calculated and used to determine groundwater gradient and direction of flow. Samples shall be collected using standard USEPA methods. Groundwater monitoring shall include, at minimum, the following:

| Parameter | Units | Sample Type | Minimum Sampling/Reporting Frequency |
|---|---|---|---|
| Groundwater Elevation[1] | Feet | Measurement | 1/quarter |
| Depth to Groundwater[1] | 0.01 Feet | Measurement | 1/quarter |
| Gradient | Feet/feet | calculated | 1/quarter |
| Gradient Direction | degrees | calculated | 1/quarter |
| pH | Standard Units | Grab | 1/quarter |
| Total Dissolved Solids | mg/L | Grab | 1/quarter |
| Volatile Dissolved Solids | mg/L | Grab | 1/quarter |
| Electrical Conductivity @ 25 °C' | µmhos/cm | Grab | 1/quarter |
| Total Kjeldahl nitrogen | mg/L | Grab | 1/quarter |
| Nitrate (as N) | mg/L | Grab | 1/quarter |
| Total Coliform Organisms | MPN/100 ml | Grab | 1/quarter |
| Standard Minerals[2] | mg/L | Grab | 1/quarter |
| Title 22 Metals[3] | mg/L | Grab | 1/year |

[1] Groundwater elevation shall be used to calculate the direction and gradient of groundwater flow. Elevations shall be measured to the nearest one-hundredth of a foot from mean sea level, from a surveyed measuring point elevation on the well. The groundwater elevation shall be measured prior to purging the wells.

[2] Standard Minerals shall include the following: boron, calcium, iron, magnesium, potassium, sodium, chloride, manganese, phosphorus, total alkalinity (including alkalinity series), and hardness.

[3] Title 22 metals shall include the analyses of arsenic, cadmium, chromium, copper, lead, mercury, nickel, and zinc.

## BIOSOLIDS MONITORING

1. A composite sample of biosolids shall be collected annually prior to final disposal in accordance with EPA's POTW Sludge Sampling and Analysis Guidance Document, August 1989, and tested for priority pollutants listed in 40 CFR section 122 Appendix D, Tables II and III (excluding total phenols). Monitoring Location B-001 is not specifically defined in this Order. The biosolids sample shall be collected at a location prior to leaving the Facility for final disposal.

2. Sampling records shall be retained for a minimum of five years. A log shall be kept of sludge quantities generated and of handling and disposal activities. The frequency of entries is discretionary; however, the log should be complete enough to serve as a basis for part of the annual report.

## REPORTING

In reporting monitoring data, the Discharger shall arrange the data in tabular form so that the date, sample type (e.g., effluent, pond, etc.), and reported analytical result for each sample are readily discernible. The data shall be summarized in such a manner to clearly illustrate compliance with waste discharge requirements and spatial or temporal trends, as applicable. The results of any monitoring done more frequently than required at the locations specified in the Monitoring and Reporting Program shall be reported to the Regional Water Board.

As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, all Groundwater Monitoring Reports shall be prepared under the direct supervision of a Registered Engineer or Geologist and signed by the registered professional.

### A. Monthly Monitoring Reports

Daily, weekly, and monthly monitoring data shall be reported in monthly monitoring reports. Monthly reports shall be submitted to the Regional Water Board on the **1st day of the second month following sampling** (i.e. the January Report is due by 1 March). At a minimum, the reports shall include:

1. Monitoring results;
2. A comparison of monitoring data to the discharge specifications and an explanation of any violation of those requirements. Data shall be presented in tabular format;
3. If requested by staff, copies of laboratory analytical report(s); and
4. A calibration log verifying calibration of all hand-held monitoring instruments and devices used to comply with the prescribed monitoring program.

### B. Quarterly Monitoring Reports

The Discharger shall establish a quarterly sampling schedule for pond and groundwater monitoring such that samples are obtained approximately every three months. Quarterly monitoring reports shall be submitted to the Regional Water Board by the **1st day of the second month after the quarter** (i.e. the January-March quarterly report is due by May 1st) and may be combined with the monthly report. The Quarterly Report shall include the following:

1. Results of pond and groundwater monitoring;

2. A narrative description of all preparatory, monitoring, sampling, and analytical testing activities for the pond and groundwater monitoring. The narrative shall be sufficiently detailed to verify compliance with the WDR, this MRP, and the Standard Provisions. For groundwater monitoring, the narrative shall be supported by field logs for each well documenting depth to groundwater; parameters measured before, during, and after purging; method of purging; calculation of casing volume; and total volume of water purged;

3. Calculation of groundwater elevations, an assessment of groundwater flow direction and gradient on the date of measurement, comparison of previous flow direction and gradient data, and discussion of seasonal trends if any;

4. A narrative discussion of the analytical results for all groundwater locations monitored including spatial and temporal tends, with reference to summary data tables, graphs, and appended analytical reports (as applicable);

5. A comparison of monitoring data to the groundwater limitations and an explanation of any violation of those requirements;

6. Summary data tables of historical and current water table elevations and analytical results;

7. A scaled map showing relevant structures and features of the facility, the locations of monitoring wells and any other sampling stations, and groundwater elevation contours referenced to mean sea level datum; and

8. Copies of laboratory analytical report(s) for pond and groundwater monitoring.

## C. Annual Report

An Annual Report shall be prepared as the fourth quarter monitoring report. The Annual Report will include all monitoring data required in the monthly/quarterly schedule. The Annual Report shall be submitted to the Regional Water Board by **1 February** each year. In addition to the data normally presented, the Annual Report shall include the following:

1. The contents of the regular pond and groundwater monitoring report for the last sampling event of the year;

2. If requested by staff, tabular and graphical summaries of all data collected during the year;

3. An evaluation of the groundwater quality beneath the sludge handling facilities, aerated lagoons, and the unlined ponds;

4. A discussion of compliance and the corrective actions taken, as well as any planned or proposed actions needed to bring the discharge into full compliance with the waste discharge requirements;

5. A discussion of any data gaps and potential deficiencies/redundancies in the monitoring system or reporting program;

6. A discussion of the overall status of BPTC implementation over the past reporting year;

7. Equipment maintenance and calibration records, as described in Standard Provision No. C.4.;

8. Biosolids Reporting Requirements:
   a. Certification of compliance with 40 CFR part 503
   b. Annual sludge production in dry tons and percent solids;
   c. Quantitative results of chemical analyses for the priority pollutants listed in 40 CFR section 122 Appendix D, Tables II and III (excluding total phenols);
   d. Depth of application and drying time for sludge drying beds (if applicable); and
   e. A description of the disposal method(s) used at the Facility, including the following information. If more than one method is used, include the percentage of annual sludge production disposed by each method.
      i. For **landfill disposal**, include (1) the Regional Water Board's WDR numbers that regulate the landfill(s) used, (2) the present classifications of the landfill(s) used, and (3) the names and locations of the receiving facility(ies).
      ii. For **land application,** include (1) location of the site(s), (2) the Regional Water Board's WDR numbers that regulate the site(s), (3) the application rate in lbs/year (specify wet or dry), and (4) subsequent uses of the land.
      iii. For **incineration**, include (1) name and location of the site(s) where sludge incineration occurs, (2) the Regional Water Board's WDR numbers that regulate the site(s), (3) the disposal method of the ash, and (4) the names and locations of facilities receiving ash (if applicable).
      iv. For **composting**, include (1) name and location of the site(s) where sludge composting occurs, and (2) the Regional Water Board's WDR numbers that regulate the site(s).

A letter transmitting the self-monitoring reports shall accompany each report. Such a letter shall include a discussion of requirement violations found during the reporting period, and actions taken or planned for correcting noted violations, such as operation or facility modifications. If the Discharger has previously submitted a report describing corrective actions and/or a time schedule for implementing the corrective actions, reference to the previous correspondence will be satisfactory. The transmittal letter shall contain the penalty of perjury statement by the Discharger, or the Discharger's authorized agent, as described in the Standard Provisions General Reporting Requirements Section B.3.

The Discharger shall implement the above monitoring program on the first day of the month following adoption of this Order.

Ordered by: _____
PAMELA C. CREEDON, Executive Officer

_____
(Date)

INFORMATION SHEET

ORDER NO. R5-2007-0038
CITY OF TRACY AND LEPRINO FOODS COMPANY
LAND DISCHARGE UNITS OF THE TRACY WASTEWATER TREATMENT PLANT
SAN JOAQUIN COUNTY

## I. Permit Information

A. The Tracy Wastewater Treatment Plant (hereafter Facility) treats primarily domestic wastewater collected via the City of Tracy's wastewater collection system. The Facility also accepts industrial food processing wastewater through a segregated collection system from Leprino Foods Company (Leprino), a local cheese manufacturer. Leprino operates pretreatment units at the Facility to pretreat its industrial food processing wastewater prior to discharge to the City of Tracy-operated unlined holding ponds. The industrial food processing wastewater is held in the ponds prior to final treatment at the main treatment plant.

B. The Facility discharges wastewater to Old River, located within the Sacramento-San Joaquin Delta, a water of the United States. The discharge is currently regulated by Order No. 96-104, which was adopted on 3 May 1996 and expired on 3 May 2001. The terms of Order No. 96-104 automatically continued in effect after the permit expiration date.

   The City filed a report of waste discharge and submitted an application for renewal of its Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permit on 1 November 2000. Subsequently, on 3 February 2003, the City of Tracy submitted a revised report of waste discharge, which included a request for expansion. Supplemental information was received on 25 September 2003, 30 September 2003, and 29 April 2004. A site visit was conducted on 9 November 2004, to observe Facility operations and conditions.

C. Due to the close proximity of the City of Tracy and Leprino operated waste units, it is difficult to distinguish between the discharges to land from the facilities operated by the City of Tracy and those operated by Leprino. Therefore, where applicable, the City of Tracy and Leprino are individually and/or jointly referred to as "Discharger." Leprino is solely responsible for discharges from its segregated industrial wastewater pipeline and the waste units it operates at the Facility. The City of Tracy is the owner of the Facility and is responsible for all discharges from the Facility, including the discharges from the Leprino operated waste units.

D. The Facility is regulated under Order No. R5-2007-0036 (NPDES No. CA0079154), to discharge treated municipal wastewater to Old River. However, as part of its treatment train, the Facility includes aerated lagoons, unlined holding ponds, unlined sludge drying beds, and unlined sludge storage basins. This Order regulates the land discharges from these treatment facilities.

## II. Facility Description

A. Description of Wastewater and Biosolids Treatment or Controls

1. The City of Tracy provides wastewater treatment and disposal services for residences, businesses, and industries within the Tracy area. The Facility was originally constructed in 1930 and has experienced three major expansions. The last expansion was completed in 1987, expanding treatment capacity from 5.5 mgd to 9.0 mgd.

2. The Facility consists of a main treatment facility and an industrial facility, and includes two separate systems for the collection and conveyance of wastewater to the Facility. The main treatment facility accepts domestic and commercial wastewater via the City of Tracy's wastewater collection system. The industrial facility accepts industrial food processing wastewater through a segregated pipeline from Leprino.

   The main treatment facility consists of raw influent bar screening, primary sedimentation, biofiltration, conventional activated sludge, and secondary sedimentation. Secondary effluent is disinfected by chlorination and dechlorinated prior to discharge. Biosolids are thickened by dissolved air flotation, anaerobically digested, and dewatered in unlined sand drying beds. The dried biosolids are hauled off-site for land application or disposed in a landfill. A flow schematic of the main treatment facility is shown in Attachment B.

   The pretreatment units operated by Leprino include two identical lined lagoons constructed in 1977 of compacted berms that rise above the base level of the surrounding ground. The berms are of 1.5:1 slope on the interior and meet a concrete floor 94-ft square, and the floor slab is between 8-12 inches thick. The concrete floor serves as the base for grouted threaded supports holding an EDI fine air tube diffuser system 18-inches off the floor. The sloped interior sides of the aerated lagoons are line with an impermeable Hypalon/EPDM reinforced geotextile fabric specifically designed to seal active lagoon systems. The liner is sealed to the floor of the lagoons with a perimeter-bolted frame completely wrapped by the liner material and grouted in place, and the liner itself is vulcanized into a single continuous sheet. The top of the liner is buried in a trench dug 12-inches deep along the top perimeter of the lagoon system to prevent pullout of the liner top. The freeboard design allows for 2-feet of freeboard.

   The lagoon system is built almost entirely above the surrounding grade. This kind of construction ensures that any liner punctures below the water line will result in saturation of the berm and visual indications of leaking wastewater would be visible on the surrounding berm slopes. Leprino lowers the level of the lagoons periodically to inspect the aeration system and the lagoon liners for signs of wear, and replaces or repairs the lagoon components as needed.

The purpose of the aerated, lined lagoon system is to allow for reduction of the organic components of the food processing wastewater produced from Leprino's cheese and whey manufacturing process. The process is operated in an aerobic mode that promotes the natural growth of microscopic organisms that consume the soluble portion of the organic materials in the wastewater. The resulting reduction in organic loading is measured as a reduction in $BOD_5$ in the clarified effluent.

Following the active aerobic treatment, the pretreated food processing wastewater is transferred to one of the City owned lagoons located northeast of the main plant site. The unlined 8-acre lagoon, known by the City as Pond 2, is leased for operation by Leprino. The secondary lagoon is divided into two sections by a floating baffle to allow for settling of the biosolids and clarification of the pretreated wastewater. A rotary screen polishes the pretreated water just prior to discharge to a adjacent 8-acre unlined lagoon owned and operated by the City known as Pond 1. The operation of the rotary screen is enhanced by addition of a flocculent emulsion polymer prior to screening. Biosolids are stored in the main lagoon section and are allowed to stabilize in a facultative mode. Operation of the Leprino lagoon is regulated by the industrial pretreatment permit issued to Leprino.

Pretreated wastewater may infiltrate into the underlying groundwater fro the City's Pond 2, which is leased and operated by Leprino. Therefore, discharges from Pond 2 are regulated by this Order.

Leprino transports its food processing wastewater to the Facility via a segregated industrial waste line. Leprino employees operate and maintain the industrial wastewater pipeline and leased pretreatment units. Leprino's industrial pretreatment program permit allows for a discharge of up to 850,000 gallons per day of food-processing wastewater. Compliance with Leprino's industrial pretreatment permit is measured prior to discharge to Pond 1 (see Figure 1). The unlined holding ponds provide evaporation and percolation prior to the wastewater entering the main treatment facility at the primary sedimentation basins. A flow schematic of the industrial facilities is shown in Attachment C.

## B. Planned Changes

The City of Tracy is upgrading the Facility to improve treatment and expand capacity. The treatment system capacity will be expanded to 16 mgd through a four-phase expansion. The improvements will improve the effluent quality over the current secondary level treatment. Only Phase 1 of the proposed expansion is estimated to be completed during the term of this Order, which would increase the treatment capacity to 10.8 mgd. The Report of Waste Discharge describes the proposed changes as follows:

1. **Phase 1 (10.8 mgd Design Capacity).** Phase 1 improvements will increase treatment to include nitrification/denitrification and tertiary filtration. The proposed improvements include the construction of new headworks with mechanical screening, replacement of existing primary clarifiers, construction of a flow equalization basin,

construction of three additional secondary aeration basins, installation of two tertiary treatment modules, construction of new chemical building, and paving of sludge drying beds (1/6 of capacity, approx.). The expected initiation of operation of Phase 1 improvements is 1 August 2008.

2. **Phases 2 – 4 (16 mgd Design Capacity).** Phases 2-4 improvements expand the treatment and discharge capacity to 16 mgd. The proposed Phase 2 improvements include construction of a second outfall near the existing outfall, and paving of additional sludge drying beds. The proposed Phase 3 improvements include construction of one aeration basin/secondary clarifier, installation of a new filter pump for tertiary treatment, and paving of sludge drying beds. The proposed Phase 4 improvements include construction of a new primary clarifier, replacement of two effluent pumps with larger capacity pumps, construction of a sludge digester, and paving the remaining sludge drying beds. The proposed initiation of operation of the Phase 2, 3 and 4 improvements are 1 October 2012, 1 September 2014, and 1 November 2016, respectively.

## III. Applicable Plans, Policies, and Regulations

A. **Water Quality Control Plans**. The Regional Water Board adopted a *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins* (Basin Plan) that designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the plan. In addition, State Water Board Resolution No. 88-63 requires that, with certain exceptions, the Regional Water Board assign the municipal and domestic supply use to water bodies that do not have beneficial uses listed in the Basin Plan. The beneficial uses of the groundwaters underlying the Facility are designated as municipal and domestic supply, agricultural supply, industrial service supply, and industrial process supply.

The Basin Plan on page II-1.00 states: "*Protection and enhancement of existing and potential beneficial uses are primary goals of water quality planning…*" and with respect to disposal of wastewaters states that "...*disposal of wastewaters is [not] a prohibited use of waters of the State; it is merely a use which cannot be satisfied to the detriment of beneficial uses.*"

B. **Antidegradation Policy.** State Water Board Resolution No. 68-16 (Resolution 68-16) requires the Regional Water Board, in regulating discharge of waste, to maintain high quality waters of the State until it is demonstrated that any change in quality will be consistent with maximum benefit to the people of the State, will not unreasonably affect beneficial uses, and will not result in water quality less than that described in the Regional Water Board's policies. Resolution 68-16 requires the discharge be regulated to meet best practicable treatment or control to assure that pollution or nuisance will not occur and the highest water quality consistent with the maximum benefit to the people of the State be maintained.

As discussed in Section II.A., the Facility utilizes separate facilities for pretreatment of industrial wastewater, which includes 60 acres of unlined ponds. The wastewater contained in the unlined holding ponds is predominantly food processing wastewater from Leprino. The food processing wastewater contains constituents such as TDS, EC, BOD, and TSS. The food processing wastewater flows in series through the unlined oxidation ponds and is returned to the primary sedimentation basins of the main plant. Attachment F, Figure F-3, shows the layout of the unlined treatment ponds, direction of flow, and locations of groundwater monitoring wells.

The shallow groundwater in the vicinity of the Facility is high in salinity and exceeds water quality objectives. The Basin Plan at page IV-15.00 states that, "*Controllable water quality factors are not allowed to cause further degradation of water quality in instances where other factors have already resulted in water quality objectives being exceeded.*" EC concentrations in the treatment ponds and underlying groundwater exceed background groundwater concentrations, which indicates groundwater degradation may have occurred, as shown in Attachment F, Figure F-1.

The record indicates that Regional Water Board staff have been concerned about possible degradation of groundwater caused by the unlined ponds for many years. In August 1989, Regional Water Board staff requested the City of Tracy to submit a proposal and time schedule for installing groundwater monitoring wells to assess the potential impact the holding ponds may be having on salinity in the shallow groundwater.

Four groundwater monitoring wells were installed, MW-1 through MW-4 (see Attachment F, Figure F-3). MW-1 was constructed on the southeast corner of the ponds to allow upgradient or background sampling. Samples were collected from the ponds in February and October 1990. Analyses included TDS, pH, sulfate, chloride, fluoride, alkalinity, specific conductance, nitrate, and general metals. In October 1990, water quality samples were collected from the monitoring wells and analyzed for the same parameters as the ponds.

The study concluded that wastewater in the holding ponds did not currently appear to be affecting salinity levels in the local groundwater. Even though the ponds contained wastewater with TDS levels exceeding secondary drinking water standards, groundwater samples indicated the shallow groundwater is naturally high in TDS in the area.

In 1991, Regional Water Board staff ordered the City of Tracy to conduct additional quarterly groundwater monitoring. This monitoring included the collection of samples from the ponds and monitoring wells, with analyses performed for TDS, pH, EC, and chlorides. The monitoring began in March 1992 and included six quarterly sets of data collected by the City of Tracy. The monitoring data appeared to confirm the holding ponds were not negatively affecting the water quality of the shallow groundwater. However, some data was contradictory. Continued concerns about potential degradation of groundwater remained and Regional Water Board staff

ordered installation of a new background monitoring well, further upgradient from the ponds, due to concerns that the background monitoring well, MW-1, was not outside the influence of the ponds. The City of Tracy was also ordered to conduct additional groundwater monitoring, and surface water monitoring in Sugar Cut Slough, which is adjacent to the ponds.

The City installed a new background well, MW-5, further upgradient from the holding ponds. Water quality sampling of the holding ponds, monitoring wells, Sugar Cut Slough, and an agricultural drainage ditch upstream of Sugar Cut Slough was conducted in September and November 1994 and March 1995. The samples were analyzed for TDS, EC, chlorides, and pH. The samples collected in November were also analyzed for major cations and anions.

The data was analyzed and summarized in a 1995 report submitted by the City of Tracy. The 1995 Report concluded the unlined ponds percolated to the shallow groundwater, and that the shallow groundwater in the vicinity of the ponds was in hydraulic continuity with Sugar Cut Slough. Even though downgradient well samples showed higher salinity concentrations than background well samples, the 1995 Report concluded there was not adequate evidence that the ponds were causing the increases, because the underlying groundwater had higher concentrations than the ponds. The 1995 Report further concluded the ponds were not adversely affecting surface water in Sugar Cut Slough.

The monitoring and reporting program contained in Order No. 96-104 required quarterly monitoring of the holding ponds and groundwater for TDS and EC. Based on monitoring from October 1999 through May 2004, it is evident the EC of the ponds has increased from the levels measured in 1994 and 1995, which were used to evaluate groundwater degradation caused by the ponds. Prior to 1997, Heinz Foods, Inc. discharged approximately 1.6 to 2.0 mgd of tomato wastewater to the ponds during the summer months. Since Heinz ceased its discharge to the Facility, the average EC concentrations of the ponds have increased. This may be due to lower flows through the ponds. Leprino discharges on average about 0.6 mgd. Lower flows result in longer detention times and increased evaporation may be causing the increase in EC in the ponds. This is corroborated by pond monitoring data from 2001 – 2004, which show increases in EC from March-October each year. Downgradient groundwater sampling shows that groundwater quality fluctuates with EC peaking in October-December. This is likely the result of the increased EC concentrations in the ponds in late summer and fall.

During an inspection of the Facility on 17 May 2004, Regional Water Board staff cited concerns of possible groundwater degradation due to unlined sludge drying beds and unlined treatment ponds. In addition, Regional Water Board staff raised concerns regarding the designation of the waste in the unlined ponds containing food processing wastewater from Leprino and the lack of best practicable treatment or control (BPTC) for the unlined sludge drying beds. On 15 June 2004, Regional Water Board staff issued a 13267 Order requesting a groundwater study to evaluate if

groundwater degradation has occurred as a result of the sludge dewatering process, the sludge storage practices, and the industrial waste aeration process. No groundwater monitoring wells exist to evaluate degradation due to these processes. The 13267 Order also requested an evaluation of BPTC for the sludge dewatering and storage practices. Finally, the 13267 Order requested an evaluation of the classification of the industrial food processing wastewater treated in the unlined ponds.

In June 2005, the City of Tracy provided a groundwater study that only evaluated groundwater underlying the ponds using data from routine quarterly monitoring since 1990. It failed to evaluate if groundwater degradation had occurred as a result of the sludge dewatering and storage practices and the industrial waste aeration process, which was requested in the 13267 Order.

The 2005 study evaluated the BPTC of the sludge drying and storage practices. The 2005 study concluded that the sludge drying beds needed to be paved to meet BPTC. However, other alternatives exist including dewatering using a belt filter press or a combination of paved drying beds and belt filter press. The 2005 study recommends the City of Tracy pave two drying beds and evaluate the effectiveness of the paved drying beds. After one-year of data collection, the City of Tracy could make a decision of the preferred BPTC alternative.

The 2005 study also evaluated the industrial treatment process and determined that the industrial wastewater should not be classified as designated waste, pursuant to CWC section 13173. The 2005 study concluded, "*The existing lined industrial pretreatment ponds appear to comply with requirements for Class II waste management units as specified in Title 27. Facultative ponds also appear to comply with the intent of Title 27 based on the fact that up to 3 feet of free board is available under normal operating conditions and groundwater is not being adversely impacted by the operation.*"

***Waste Characterization.*** A "designated waste" is defined under CWC section 13173 as any "*non-hazardous waste that consists of, or contains, pollutants that, under ambient environmental conditions at a waste management unit, could be released in concentrations exceeding applicable water quality objectives or that could reasonably be expected to affect beneficial uses of the waters of the state as contained in the appropriate state water quality control plan.*" Based on the data characterization summarized in Finding 9 of this Order, the wastes contained in the unlined holding ponds exceed the applicable water quality objectives for TDS. The Discharger has utilized the ponds for many years, so any assimilative capacity in the shallow groundwater basin has likely been exhausted. In addition, the depth to groundwater only ranges from 14 to 18 feet near the holding ponds, so the soil column cannot be relied upon to provide attenuation of wastes. Therefore, if not properly controlled, the food processing wastewater will be classified as a "designated waste." Discharge Prohibition A.2 of this Order prohibits the containment of designated wastes in the holding ponds to protect the beneficial uses of the groundwater. Provision E.3 of this

Order provides a time schedule for the Discharger to come into compliance with Discharge Prohibition A.2., by either reducing the constituent concentrations in the ponds or by lining the ponds in accordance with Title 27 California Code of Regulations pond lining technology. Section 20210 of Title 27, California Code of Regulations, requires that designated waste can only be discharged to a Class I or Class II surface impoundment equipped with engineered lining and a leachate collection and recovery system.

***Exemption from Title 27 Does Not Apply***. Pursuant to section 20090(b) of Title 27, California Code of Regulations, the discharge of wastewater to land, including but not limited to evaporation ponds, percolation ponds or subsurface leachfields, may be exempted from the State Water Board-promulgated provisions of this subdivision, as long as the activity meets, and continues to meet, all preconditions listed below:

i. the applicable Regional Water Board has issued WDRs, reclamation requirements or waived such issuance;

ii. the discharge is in compliance with the applicable water quality control plan; and

iii. the wastewater does not need to be managed according to Chapter 11, Division 4.5, Title 22 of this code as a hazardous waste.

The existing and proposed wastewater treated in the ponds is not in compliance with the water quality control plan, because the analytical data show that the wastewater exceeds the Basin Plan's chemical constituents objective for groundwater. An additional Title 27 exemption, section 20090(a), is provided for discharges of domestic sewage or treated effluent associated with municipal wastewater treatment plants provided that the discharge is regulated under WDRs or a waiver of WDRs and that the discharge is consistent with applicable water quality objectives. The wastewater treated in the ponds is primarily food processing from Leprino and does not comply with water quality objectives. As such it cannot be exempt from Title 27 requirements. The existing food processing wastewater treated in the holding ponds, if not properly controlled, will be classified as a designated waste and must be controlled in accordance with Title 27 requirements.

***Biosolids Dewatering***. The Facility currently utilizes sand-lined sludge drying beds to dewater biosolids, which allow supernatant to percolate to the groundwater. At this time there are no groundwater monitoring wells in the vicinity of the drying beds. In order to meet BPTC requirements, the City of Tracy plans to pave the drying beds with asphaltic concrete to provide a relatively impermeable barrier, reducing percolation to the underlying groundwater. The City of Tracy has scheduled the paving of the drying beds over four phases, with completion of paving all drying beds in 2016. The paving of the sludge drying beds with asphaltic concrete may not meet the requirements of BPTC. Provision E.1.f requires the Discharger perform a systematic and comprehensive technical evaluation of each major component of the Facility's waste treatment and control to determine for each waste constituent BPTC

as required by Resolution 68-16, including an evaluation of the Facility's biosolids dewatering system.

C. **Stormwater Requirements.** U.S. EPA promulgated Federal Regulations for stormwater on November 16, 1990 in 40 CFR Parts 122, 123, and 124. The NPDES Industrial Storm Water Program regulates storm water discharges from municipal sanitary sewer systems. Wastewater Treatment Plants are applicable industries under the stormwater program and are obligated to comply with the Federal Regulations.

## IV. Groundwater Limitations.

A. The beneficial uses of the underlying ground water are municipal and domestic supply, industrial service supply, industrial process supply, and agricultural supply.

B. Basin Plan water quality objectives include narrative objectives for chemical constituents, tastes and odors, and toxicity of groundwater. The toxicity objective requires that groundwater be maintained free of toxic substances in concentrations that produce detrimental physiological responses in humans, plants, animals, or aquatic life. The chemical constituents objective states groundwater shall not contain chemical constituents in concentrations that adversely affect any beneficial use. The tastes and odors objective prohibits taste- or odor-producing substances in concentrations that cause nuisance or adversely affect beneficial uses. The Basin Plan also establishes numerical water quality objectives for chemical constituents and radioactivity in groundwaters designated as municipal supply. These include, at a minimum, compliance with MCLs in Title 22 of the CCR. The bacteria objective prohibits coliform organisms at or above 2.2 MPN/100 ml. The Basin Plan requires the application of the most stringent objective necessary to ensure that waters do not contain chemical constituents, toxic substances, radionuclides, taste- or odor-producing substances, or bacteria in concentrations that adversely affect municipal or domestic supply, agricultural supply, industrial supply or some other beneficial use.

C. Based on analytical data provided by the City of Tracy, the industrial wastewater holding ponds may be adversely affecting groundwater. EC concentrations in the treatment ponds and down gradient groundwater wells exceed background groundwater concentrations. Furthermore, the sludge drying facilities are not in compliance with BPTC and may be degrading groundwater.

D. Groundwater limitations are required to protect the beneficial uses of the underlying groundwater.

## V. Monitoring Requirements

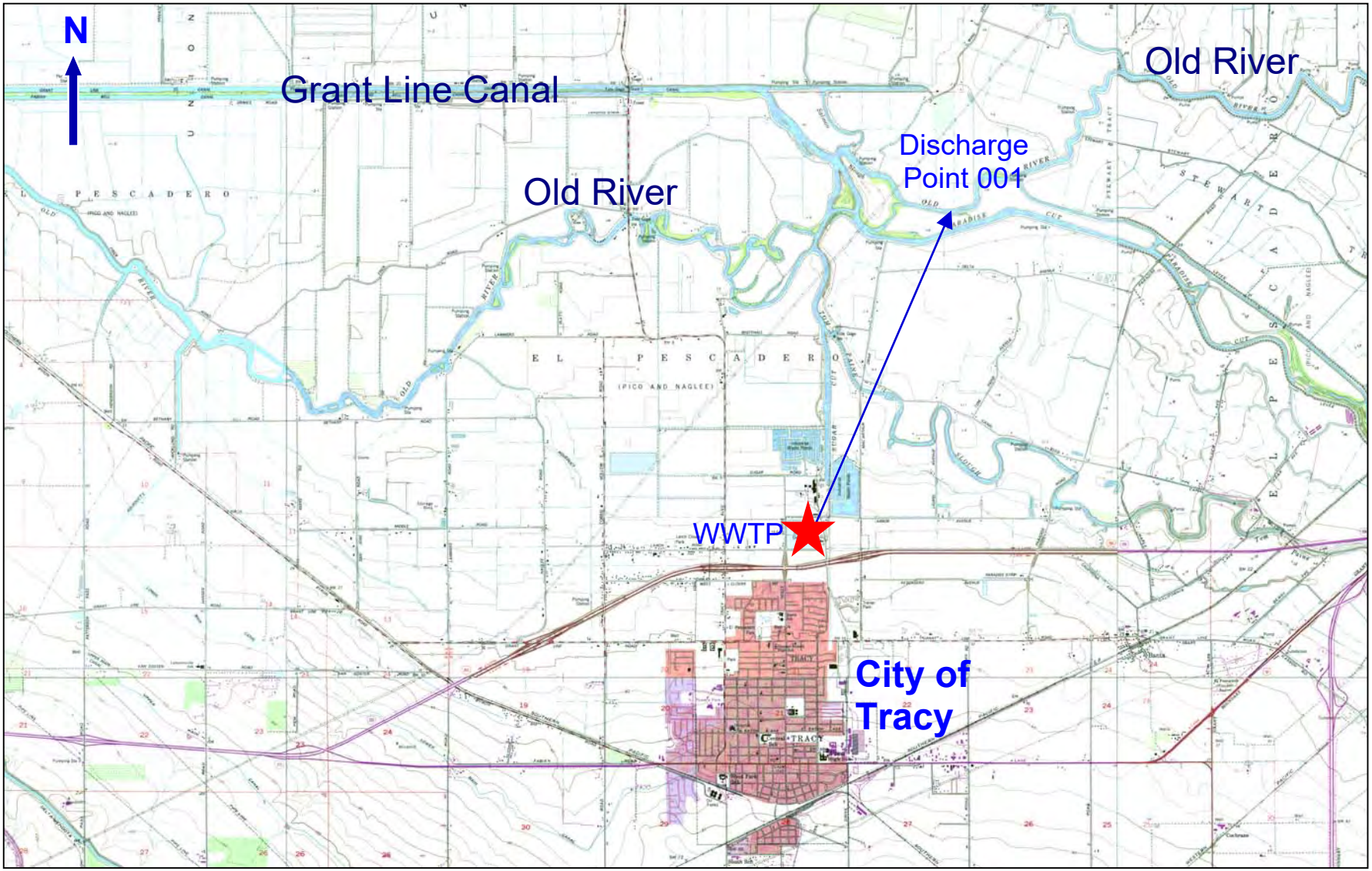
Section 13267 of the CWC authorizes the Regional Water Board to require monitoring and technical reports as necessary to investigate the impact of a waste discharge on waters of the state. In recent years there has been increased emphasis on obtaining all

necessary information, assuring the information is timely as well as representative and accurate, and thereby improving accountability of any discharger for meeting the conditions of discharge. Section 13268 of the CWC authorizes assessment civil administrative liability where appropriate.

The Order includes pond monitoring, groundwater monitoring, and biosolids monitoring. To ensure that the ponds do not create nuisance conditions, the Discharger is required to monitor freeboard and dissolved oxygen weekly.

The Discharger is required to monitor biosolids to ensure compliance with the biosolids disposal requirements. Biosolids disposal requirements are imposed pursuant to 40 CFR Part 503 to protect public health and prevent groundwater degradation.

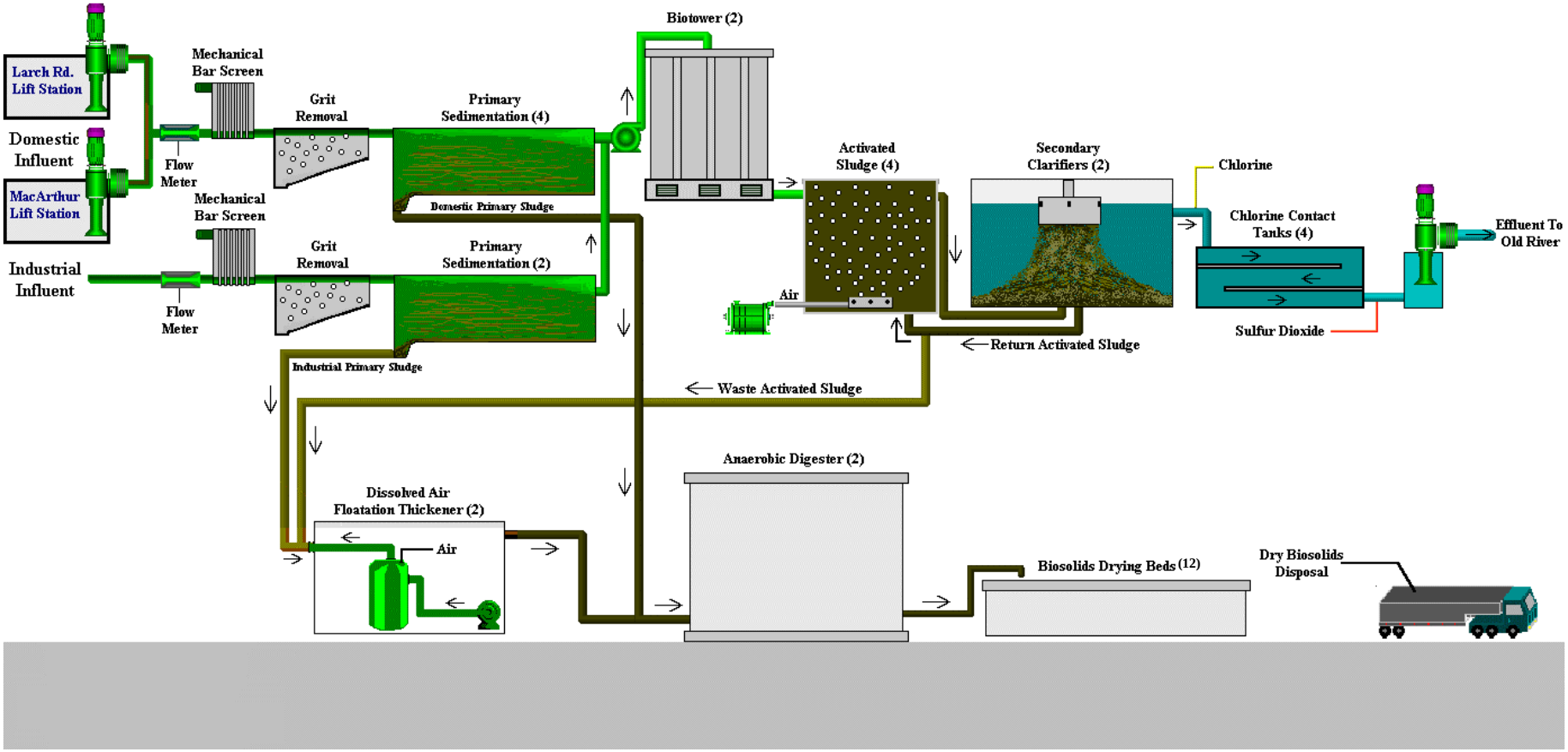
**ATTACHMENT A**
**ORDER NO. R5-2007-0038**
**LOCATION MAP**



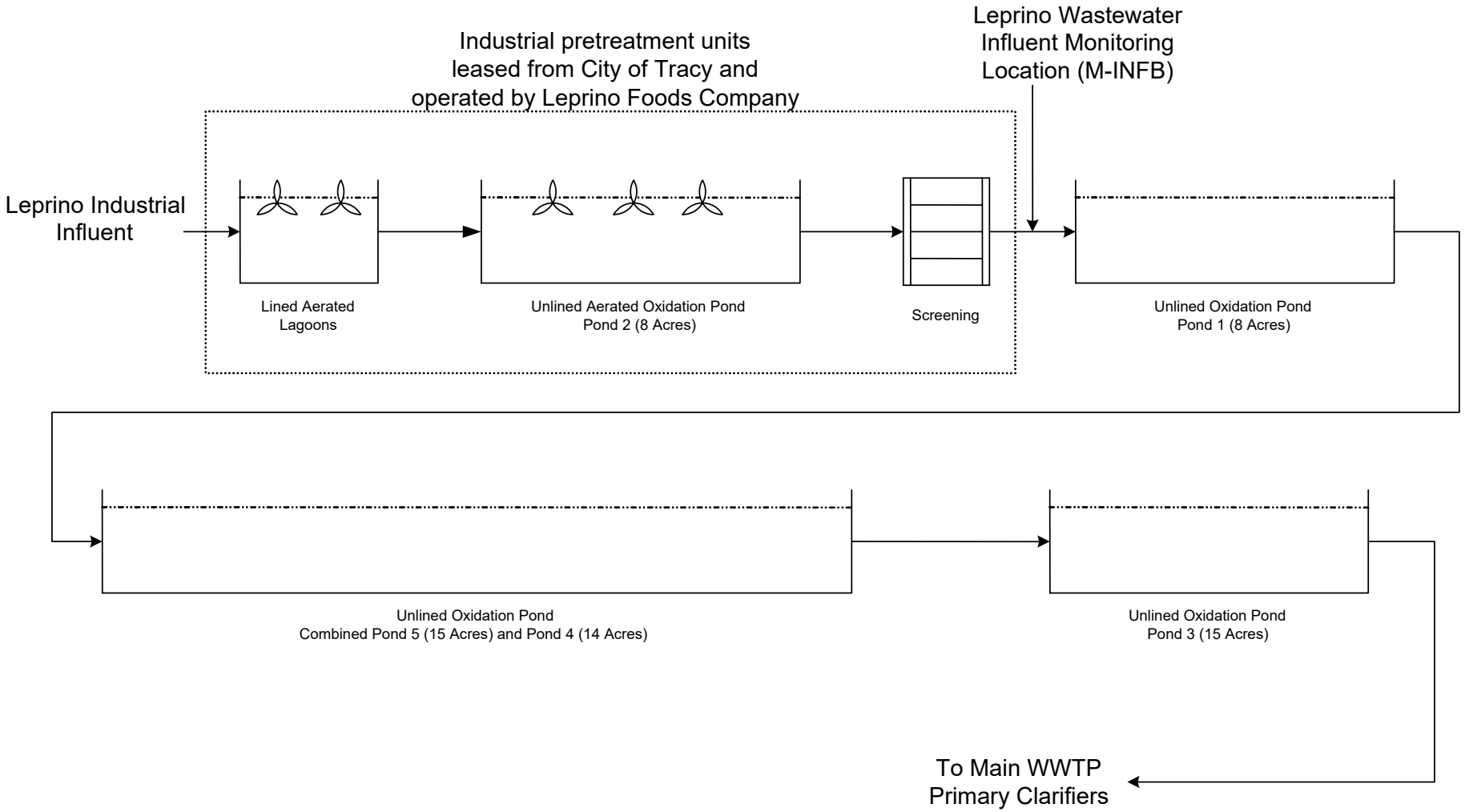
**ATTACHMENT B**
**ORDER NO. R5-2007-0038**
**MAIN WASTEWATER TREATMENT FACILITY**
**FLOW SCHEMATIC**

# City of Tracy

# Wastewater Treatment Plant



**ATTACHMENT C**
**ORDER NO. R5-2007-0038**
**INDUSTRIAL WASTEWATER FACILITY**
**FLOW SCHEMATIC**



**ATTACHMENT D**
**ORDER NO. R5-2007- 0038**
**MAIN WASTEWATER TREATMENT FACILITY**
**PLANT LAYOUT**

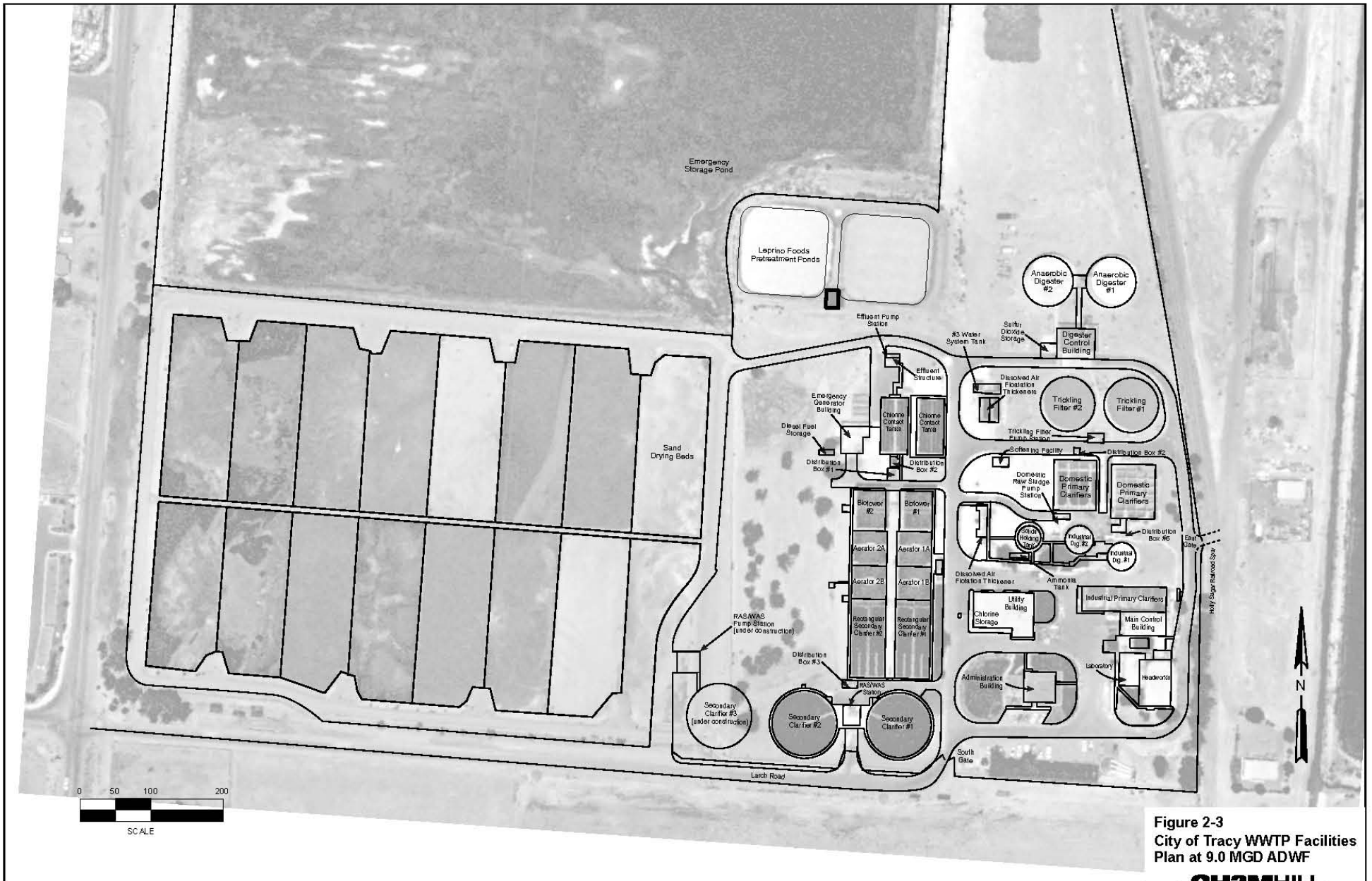



**Figure 2-3**
**City of Tracy WWTP Facilities Plan at 9.0 MGD ADWF**

CH2MHILL

153385.CH.11 Fig 2-3 FH8 05-18-01 SFO mg

**ATTACHMENT E**
**ORDER NO. R5-2007-0038**

# REQUIREMENTS FOR MONITORING WELL INSTALLATION WORKPLANS AND MONITORING WELL INSTALLATION REPORTS

Prior to installation of groundwater monitoring wells, the Discharger shall submit a workplan containing, at a minimum, the information listed in Section 1, below. Wells may be installed after staff approve the workplan. Upon installation of the monitoring wells, the Discharger shall submit a well installation report which includes the information contained in Section 2, below. All workplans and reports must be prepared under the direction of, and signed by, a registered geologist or civil engineer licensed by the State of California.

## SECTION 1 - Monitoring Well Installation Workplan and Groundwater Sampling and Analysis Plan

The monitoring well installation workplan shall contain the following minimum information:

A. General Information:
   Purpose of the well installation project
   Brief description of local geologic and hydrogeologic conditions
   Proposed monitoring well locations and rationale for well locations
   Topographic map showing facility location, roads, and surface water bodies
   Large scaled site map showing all existing on-site wells, proposed wells, surface drainage courses, surface water bodies, buildings, waste handling facilities, utilities, and major physical and man-made features

B. Drilling Details:
   On-site supervision of drilling and well installation activities
   Description of drilling equipment and techniques
   Equipment decontamination procedures
   Soil sampling intervals (if appropriate) and logging methods

C. Monitoring Well Design (in narrative and/or graphic form):
   Diagram of proposed well construction details
   - Borehole diameter
   - Casing and screen material, diameter, and centralizer spacing (if needed)
   - Type of well caps (bottom cap either screw on or secured with stainless steel screws)
   - Anticipated depth of well, length of well casing, and length and position of perforated interval
   - Thickness, position and composition of surface seal, sanitary seal, and sand pack
   - Anticipated screen slot size and filter pack

D. Well Development (not to be performed until at least 48 hours after sanitary seal placement):
   Method of development to be used (i.e., surge, bail, pump, etc.)

Parameters to be monitored during development and record keeping technique
Method of determining when development is complete
Disposal of development water

E. Well Survey (precision of vertical survey data shall be at least 0.01 foot):
Identify the Licensed Land Surveyor or Civil Engineer that will perform the survey
Datum for survey measurements
List well features to be surveyed (i.e. top of casing, horizontal and vertical coordinates, etc.)

F. Schedule for Completion of Work

G. Appendix: Groundwater Sampling and Analysis Plan (SAP)
The Groundwater SAP shall be included as an appendix to the workplan, and shall be utilized as a guidance document that is referred to by individuals responsible for conducting groundwater monitoring and sampling activities.

Provide a detailed written description of standard operating procedures for the following:

- Equipment to be used during sampling
- Equipment decontamination procedures
- Water level measurement procedures
- Well purging (include a discussion of procedures to follow if three casing volumes cannot be purged)
- Monitoring and record keeping during water level measurement and well purging (include copies of record keeping logs to be used)
- Purge water disposal
- Analytical methods and required reporting limits
- Sample containers and preservatives
- Sampling
  - General sampling techniques
  - Record keeping during sampling (include copies of record keeping logs to be used)
  - QA/QC samples
- Chain of Custody
- Sample handling and transport

**SECTION 2 - Monitoring Well Installation Report**

The monitoring well installation report must provide the information listed below. In addition, the report must also clearly identify, describe, and justify any deviations from the approved workplan.

A. General Information:
Purpose of the well installation project
Brief description of local geologic and hydrogeologic conditions encountered during installation of the wells

Number of monitoring wells installed and copies of County Well Construction Permits
Topographic map showing facility location, roads, surface water bodies
Scaled site map showing all previously existing wells, newly installed wells, surface water bodies, buildings, waste handling facilities, utilities, and other major physical and man-made features.

B. Drilling Details (in narrative and/or graphic form):
On-site supervision of drilling and well installation activities
Drilling contractor and driller's name
Description of drilling equipment and techniques
Equipment decontamination procedures
Soil sampling intervals and logging methods
Well boring log
- Well boring number and date drilled
- Borehole diameter and total depth
- Total depth of open hole (same as total depth drilled if no caving or back-grouting occurs)
- Depth to first encountered groundwater and stabilized groundwater depth
- Detailed description of soils encountered, using the Unified Soil Classification System

C. Well Construction Details (in narrative and/or graphic form):
Well construction diagram, including:
- Monitoring well number and date constructed
- Casing and screen material, diameter, and centralizer spacing (if needed)
- Length of well casing, and length and position of perforated interval
- Thickness, position and composition of surface seal, sanitary seal, and sand pack
- Type of well caps (bottom cap either screw on or secured with stainless steel screws)

E. Well Development:
Date(s) and method of development
How well development completion was determined
Volume of water purged from well and method of development water disposal
Field notes from well development should be included in report

F. Well Survey (survey the top rim of the well casing with the cap removed):
Identify the coordinate system and datum for survey measurements
Describe the measuring points (i.e. ground surface, top of casing, etc.)
Present the well survey report data in a table
Include the Registered Engineer or Licensed Surveyor's report and field notes in appendix

Sacramento Non15 Unit: updated 3 March 2004

**ATTACHMENT F**
**ORDER NO. R5-2007-0038**

Figure F-1
Treatment Ponds and Groundwater Monitoring Data
Electrical Conductivity (uS/cm)

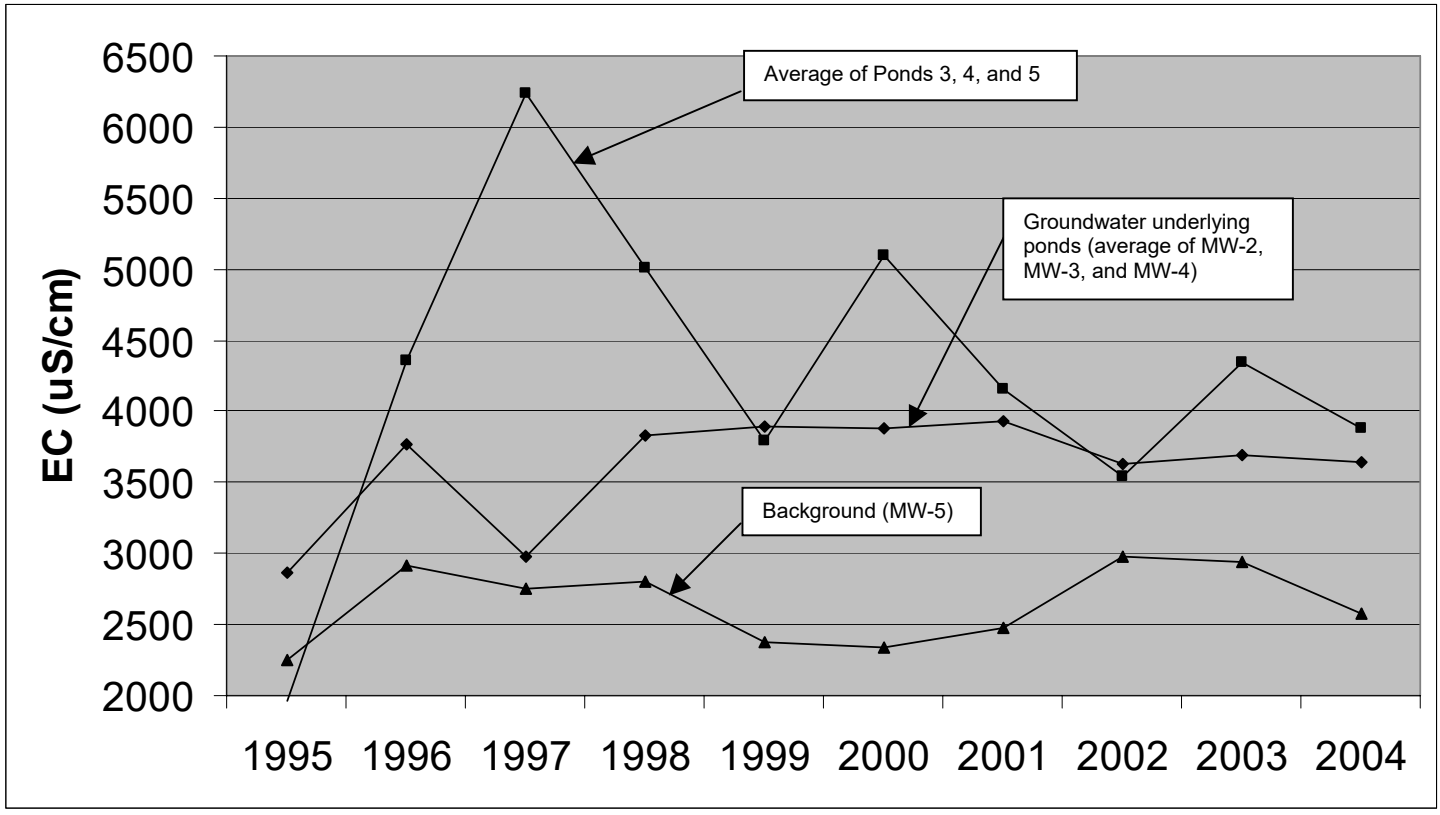
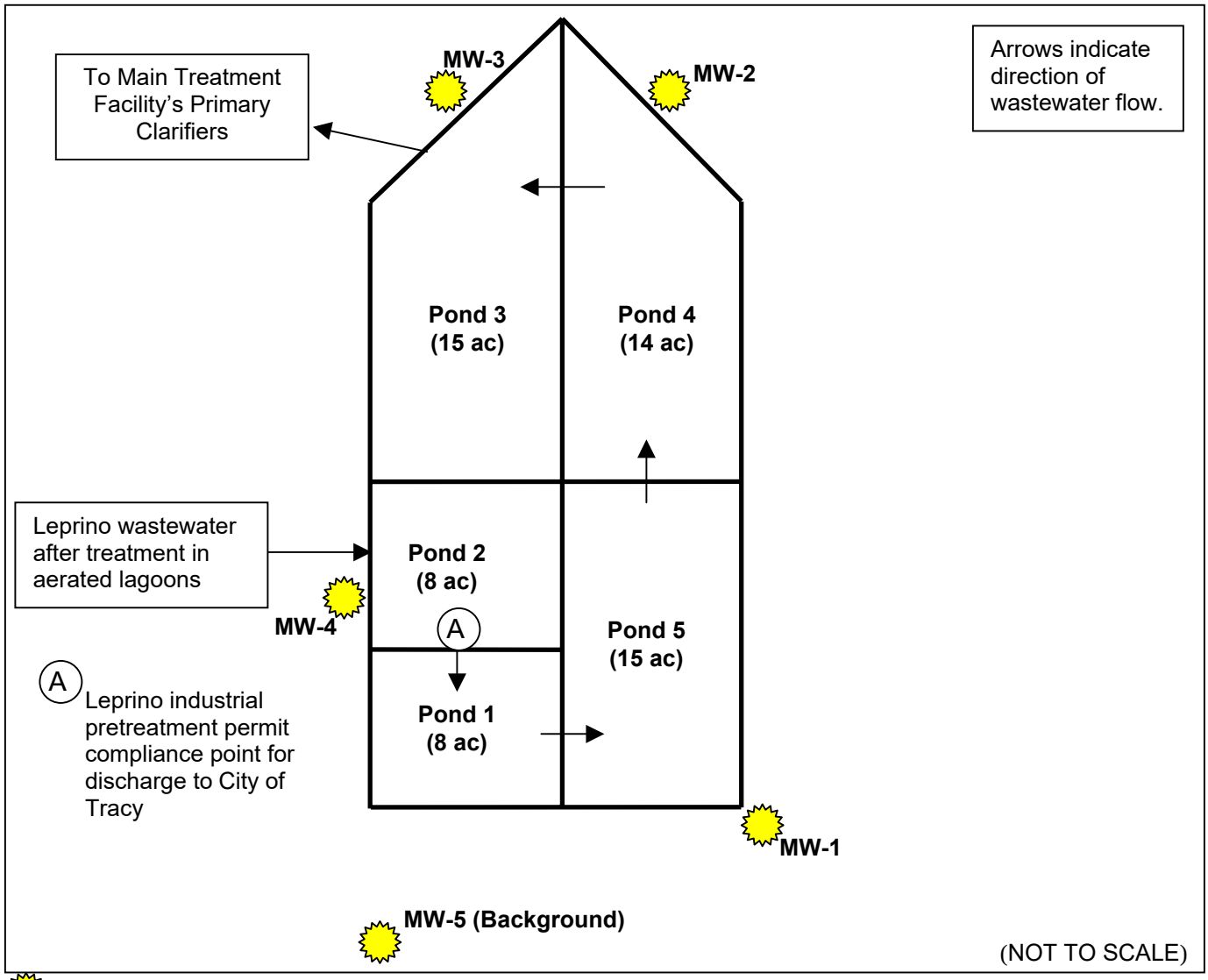


Figure F-3
Unlined Industrial Pond Layout and Groundwater Monitoring Well Location



# Table F-1
## City of Tracy WWTP
## Groundwater and Treatment Ponds Data
## Electrical Conductivity (uS/cm)

| Date | MW-1 | MW-2 | MW-3 | MW-4 | MW-5 | Pond 1 | Pond 2[(1)] | Pond 3 | Pond 4 | Pond 5 |
|---|---|---|---|---|---|---|---|---|---|---|
| 3/23/1992 | 4132 | 3870 | 5600 | 3240 | | 3480 | 3160 | 3980 | 2670 | 3320 |
| 6/11/1992 | 3820 | 5700 | 7250 | 3950 | | 3380 | 3500 | 4380 | 4820 | 6450 |
| 9/23/1992 | 3820 | 4230 | 4430 | 3280 | | 2940 | 3320 | 5180 | 4940 | 3340 |
| 12/31/1992 | 3800 | 4200 | 4700 | 3100 | | 3300 | 3200 | 4000 | 3400 | 4800 |
| 10/7/1993 | 3200 | 4100 | 3600 | 3400 | | 2150 | 2400 | 4500 | 6600 | |
| 2/15/1994 | 3450 | 4500 | 4350 | 3300 | | 2700 | 2800 | 2900 | 3850 | 3000 |
| 8/4/1994 | 3300 | 4200 | 4150 | 3450 | | 2000 | 2480 | 3900 | 4100 | 2650 |
| 8/30/1994 | 3100 | 4000 | 3725 | 3300 | | 2150 | 2700 | 4400 | 4450 | 3200 |
| 11/30/1994 | | 2700 | 2550 | 2400 | 1750 | 1800 | 2000 | 3300 | 2950 | 3050 |
| 3/7/1995 | | 3300 | 2900 | 2400 | 2250 | 2500 | 2000 | 1800 | 2100 | 2000 |
| 6/25/1996 | | 4030 | 4550 | 3780 | 3030 | 2420 | 5260 | 6010 | 4330 | 3580 |
| 9/30/1996 | | 4300 | 3400 | 2530 | 2810 | 2760 | 1990 | 2550 | 6000 | 3700 |
| 1/7/1997 | | 4390 | 3290 | 2400 | 2650 | No Data | No Data | No Data | No Data | No Data |
| 6/26/1997 | | 4500 | 2670 | 2950 | 3050 | 4000 | 2700 | 4180 | 12730 | 10370 |
| 10/1/1997 | | 3183 | 2075 | 2453 | 2545 | No Data | 1924 | 3380 | No Data | No Data |
| 3/30/1998 | | 4800 | 2850 | 3360 | 2810 | No Data | No Data | No Data | No Data | No Data |
| 6/22/1998 | | 4810 | 3180 | 3410 | 2710 | No Data | No Data | No Data | No Data | No Data |
| 10/2/1998 | | 4830 | 3620 | 3600 | 2870 | No Data | No Data | No Data | No Data | No Data |
| 4/7/1999 | | 4210 | 4040 | 3180 | 2270 | 2150 | 3330 | No Data | No Data | 3790 |
| 10/14/1999 | | 4330 | 4010 | 3580 | 2470 | 3270 | No Data | No Data | No Data | No Data |
| 3/22/2000 | | 5060 | 3910 | 3820 | 2430 | No Data | No Data | No Data | No Data | No Data |
| 6/29/2000 | | 3260 | 3640 | 3510 | 2170 | No Data | No Data | No Data | No Data | No Data |
| 10/12/2000 | | 4340 | 3670 | 3660 | 2430 | 3820 | No Data | 6110 | 5040 | 4120 |
| 3/19/2001 | | 3260 | 4340 | 3560 | 2300 | 2730 | 3485 | 3108 | 2950 | 2890 |
| 7/19/2001 | | 3680 | 4220 | 3630 | 2520 | 4120 | 4070 | 5210 | 4510 | 4500 |
| 10/29/2001 | | 4180 | 4700 | 3750 | 2610 | 3360 | 3380 | 6330 | 4330 | 3600 |
| 3/24/2002 | | 3020 | 3850 | 3970 | 2710 | 3040 | 3173 | 3410 | 3070 | 3060 |
| 6/27/2002 | | 3000 | 3580 | 3830 | 3040 | 3320 | 3468 | 4060 | 3610 | 3570 |
| 9/25/2002 | | 3220 | 3800 | 4050 | 3310 | 3200 | 3473 | 4690 | 3590 | 3560 |
| 12/23/2002 | | 3270 | 3980 | 4050 | 2850 | 3070 | 3300 | 3610 | 3170 | 3150 |
| 3/6/2003 | | 3460 | 3980 | 3900 | 2780 | 2790 | 3188 | 3180 | 3060 | 2980 |
| 5/19/2003 | | 3440 | 3730 | 3830 | 3000 | 3260 | 2633 | 3460 | 3260 | 3240 |
| 8/21/2003 | | 3260 | 3310 | 3940 | 2910 | 3950 | 3535 | 5320 | 5040 | 4490 |
| 11/25/2003 | | 3540 | 3800 | 4070 | 3060 | 3590 | 2958 | 5900 | 4350 | 3990 |
| 2/11/2004 | | 3610 | 4660 | 4150 | 2770 | 3280 | 3050 | 4390 | 3260 | 3300 |
| 5/25/2004 | | 3160 | 4440 | 3780 | 2750 | 3920 | 3295 | 4500 | 3970 | 3950 |
| 8/23/2004 | | 2890 | 3920 | 3680 | 2620 | 3610 | 3717 | 5550 | 5140 | 4510 |
| 11/17/2004 | | 2700 | 3400 | 3260 | 2170 | 2120 | 3140 | 3140 | 2430 | 2400 |
| 3/10/2005 | | 2450 | 3790 | 3190 | 2240 | 2930 | No Data | 2790 | 2730 | 2720 |

[(1)] Pond 2 EC data is the monthly average Leprino influent EC.

Exhibit C

City of Tracy
3900 Holly Drive
(209) 831-6330

WASTEWATER DISCHARGE PERMIT/No. 1002
OPERATING CONDITIONS

CITY OF TRACY
Utilities Department
Wastewater Discharge Permit Operators Conditions

Applicant Business Name: LEPRINO FOODS COMPANY

Address of Premise Discharging Wastewater: 2401 MacArthur Drive
Street

| Tracy | CA | 95376 |
|---|---|---|
| City | State | Zip Code |

The above Industrial User is authorized to discharge industrial wastewater from:

Milk processing and cheese production

to the City of Tracy Sewer System in compliance with regulations outlined in the City's Ordinance, any applicable provisions of Federal or State law or regulation, and in accordance with discharge point(s), effluent limitations, monitoring requirements, and other conditions set forth herein.

This permit is granted by the City of Tracy, and in conformity with plans, specifications, and other data submitted to the City in support of the above application.

Date: June 1, 2020 Effective

Date: May 31, 2021 Expiration

K Thomas
Director of Utilities

4/16/20
Date Issued

This permit outlines the mandatory requirements of pretreatment standards for an industrial user in the City of Tracy. The City of Tracy has the authority to control, by permit or other means, the wastewater discharge portion of this document and information contained on the wastewater Discharge Permit/Chemical Storage Permit will have its Discharge Permit revoked.

PART IA. REVENUE RECOVERY/LOADING LIMITS FOR BOD, TSS, AND FLOW

Discharge limits for BOD, TSS and Flow may be set by negotiations with the City of Tracy. Additional capacity, if available, may be rented on a yearly basis. Use of the additional capacity may be revoked during the annual discharge permit renewal process, or for violation of the discharge permit conditions.

Discharge limits:

| | Contract | Additional | Total |
|---|---|---|---|
| FLOW | 0.85 MGD | 0 MGD[1] | 0.85 MGD (7 day avg)[2] |
| BOD | 500 Lbs/day | 550 Lbs/day[1] | 1050 Lbs/day (7 day avg)[2] |
| TSS | 500 Lbs/day | 550 Lbs/day[1] | 1050 Lbs/day (7 day avg)[2] |

In addition to the limits described in Part 1.A for Flow, BOD and TSS, the discharges must meet the requirements of Title 5, Chapter 5.24 of the Tracy Municipal Code as outlined in Part 1B of this permit.

1. Additional BOD and TSS is only available while City is treating Leprino's wastewater at the ponds north of Arbor Road, prior to treatment at the secondary treatment plant facilities.
2. Total flow, BOD and TSS discharge limits are 7-day averages, however, no one days' discharge shall exceed the discharge limit by more than 25% of the limit.
3. Five or more BOD, TSS, or flow exceedances in any one billing cycle may result in the required purchase of additional capacity, if available, and/or enforcement actions.
4. The billing cycle runs from the 26th of one month to the 25th of the following month (ie November billing is based off of flow and sample results from October 26 to November 25).
5. 24-hour composite samples shall be delivered daily to the City of Tracy laboratory for analysis for revenue recovery purposes and compliance with ORDER NO. R5-2007-0038 WASTE DISCHARGE REQUIREMENTS FOR CITY OF TRACY AND LEPRINO FOODS COMPANY. These samples are in addition to self-monitoring samples to be collected by Leprino (see PART IC. SAMPLING REQUIREMENTS). Daily flow numbers are to be recorded with laboratory at the time composite samples are delivered. Any missed or improper sampling is a violation.
6. In the event of a loading exceedance, Leprino must identify the cause(s) of the violation and take all corrective actions necessary to eliminate any further violations. Leprino must submit, in writing, all corrective actions to be taken to the Environmental Compliance Section of the Utilities Department by no later than 30 days from becoming aware of the violation/exceedance.

PART IB. WASTEWATER DISCHARGE LIMITATION AND MONITORING REQUIREMENTS

The industrial user shall comply with the discharge limitations specified below (TMC 5.24.060):

| CONSTITUENT | DISCHARGE LIMIT DAILY/INSTANTANEOUS MAX (mg/L) |
|---|---|
| Antimony | 3.56 |
| Arsenic | 0.05 |
| Beryllium | 0.46 |
| Cadmium | 0.05 |
| Chromium | 1.18 |
| Copper | 1.51 |
| Total Cyanide | 0.34 |
| Lead | 0.6 |
| Mercury | 0.03 |
| Molybdenum | 0.14 |
| Nickel | 0.17 |
| Selenium | 0.05 |
| Silver | 0.94 |
| Zinc | 1.4 |
| Ammonia | 265 |
| Sulfate | 300 |
| Sulfide | 10 |
| Total Oil and Grease | 200 |
| Non-polar Oil and Grease (mineral/petroleum origin) | 100 |
| Benzene | 0.13 |
| bis(2-ethylhexy1)phthalate | 5.1 |
| Chlorobenzene | 2.35 |
| Chloroform | 0.42 |
| 1,4-Dichlorobenzene | 2.6 |
| Dichloromethane | 1.5 |
| cis 1,3 Dichloropropene | 0.09 |
| Ethylbenzene | 1.59 |
| Halomethanes | 10 |
| Phenol | 125 |
| Tetrachloroethene (PCE) | 0.51 |
| Toluene | 1.31 |
| 1,1,1-Trichloroethane | 1.55 |
| Trichloroethene (TCE) | 0.71 |

Part IC. SAMPLING REQUIREMENTS

A. All samples must be collected, preserved, and analyzed in accordance with the procedures established in 40 CFR Part 136, and amendments.

| CONSTITUENT | DISCHARGE LIMIT INSTANTANEOUS MAX[12] | SAMPLE LOCATION[5] | SAMPLE FREQUENCY | SAMPLE TYPE |
|---|---|---|---|---|
| pH | 6.0 - 9.0 units | 002 | Daily | Grab |
| Flow | 0.85 MGD[2] | 002 | Continuous | Meter |
| BOD | 1050 Lbs/day[2] | 001 | Weekly[3] | 24-hr. composite |
| TSS | 1050 Lbs/day[2] | 001 | Weekly[3] | 24-hr. composite |
| TDS | 1800 mg/L | 001 | Weekly | 24-hr. composite |
| TDS ions[8] | | 001 | Monthly | 24-hr. composite |
| Total Cyanide | 0.34 mg/L | 002 | Semi-Annually[1] | Grab |
| Antimony | 3.56 mg/L | 001 | " | 24-hr. composite |
| Arsenic | 0.05 mg/L | " | " | " |
| Beryllium | 0.46 mg/L | " | " | " |
| Cadmium | 0.05 mg/L | " | " | " |
| Chromium | 1.18 mg/L | " | " | " |
| Copper | 1.51 mg/L | " | " | " |
| Lead | 0.6 mg/L | " | " | " |
| Mercury | 0.03 mg/L | " | " | " |
| Molybdenum | 0.14 mg/L | " | " | " |
| Nickel | 0.17 mg/L | " | " | " |
| Selenium | 0.05 mg/L | " | " | " |
| Silver | 0.94 mg/L | " | " | " |
| Zinc | 1.4 mg/L | " | " | " |
| Ammonia | 265 mg/L | " | " | " |
| Sulfate | 300 mg/L | " | " | " |
| Sulfide | 10 mg/L | 002 | " | Grab |
| Total Oil and Grease | 200 mg/L | 002 | Monthly | Grab |
| Total Oil and Grease[7] | 200 mg/L | 003 | Quarterly | Grab |
| Total Petroleum Hydrocarbons (TPH) SGT-HEM[7] | 100 mg/L | " | " | " |

1. Semi-annually means two times per year. For semi-annual samples, one sample is to be collected in the first six months of the year and the second sample will be collected in the second six months of the year.
2. The maximum discharge limits for flow, BOD and TSS shall be based upon an average daily discharge over seven (7) consecutive days. However, no daily discharge shall exceed the discharge limit by more than 25%.
3. In addition to weekly self-monitoring samples, a daily 24-hour composite sample must be collected and submitted to the City of Tracy's laboratory, to be analyzed for billing purposes and compliance with ORDER NO. R5-2007-0038 WASTE DISCHARGE REQUIREMENTS FOR CITY OF TRACY AND LEPRINO FOODS COMPANY. The results of the City's analysis will be used to compute the monthly sewer bill.
4. Self-monitoring reports shall contain the analytical results for constituents to be tested under Part IC. SAMPLING REQUIREMENTS (A) and be submitted to the City of Tracy Utilities Division by the tenth ($10^{th}$) of the following month.
5. Unless otherwise specified in this permit, all samples will be collected at Leprino's flow monitoring station located at the discharge from their ponds to the City's sewer system (Sample location 001 and 002). See Attachment A for sample location map.
6. Leprino Foods shall maintain the flow meter and the sampler at the flow monitoring station. The calibration of the flow meter shall be checked and corrected, if necessary, by an outside contractor on a quarterly basis.
7. One sample per quarter shall be collected from the discharge of the groundwater cleanup facility (Sample location 003). This sample will be analyzed for total oil and grease, and diesel hydrocarbons. The results of the analysis shall be included with that month's self-monitoring report.
8. TDS ions are the 11 constituents as follows: carbonate, bicarbonate, chloride, fluoride, sulfate, phosphate, nitrate, calcium, magnesium, sodium, and potassium.
9. Daily flows are to be recorded from the permittee's flow meter.
10. A bound logbook must be maintained on a daily basis to record notes of daily wastewater operations, including pH recording, flow meter readings, samples collected, maintenance and calibrations performed. These entries are to include the date, time, and name or initials of wastewater operator, and be readily available for inspection at all times.
11. Revenue recovery limits for flow, BOD and TSS are set in Part 1, Section A of this permit.
12. All limits are instantaneous maximums, except for flow, BOD, and TSS.

Part ID. HOLDING PONDS

1. The dissolved oxygen content of Leprino Foods' holding ponds shall not be less than 1.0 mg/l for 16 hours in any 24-hour period.

   a. The dissolved oxygen content of the pond will be measured weekly, unless the dissolved oxygen content goes below 2.0 mg/l. If the D.O. is below 2.0 mg/l, daily monitoring is required until the D.O. goes above 2.0 mg/l.

      The measured D.O. will be reported on the monthly monitoring report that is submitted to the City of Tracy.

2. The holding ponds shall be operated and maintained to prevent inundation or washout due to a storm event with a 100 year return frequency.

3. Ponds shall be managed to prevent breeding of mosquitoes. In particular:

   a. An erosion control program should assure that small coves and irregularities are not created around the perimeter of the water surface.

   b. Weeds shall be minimized through control of water depth, harvesting or herbicides

   c. Algae, vegetation and debris shall not accumulate on the water surface.

4. Public contact with wastewater shall be precluded through such means as fences, signs and other acceptable alternatives.

   a. Unless Leprino personnel are present in the holding pond area, all gates to this area will be closed and locked.

5. Influent to the wastewater disposal ponds shall not cause the ponds to have a pH less than 6.5 or greater than 8.5.

6. The pH of Leprino Foods' holding ponds shall not have a pH less than 6.5 or greater than 10.0.

Part IE. HOURS OF DISCHARGE

1. Leprino Foods may discharge wastewater from the holding ponds to the City of Tracy's sewer system continuously. The discharge rate shall be controlled to not exceed 0.85 MG in a 24-hour period and the flow rate is to remain below 1800 gpm.

PART II - SPECIAL CONDITIONS

1. Leprino Foods will daily inspect the storm water ditch at Arbor Road to ensure there are no leaks from the Leprino force main. A daily notation will be added to the wastewater log book to indicate whether any problems were observed and any actions that were taken to correct any problems that were found.

2. The permittee is required to comply with and implement a slug discharge control plan in accordance with TMC 5.24.070.

3. All wastewater monitoring and sampling equipment must be maintained in working condition at all times. Calibrations and maintenance must be performed on all equipment per manufacturer's recommendations.

4. In order to meet the wastewater discharge limitations specified in Part I, the Industrial User may be required to make in-plant process modifications and install a treatment facility where required by the City. The agreed to construction schedule will be adhered to and reports on progress shall be submitted to the City (TMC 5.24.710).

5. Discharge limitations in Part IB of this permit are Local Ordinance Limits or Federal Categorical Limits, whichever are the more stringent. The Industrial User shall monitor on a specified sampling frequency as required by the City (TMC 5.24.190).

6. All categorical industries must reach compliance regarding pretreatment and effluent quality by the deadlines set by the County, State and Federal regulatory agencies. These categorical deadlines might be before any production can commence for an industrial user (TMC 5.24.190).

7. Failure to pretreat and comply with City, County, State and Federal deadlines will result in termination of Industrial Waste Discharges (TMC 5.24.740).

8. If the results of sampling reported in the permit application for Total Toxic Organic (TTO) are below 0.01 mg/L (10 ppb), the Industrial User can develop a solvent management plan. The plan will be submitted to the City for review and approval. Once approved, the Industrial User must comply with the plan and any reporting requirements specified by the City.

PART III - REPORTING REQUIREMENTS

1. Reports for parameters with a continuous, weekly or monthly monitoring frequency must be submitted monthly. The reports are due within 10 (ten) days after the end of each calendar month.

2. Reports for parameters with a quarterly or semi-annual monitoring frequency must be submitted within 10 (ten) days after the end of the calendar month in which they were sampled.

3. All monitoring reports must indicate the nature and concentration of all pollutants in the effluent for which sampling and analysis were performed during the reporting period preceding the submission of each report, including measured maximum and average daily flows.

4. If the permittee monitors any pollutant more frequently than required by this permit, using test procedures identified in Part IC, the results of this monitoring must be included in the permittee's self-monitoring reports.

5. All required user reports must contain the signatory requirements listed in PART IV - STANDARD CONDITIONS (4).

6. The Industrial User shall notify the City immediately upon any accidental or slug discharge to the sanitary sewer at (209) 831-6331. Formal written notification discussing circumstances and remedies shall be submitted to the City within 5 days of the occurrence (TMC 5.24.070).

7. The Industrial User is required to notify the City prior to making any changes to their facility, operations or production methods that will substantially change the volume or character of the pollutants in their discharge or affect the potential for a slug discharge. Formal written notification shall follow within 30 days of such introduction (TMC 5.24.560).

8. Any upset experienced by the Industrial User of its treatment that places it in a temporary state of non-compliance with wastewater discharge limitations contained in this permit or other limitations specified in the City's Ordinance shall be reported to the City within 24 hours of first awareness of the commencement of the upset. A detailed report shall be filed within 5 days.

9. If the results of the permittee's wastewater analysis indicates a violation has occurred, the permittee must notify the City of Tracy Environmental Compliance Division within 24 hours of becoming aware of the violation and repeat the sampling and pollutant analysis within 30 days after becoming aware of the violation and submit the results with your next monthly self-monitoring report. These samples shall be collected in addition to your regularly scheduled samples.

10. The Industrial User is required to submit to the City, at specified times, reports on the results of its sampling of the pollutants specified in Part I of this permit. This report shall also contain daily flows if required by the City (TMC 5.24.560).

11. If applicable, not later than fourteen (14) days following each date in the compliance schedule, the Industrial User shall submit a progress report to the City. This report must indicate whether or not the increment of progress was met on the date, the reason(s) for any delay, and what steps are being taken by the User to return to the schedule established. In no event shall more than 30 days elapse between such progress reports to the City (TMC 5.24.560).

12. If applicable, within 90 days following the final compliance date specified in Section I of this permit, the Industrial User shall submit a final report. The Industrial User will be required to sample its wastewater for the pollutants specified in Section I, and report compliance. Any reasons for not complying and any steps being taken by the User to comply shall be part of the report.

13. If applicable, the Industrial User shall report completion of its sampling/monitoring manhole and/or equipment.

14. All reports shall be submitted to the following address:

City of Tracy
Wastewater Treatment Plant
Attn: Environmental Compliance
3900 Holly Drive
Tracy, CA 95304

PART IV - STANDARD CONDITIONS

1. The Industrial User shall comply with all the general prohibitive discharge standards of the City Ordinance TMC 5.24.450 and 5.24.410.

2. RIGHT OF ENTRY

The Industrial User shall, after reasonable notification by the City, allow the City or its representatives exhibiting proper credentials and identification, to enter upon the premises of the user, at all reasonable hours, for the purposes of inspection, sampling, or records inspection. Reasonable hours in the context of inspection and sampling include any time the Industrial User is operating any process which results in a process wastewater discharge to the City's sewage system (TMC 5.24.520).

3. RECORDS RETENTION

The Industrial User shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring sampling and chemical analyses made by, or in behalf of, the User in connection with its discharge (TMC 5.24.570).

All records that pertain to matters that are the subject of special orders, or any other enforcement or litigation activities brought by the City, shall be retained and preserved by the Industrial User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired

4. SIGNATORY REQUIREMENTS

All required user reports must contain the following statement and be signed by an "authorized representative" of the user (as defined in Section 5.24.040 of the TMC)

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

5. CONFIDENTIAL INFORMATION

Except for data determined to be confidential, all reports required by this permit shall be available for public inspection at the office of the Deputy Director (TMC 5.24.580).

6. RECORDING OF RESULTS

For each measurement or sample taken pursuant to the requirements of this permit, the User shall record the following information:

a) The exact place, date, and time of sampling;
b) The dates the analyses were performed;
c) The person(s) who performed the analyses;
d) The analytical techniques or methods used; and
e) The results of all required analyses
(TMC 5.24.570)

7. DILUTION

No Industrial User shall increase the use of potable or process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this permit (TMC 5.24.090).

8. BYPASS

Bypass of pretreatment equipment is prohibited, and the City may take enforcement action against an Industrial User for a bypass, unless;

a. Bypass of pretreatment equipment was unavoidable to prevent loss of life, personal injury, or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance, and

c. The Industrial User submitted notices as required under TMC 5.24.050(c)(3).

The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in this section.

9. PROPER DISPOSAL OF PRETREATMENT SLUDGE AND SPENT CHEMICALS

The disposal of sludges and spent chemicals generated shall be done in accordance with Section 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act. 2.

10. REVOCATION OF PERMIT

The permit issued to the Industrial User by the City may be revoked when, after inspection, monitoring, or analysis, it is determined that the discharge of wastewater to the sanitary sewer is in violation of Federal, State, or local laws, ordinances, or regulations. Additionally, falsification or intentional misrepresentation of data or statements pertaining to the permit application or any other required reporting form, shall be cause for permit revocation.

11. LIMITATION ON PERMIT TRANSFER

Wastewater discharge permits are issued to a specific user for a specific operation and are not assignable to another user or transferred to any other location without the prior written approval of the City. Sale by a User shall obligate the purchaser to seek prior written approval of the City for continued discharge to the sewerage system (TMC 5.24.480).

12. MODIFICATION OR REVISION OF THE PERMIT

a. The terms and conditions of this permit may be subject to modification by the City at any time as limitations or requirements as identified in the City's Ordinance, are modified or other just cause exists.

b. This permit may also be modified to incorporate special conditions resulting from the issuance of a special order.

c. The terms and conditions may be modified as a result of EPA promulgating a new federal pretreatment standard.

d. Any permit modifications which result in new conditions in the permit shall include a reasonable time schedule for compliance, but will require compliance by the Federally mandated deadlines (TMC 5.24.470).

13. DUTY TO REAPPLY

The City shall notify a User ninety (90) days prior to the expiration of the User's permit. Within sixty (60) days of the notification, the User shall reapply for reissue of the permit on a form provided by the City. Wastewater discharge permits are for one year periods following the permit approved date and must be renewed

annually. If a renewal of the discharge permit has been applied for, the terms and conditions of this permit will remain in effect until the new permit is issued (TMC 5.24.460).

14. SEVERABILITY

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall not be affected thereby (TMC 5.24.820).

15. PROPERTY RIGHTS

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any invasion of personal rights, nor any infringement of Federal, State or local regulations (TMC 5.24.790).

16. FALSIFYING INFORMATION OR TAMPERING WITH MONITORING EQUIPMENT

Knowingly making any false statement on any report or other document required by this permit, or knowingly rendering any monitoring device or method inaccurate, may result in punishment under the criminal laws of the City, as well as being subjected to civil penalties and relief.

17. VIOLATION OF PERMIT CONDITIONS

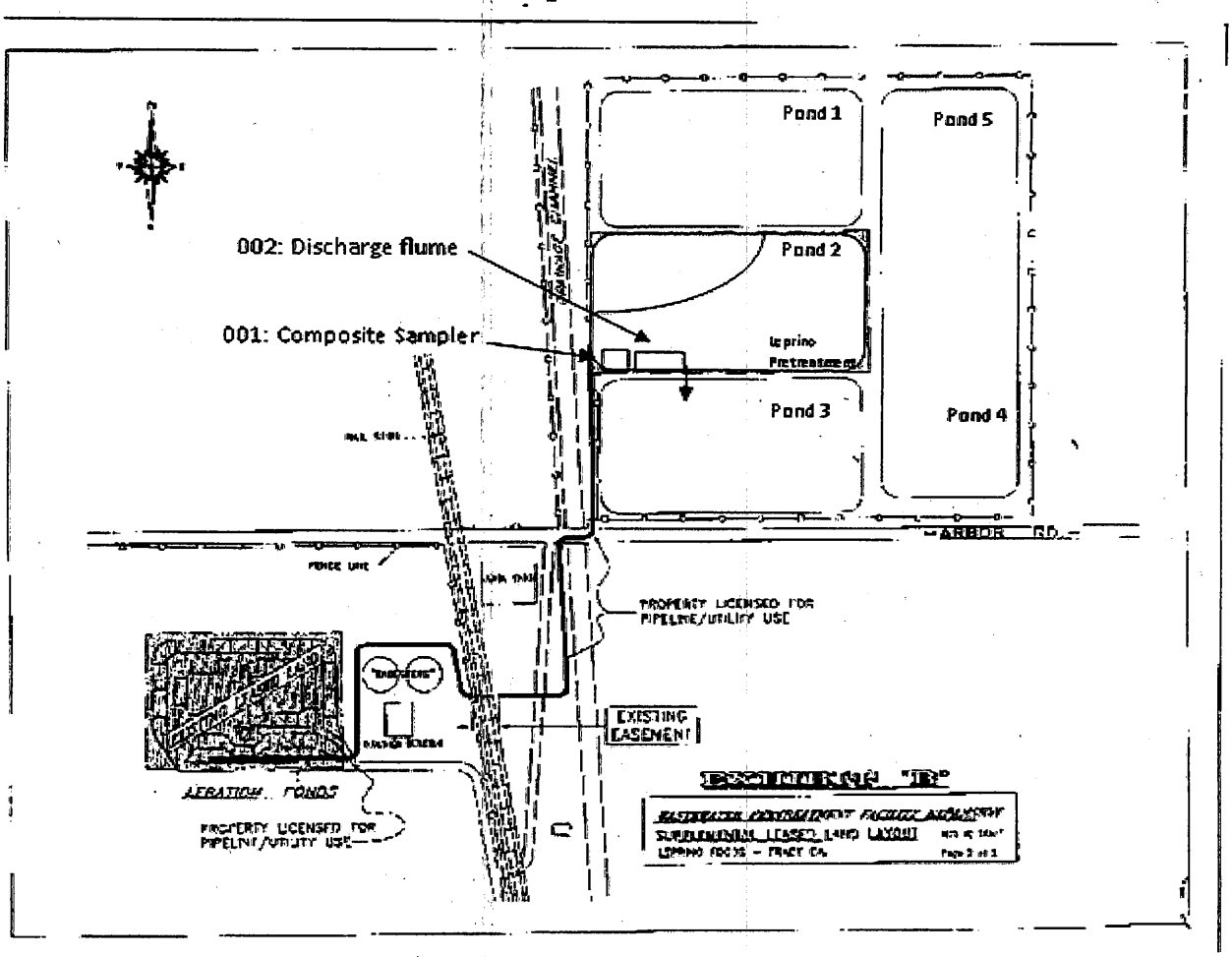
In Any wastewater discharger who discharges or causes the discharge of prohibited wastewaters which cause damages to the City's facility, detrimental effects on treatment processes, or other damages resulting in costs to the City shall be liable to the City for all damages occasioned thereby.

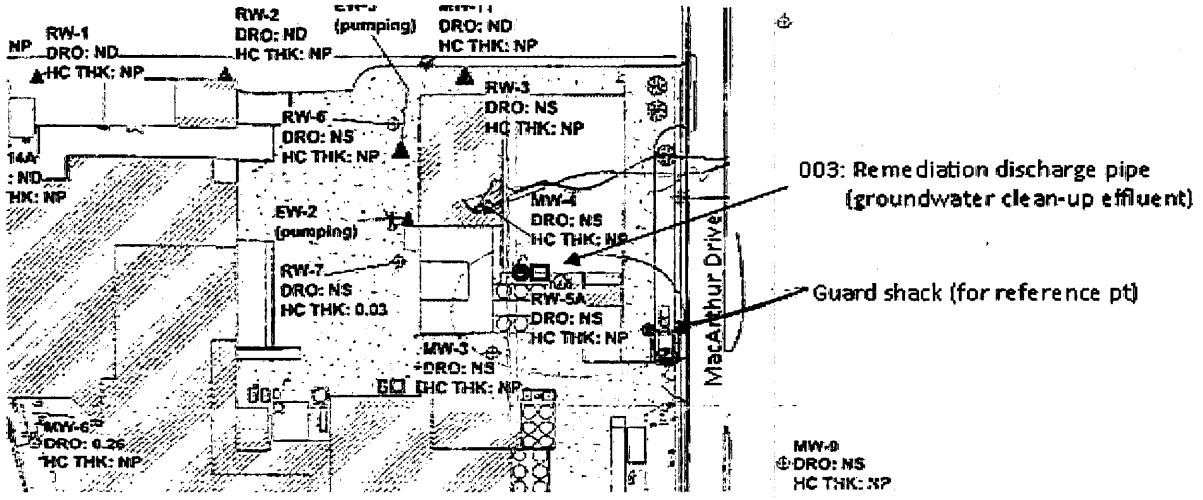
a. Injunction. Whenever a violation of the provisions of this chapter or a Federal or State pretreatment standard or requirement occurs, the City may, in addition to any other action provided herein, petition the Superior Court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate in restraining the continuance of such violation.

b. Civil Penalties. Any person who violates any provision of this chapter or permit condition, or who violates any cease and desist order, prohibition or effluent limitation, shall be liable civilly for a minimum penalty of One Thousand and no/100ths ($1,000.00) Dollars per day for each day such violation occurs. The legal counsel of the City shall petition the Superior Court to impose, assess and recover such penalties.

c. Criminal Penalties. Any person who violates a provision of this chapter or permit condition, or who violates a cease and desist order, prohibition or effluent limitation, is guilty of a misdemeanor punishable by a fine not exceeding One Thousand and no/100ths ($1,000) dollars, or imprisonment not exceeding six months, or both (TMC 1.04.030 and TMC 5.24.750).

Attachment A
Sample Points



RESOLUTION 2020-_____

APPROVING THE 2020 WASTEWATER TREATMENT DISCHARGE AGREEMENT WITH LEPRINO FOODS

WHEREAS, Leprino Foods has operated pretreatment facilities on City's property at the Wastewater Treatment Plant (WWTP) for over 40 years under an agreement for pretreatment of food process wastewater, and

WHEREAS, The initial agreement from 1977 had a term of 20 years and was renewed for another 20 years by an amendment to the agreement in 1998 (1988 Amendment), and

WHEREAS, The term of the 1998 Amendment was to expire on June 30, 2018, but has been extended until July 31, 2020 to complete negotiations and finalize the agreement, and

WHEREAS, The agreement provides for Leprino Foods to continue discharge of up to 0.85 million gallons per day to the City WWTP and continues the current strength of wastewater loadings, and

WHEREAS, Leprino Foods owns and maintains a pipeline from its facility on Grant Line Road to the WWTP and this pipeline conveys Leprino food process wastewater directly to aerated lagoons on land leased (11.1 acres) from the City at the WWTP, and

WHEREAS, The Wastewater Fund currently receives revenue of $2,750 per year in rent for the pretreatment facilities this agreement will increase the rent to $30,000 per year, and

WHEREAS, The agreement with Leprino Foods will be for a term of fifteen years, with an option to extend the term for an additional fifteen years;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby approves the 2020 Wastewater Treatment Discharge Agreement with Leprino Foods.

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

The foregoing Resolution 2020-____ was adopted by the Tracy City Council on the 21st day of July, 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 1.D

REQUEST

**WAIVE SECOND READING AND ADOPT ORDINANCE 1291, AN ORDINANCE OF THE CITY OF TRACY REZONING ASSESSOR'S PARCEL NUMBER 244-020-31 FROM PLANNED UNIT DEVELOPMENT ZONE (PUD) TO NEIGHBORHOOD SHOPPING ZONE (NS)**

EXECUTIVE SUMMARY

Ordinance 1291 was introduced at the regular Council meeting held on July 7, 2020. Ordinance 1291 is before Council for adoption.

DISCUSSION

On October 1, 2019, Schack and Company, on behalf of the property owners, submitted an application to remove the property from the Edgewood PUD and rezone it to Neighborhood Shopping Zone (NS). The current property owners are proposing to rezone the 10.92-acre site from PUD to Neighborhood Shopping (NS) Zone, which principally permits a variety of neighborhood-serving retail uses and conditionally permits automotive service stations and intend to build on the site with neighbor-hood serving commercial development, as indicated on the site plan. The proposal does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and there are no project- specific significant effects which are peculiar to the project or its site and therefore, in accordance with the California Environmental Quality Act Guidelines Section 15183, no further environmental assessment is required. Ordinance 1291 was introduced at the regular Council meeting held on July 7, 2020.

Ordinance 1291 is now before Council for adoption.

STRATEGIC PLAN

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

FISCAL IMPACT

This agenda item will not require any expenditure of funds. The applicant paid the application processing fees established by the City Council for the rezone and development review permit applications and entered into a Cost Recovery Agreement for the consultant and staff time that was required to prepare the technical studies and environmental analysis documentation in accordance with CEQA. The applicant will also pay all of the appropriate building permit and development impact fees upon the commencement of Project improvements.

RECOMMENDATION

That Council waive the reading of the full text and adopt Ordinance 1291.

Prepared by: Necy Lopez, Deputy City Clerk

Reviewed by: Adrianne Richardson, City Clerk
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1291

**ATTACHMENT A**

ORDINANCE 1291

AN ORDINANCE OF THE CITY OF TRACY REZONING ASSESSOR'S PARCEL NUMBER 244-020-31 FROM PLANNED UNIT DEVELOPMENT ZONE (PUD) TO NEIGHBORHOOD SHOPPING ZONE (NS)

WHEREAS, The subject property has a General Plan designation of Commercial, is zoned Planned Unit Development (PUD) known as Edgewood, and is designated neighborhood shopping center in the Edgewood PUD, and

WHEREAS, Land use and development standards have not been established for the neighborhood shopping center designation, and

WHEREAS, On October 1, 2019, Schack and Company, on behalf of the property owners, submitted an application to remove the property from the Edgewood PUD and rezone it to Neighborhood Shopping Zone (NS), and

WHEREAS, Rezoning the property would allow for commercial land uses and development in conformance with the NS zone, and

WHEREAS, Section 15183 of the California Environmental Quality Act (CEQA) Guidelines provides that projects which are consistent with the development density established by existing Community Plan, General Plan, or Zoning policies for which an Environmental Impact Report was certified shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which a peculiar to the project or its site;

WHEREAS, The proposal does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and there are no project-specific significant effects which are peculiar to the project or its site and therefore, in accordance with California Environmental Quality Act Guidelines Section 15183, no further environmental assessment is required, and

WHEREAS, The Planning Commission held a public meeting to review and consider the rezone application on June 10, 2020 and recommended approval of the rezone, and

WHEREAS, The City Council held a public meeting to review and consider the rezone application on July 7, 2020;

NOW, THEREFORE, The City Council does ordain as follows:

SECTION 1: The zoning map of the City of Tracy is hereby amended to change the zoning on the following parcel from Planned Unit Development (PUD) to Neighborhood Shopping (NS):

Approximately 10.92 acre site located at the southeast corner of Corral Hollow Road and Middlefield Drive, Assessor's Parcel Number 244-020-31.

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

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

* * * * * * * *

The foregoing Ordinance 1291 was introduced at a regular meeting of the Tracy City Council on the 7th day of July, 2020, and finally adopted on the ____ day of _____, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 1.E

REQUEST

**WAIVE SECOND READING AND ADOPT ORDINANCE 1292, AN ORDINANCE OF THE CITY OF TRACY AMENDING THE PUD ZONE DISTRICT OF THE PROPERTY ON THE NORTH SIDE OF CLOVER ROAD, APPROXIMATELY 500 FEET EAST OF TRACY BOULEVARD, TO PERMIT HOTELS AND INCREASE THE HEIGHT MAXIMUM TO 65 FEET**

EXECUTIVE SUMMARY

Ordinance 1292 was introduced at the regular Council meeting held on July 7, 2020. Ordinance 1292 is before Council for adoption.

DISCUSSION

The approximately 1.9-acre subject property is located on the north side of Clover Road, south of the I-205 freeway, east of the Greenfield II Single-Family Residential Subdivision, and approximately 500 feet west of Tracy Boulevard, (Assessor's Parcel Number 214-210-05). Applications have been filed to amend the Planned Unit Development Zone Regulations to amend the height maximum from two stories to 65 feet and allow only hotels as a permitted use (PUD18-004); and to approve the Development Review application number D18-0033. The General Plan designation of the site is Commercial. The PUD Zone is consistent with the Commercial General Plan designation, in that it permits hotels, a commercial use consistent with the Commercial General Plan designation. Ordinance 1292 was introduced at the regular Council meeting held on July 7, 2020.

Ordinance 1292 is now before Council for adoption.

STRATEGIC PLAN

The proposal is a routine item without direct connection to the City's strategic plans.

FISCAL IMPACT

The City has collected the appropriate fees related to this development application. Based on the revenue from other hotels in the vicinity of Tracy Boulevard and I-205, this hotel may generate between $100,000-$150,000 dollars in Transient Occupancy Tax annually.

RECOMMENDATION

That Council waive the reading of the full text and adopts Ordinance 1292.

Prepared by: Necy Lopez, Deputy City Clerk

Reviewed by: Adrianne Richardson, City Clerk
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1292

**ATTACHMENT A**

ORDINANCE 1292

AN ORDINANCE OF THE CITY OF TRACY AMENDING THE PUD ZONE DISTRICT OF THE PROPERTY ON THE NORTH SIDE OF CLOVER ROAD, APPROXIMATELY 500 FEET EAST OF TRACY BOULEVARD, TO PERMIT HOTELS AND INCREASE THE HEIGHT MAXIMUM TO 65 FEET

WHEREAS, On September 12, 1989, the City Council approved a General Plan amendment, a rezone, and a Concept Development Plan for the area that includes the In-N-Out Restaurant, Fountain Plaza, and the subject parcel, and

WHEREAS, On August 16, 2005, the City Council approved a Preliminary and Final Development Plan for a two-story, 27,501 square-foot multi-tenant commercial building; on December 18, 2008, the City Council approved amendments to permit a one-story, 17,718 square foot multi-tenant building; and on November 18, 2009, the City Council approved amendments to permit two, two-story office buildings totaling 33,474 square feet, and

WHEREAS, Applications have been filed or initiated to amend the Planned Unit Development Zone Regulations to amend the height maximum from two stories to 65 feet and allow only hotels as a permitted use (PUD18-0004); and to approve the Development Review application number D18-0033, (the "Project"), and

WHEREAS, The approximately 1.9-acre subject property is located on the north side of Clover Road, south of the I-205 freeway, east of the Greenfield II Single-Family Residential Subdivision, and approximately 500 feet west of Tracy Boulevard, (Assessor's Parcel Number 214-210-05), and

WHEREAS, In addition to retail, office, and other commercial land uses, the General Plan's Commercial land use designation for the Project site provides for hotels, and

WHEREAS, The subject property is well suited for a hotel because of its close proximity to retail and consumer services, employment opportunities in the area, availability of public services to the Project site, and convenient access to I-205, and

WHEREAS, In accordance with Tracy Municipal Code Section 10.08.1800, the Planning Commission shall review and make recommendation to the City Council regarding an amendment and approval of a Planned Unit Development Amendment, and

WHEREAS, The Planning Commission conducted a public hearing to receive public input and recommended approval to the City Council March 11, 2020, and

WHEREAS, On June 16, 2020, the City Council conducted a public meeting to consider the Project;

NOW, THEREFORE, The City Council hereby ordains as follows:

SECTION 1: Planned Unit Development Amendment to allow a hotel as a permitted use and to increase the maximum height to 65 feet.

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

The foregoing Ordinance 1292 was introduced at a regular meeting of the Tracy City Council on the 7th day of July 2020, and finally adopted on the _____ day of _____, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 1.F

REQUEST

**WAIVE SECOND READING AND ADOPT ORDINANCE 1293, AN ORDINANCE OF THE CITY OF TRACY AMENDING VARIOUS SECTIONS OF CHAPTER 6.36 OF TITLE 6 "BUSINESS, PROFESSIONS, AND TRADES" OF THE TRACY MUNICIPAL CODE REGARDING LOCAL REGULATIONS OF COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY**

EXECUTIVE SUMMARY

Ordinance 1293 was introduced at the regular Council meeting held on July 7, 2020. Ordinance 1293 is before Council for adoption.

DISCUSSION

Ordinance 1293 was introduced at the special Council meeting held on July 7, 2020 to amend various sections of Chapter 6.36 of the Tracy Municipal Code, which contains regulations for commercial cannabis activities in Tracy. Ordinance 1293 clarifies the types of commercial cannabis cultivation that may be eligible for a City Cannabis Business Permit. Specifically, sections 6.36.012 and 6.36.330 are amended to add non-outdoor cultivation license types permitted under state law and regulations and to clarify that all mixed-light cultivation shall be conducted indoors, in a fully enclosed building.

Ordinance 1293 is before Council for adoption.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Public Safety and Quality of Life Strategic Priorities, which are to enhance community safety by promoting a responsive public safety system that includes civic engagement and partnerships, prevention, intervention, and suppression services that meet the needs of Tracy residents, and to provide an outstanding quality of life by enhancing the City's business mix and services.

FISCAL IMPACT

There is no fiscal impact associated with this agenda item.

RECOMMENDATION

That Council waive the reading of the full text and adopt Ordinance 1293 amending various sections of Chapter 6.36 of the Tracy Municipal Code regarding cannabis cultivation.

Prepared by: Necy Lopez, Deputy City Clerk
Reviewed by: Adrianne Richardson, City Clerk
Midori Lichtwardt, Assistant City Manager
Approved by: Jenny Haruyama, City Manager

Attachment A: Ordinance 1293

ATTACHMENT A

# ORDINANCE 1293

## AN ORDINANCE OF THE CITY OF TRACY AMENDING VARIOUS SECTIONS OF CHAPTER 6.36 OF TITLE 6 "BUSINESSES, PROFESSIONS, AND TRADES" OF THE TRACY MUNICIPAL CODE REGARDING LOCAL REGULATIONS OF COMMERCIAL CANNABIS ACTIVITY IN THE CITY OF TRACY

WHEREAS, In November 1996, California voters approved the Compassionate Use Act of 1996 ("CUA") which authorized a limited defense to criminal charges for the use, possession or cultivation of marijuana (cannabis) for medical purposes when a qualified patient has a doctor's recommendation for the use of cannabis, and

WHEREAS, In November 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized the use of non-medicinal (recreational) cannabis by adults and the cultivation of up to six cannabis plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical cannabis for adult use, and

WHEREAS, In June 2017, the State Legislature adopted Senate Bill 94 creating a new statewide comprehensive regulatory system for medical and adult use commercial cannabis activity titled Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and

WHEREAS, CUA, AUMA and MAUCRSA do not prohibit cities from enacting regulations regarding commercial cannabis activities and uses, and

WHEREAS, The City Council seeks to establish regulations for commercial cannabis activity in the City of Tracy to ensure such activities are conducted in a manner that mitigates negative impacts, protects the public health, safety, and welfare of residents, and supports economic development, and

WHEREAS, The City of Tracy engaged in a comprehensive review and study of state and local cannabis regulations, conducted community outreach on this topic, and held various public meetings to discuss commercial cannabis activity, provide policy direction to staff, and receive public input on the topic of commercial cannabis activity, and

WHEREAS, The City Council adopted an ordinance establishing local regulations on commercial cannabis activity in the City of Tracy on December 3, 2019, which are set forth in Chapter 6.36 of the Tracy Municipal Code, and

WHEREAS, On June 2, 2020, the City Council adopted an ordinance amending various provisions of Chapter 6.36 of the Tracy Municipal Code to further protect the public health, safety, and welfare of residents by adding regulatory measures to a fast-evolving industry, to reflect technical changes, and to cleanup provisions, and

WHEREAS, The proposed Ordinance would further amend Chapter 6.36 of the Tracy Municipal Code to clarify the types of indoor commercial cannabis cultivation that may be eligible for cannabis business permits.

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.

SECTION 2. Amended Section. Section 6.36.012 of Article 1 of Chapter 6.36 is hereby amended to add the following text:

""Mixed-light cultivation" means cultivation of cannabis using any combination of natural and supplemental lighting with the cultivation site in a fully enclosed building. For the purposes of this definition, "building" shall have the same meaning as provided in Title 10 of this Code. The use of natural light does not include opening of any part of the building to the outside air such that odors from the cannabis business may be detectable off-site."

SECTION 3: Amended Section. Section 6.36.330 of Article 4 of Chapter 6.36 of the Tracy Municipal Code is hereby amended to read as follows:

"**Section 6.36.330 Commercial Cannabis Cultivation Permit Requirements.**

(a) No person shall operate a cannabis cultivation business in the City without a valid cannabis business permit issued pursuant to this chapter, or in a manner that is inconsistent with the permit issued. This section shall not apply to the cultivation of cannabis for personal use allowed under state law.

(b) Permit Fee. A cannabis cultivation permit program fee is established and imposed. The City Council shall establish by resolution the amount of the permit fee and any related penalties.

(c) Cannabis Business Permit(s) will only be issued for the following types of cannabis cultivation businesses:

i. Specialty Cottage:

A. Indoor - Indoor cultivation up to 500 square feet of total canopy size on one cultivation site.

B. Mixed-Light Tier 1 and 2 - Mixed-light cultivation up to 2,500 square feet of total canopy size on one cultivation site.

ii. Specialty:

A. Indoor - Indoor cultivation of between 501 and 5,000 square feet of total canopy size on one cultivation site.

B. Mixed-Light Tier 1 and 2 - Mixed-light cultivation between 2,501 and 5,000 square feet of total canopy size on one cultivation site.

iii. Small:

A. Indoor - Indoor cultivation between 5,001 and 10,000 square feet of total canopy size on one cultivation site.

B. Mixed-Light Tier 1 and 2 - Mixed-light cultivation between 5,001 and 10,000 square feet of total canopy size on one cultivation site.

iv. Medium:

A. Indoor - Indoor cultivation between 10,001 and 22,000 square feet of total canopy size on one cultivation site.

B. Mixed-Light Tier 1 and 2 - Mixed-light cultivation between 10,001 and 22,000 square feet of total canopy size on one cultivation site.

v. Nursery - A cultivation site that conducts only cultivation of clones, immature plants, seeds, and other agricultural products used specifically for the propagation of cultivation of cannabis.

vi. Processor - A cultivation site that conducts only trimming, dying, curing, grading, packaging, or labeling of cannabis and nonmanufactured cannabis products.

(d) Indoor Only. A cannabis cultivation permittee shall only cultivate cannabis in a fully enclosed building. Outdoor cultivation of commercial cannabis is expressly prohibited.

(e) A cannabis cultivation permittee shall not allow cannabis or cannabis products on the cultivation site to be visible from the public right-of-way, the unsecured areas surrounding the buildings on the site, or the site's main entrance and lobby.

(f) A cannabis cultivation permittee may conduct all activities permitted by the State License.

(g) Any cultivation activity that will be conducted by the permittee shall be included on the permit application. No additional cultivation activity can be conducted without applying for and receiving written permission from the City for that additional activity.

(h) At all times, the cannabis cultivation site shall be compliant with all state regulations for cannabis cultivation including Title 3 of the California Code of Regulations as may be amended.

(i) Inspections by the Fire Chief or designee may be conducted any time during the business's regular business hours.

(j) Site Requirements. A cannabis cultivation site shall comply with the following requirements:

i. Entrances. All entrances into the buildings on the cultivation site shall be locked at all times with entry controlled by the permittee's managers and staff, provided that such secured areas do not violate the emergency egress requirements in the Building Code.

ii. Cultivation area. All cultivation areas in any building on the cultivation site shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee from the lobby area. As such, managers and staff of the permittee shall not be required to exit the building in an emergency through the cultivation area.

iii. Transport area. Each building with a cultivation area shall have an area designed for the secure transfer of cannabis from a vehicle to the cultivation area.

iv. Storage area. Each building with a cultivation area shall have adequate storage space for cannabis that has been tested or is waiting to be tested. The storage areas shall be separated from the main entrance and lobby, and shall be secured by a lock accessible only to managers and staff of the permittee, provided that such secured areas do not violate the emergency egress requirements in the Building Code.

(k) Signage. A cannabis cultivation permittee shall post in the lobby of the cultivation site signs that state the following:

i. "This site is not open to the public."

ii. "Retail sales of any goods and services is prohibited."

iii. "Persons under twenty-one (21) years of age are prohibited from entering this site."

iv. "Smoking, ingesting, or consuming cannabis or cannabis products on this site or in a public place is prohibited."

v. Each sign described in must be at least eight (8) inches by ten (10) inches in size and must be displayed at all times in a conspicuous place so that it may be readily seen by all persons entering the cultivation site.

vi. Each sign shall comply with California's accessibility requirements for persons with visual impairments.

(l) Restricted Site. No cannabis cultivation permittee shall open their cultivation site to the public.

i. No cannabis cultivation permittee shall allow anyone on the cultivation site, except for managers, staff, and other persons with a bona fide business or regulatory purpose for being there, such as contractors, inspectors, and distribution drivers.

ii. A manager must be on the cultivation site at all times that any other person, except for security guards, is on the site.

iii. While on the cultivation site, managers and staff of the cannabis cultivation business must maintain evidence of their cannabis employee permit, issued by the City, at all times.

iv. Any person other than managers or staff who are on the cultivation site must sign in, wear a visitor badge, and be escorted on the site by a manager, or designee, at all times.

v. Retail Sales Prohibited. No person shall conduct any retail sales of any good or services on or from a permitted cannabis cultivation site.

vi. Cannabis cultivation sites shall not contain an exhibition or product sales area or allow for retail distribution of products at that location.

vii. Location Requirements. Cannabis cultivation permittees shall locate in a site consistent with section 10.08.3196. ”

SECTION 4. If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 5. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 6. The City Council finds that this Ordinance is exempt from CEQA in accordance with Business and Professions Code section 26055(h) because it requires discretionary review and approval of permits, licenses, or other authorizations to engage in commercial cannabis activity.

SECTION 7. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk’s office at least five days before the ordinance is adopted and within

15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

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

The foregoing Ordinance 1293 was introduced at a regular meeting of the Tracy City Council on the 7th day of July 2020, and finally adopted on the ____ day of _____, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 1.G

REQUEST

**AUTHORIZE STAFF TO ENTER INTO A 3 YEAR AGREEMENT WITH MICROSOFT FOR SOFTWARE LICENSES AND UPDATES FOR DESKTOP COMPUTERS AND SERVERS FOR AN ANNUAL AMOUNT NOT TO EXCEED $166,521**

EXECUTIVE SUMMARY

The City uses various software products from Microsoft for both its desktops and servers. This software must be licensed from Microsoft. The City's current five-year license agreement with Microsoft is set to expire. This Agreement renews our existing license agreement with Microsoft for an additional three years.

DISCUSSION

The City must obtain licenses for all the software that runs on its desktop computers and servers. Several of these software products are from Microsoft. The City has been using various Microsoft products for many years. The City's current agreement with Microsoft, approved by Council in 2015, is set to expire and now must be renewed. The City has budgeted for these licenses as part of the operating budget. Microsoft offers a program to municipalities by where an annual fee can be paid and Microsoft will always provide the most recent version of the software to the City. In this way, the City will be assured it always has the most recent and up to date software for its desktop computers and selected servers.

The County of Riverside has already negotiated a competitive price for this annual software licensing program and this agreement may be used by any city wishing to procure these software licenses. The Tracy Municipal Code section 2.20.220 permits the City to use a competitive procurement agreement or program already negotiated or bid by another public agency. The City of Tracy is authorized under its purchasing ordinance to enter into this contract. The City would not be able to negotiate any better terms with Microsoft than what is already included in the County of Riverside contract.

The annual cost of the Microsoft licensing program is $166,521 for each year of the three-year agreement. However, if the City adds additional Microsoft licenses during the three-year agreement the cost of these new licenses will be added onto the existing agreement thereby increasing the annual cost. The City will use the operating budget for these licenses.

STRATEGIC PLAN

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

## FISCAL IMPACT

Funding for the software has already been included in the adopted FY2020-21 budget. No additional funds are being requested. The total cost is $166,521 per year. Software licensing is expensed to Fund 602 (Central Services). The costs associated with this fund are collected through cost allocations formulas related to departments benefitting from this purchase.

## RECOMMENDATION

It is recommended that the City Council, by resolution, authorize a three-year agreement with Microsoft to supply software for City desktop computers and servers for an annual not to exceed amount of $166,521.

Prepared by: Matt Engen, IT Manager

Reviewed by: Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## ATTACHMENTS

Attachment A – Microsoft Agreement

Microsoft Volume Licensing

# Program Signature Form

| | |
|---|---|
| MBA/MBSA number | |
| Agreement number | 8084445 |

5-0000005513359

**Note:** Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

| Contract Document | Number or Code |
|---|---|
| Enterprise Enrollment (Indirect) | X20-10635 |
| Enterprise Amendment | M97;M97 (New) |
| Discount Transparency Disclosure Form | 0965852.004_DTDF |
| Product Selection Form | 0965852.004_PSF |

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

| Customer | |
|---|---|
| **Name of Entity (must be legal entity name)*** | City of Tracy |
| **Signature*** | |
| **Printed First and Last Name*** | |
| **Printed Title** | |
| **Signature Date*** | |
| **Tax ID** | |

** indicates required field*

| Microsoft Affiliate | |
|---|---|
| | **Microsoft Corporation** |
| **Signature** | DocuSigned by: Claudia Servin 6F6BAA80B4E248B... |
| **Printed First and Last Name** | Claudia Servin |
| **Printed Title** | Authorized Signer |
| **Signature Date** (date Microsoft Affiliate countersigns) | 6/18/2020 |
| **Agreement Effective Date** (may be different than Microsoft's signature date) | |

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**Optional 2nd Customer signature or Outsourcer signature (if applicable)**

| Customer |
| --- |
| **Name of Entity (must be legal entity name)*** |
| **Signature*** _____ |
| **Printed First and Last Name*** |
| **Printed Title** |
| **Signature Date*** |

** indicates required field*

| Outsourcer |
| --- |
| **Name of Entity (must be legal entity name)*** |
| **Signature*** _____ |
| **Printed First and Last Name*** |
| **Printed Title** |
| **Signature Date*** |

** indicates required field*

If Customer requires additional contacts or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

***Microsoft Corporation***
Dept. 551, Volume Licensing
6880 Sierra Center Parkway
Reno, Nevada 89511
USA

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Microsoft Volume Licensing

# Enterprise Enrollment State and Local

| | |
|---|---|
| Enterprise Enrollment number *(Microsoft to complete)* | 71374555 |
| Previous Enrollment number *(Reseller to complete)* | 8488466 |
| Framework ID *(if applicable)* | |

**This Enrollment must be attached to a signature form to be valid.**

This Microsoft Enterprise Enrollment is entered into between the entities as identified in the signature form as of the effective date. Enrolled Affiliate represents and warrants it is the same Customer, or an Affiliate of the Customer, that entered into the Enterprise Agreement identified on the program signature form.

This Enrollment consists of: (1) these terms and conditions, (2) the terms of the Enterprise Agreement identified on the signature form, (3) the Product Selection Form, (4) the Product Terms, (5) the Online Services Terms, (6) any Supplemental Contact Information Form, Previous Agreement/Enrollment form, and other forms that may be required, and (7) any order submitted under this Enrollment. This Enrollment may only be entered into under a 2011 or later Enterprise Agreement. By entering into this Enrollment, Enrolled Affiliate agrees to be bound by the terms and conditions of the Enterprise Agreement.

All terms used but not defined are located at http://www.microsoft.com/licensing/contracts. In the event of any conflict the terms of this Agreement control.

**Effective date.** If Enrolled Affiliate is renewing Software Assurance or Subscription Licenses from one or more previous Enrollments or agreements, then the effective date will be the day after the first prior Enrollment or agreement expires or terminates. If this Enrollment is renewed, the effective date of the renewal term will be the day after the Expiration Date of the initial term. Otherwise, the effective date will be the date this Enrollment is accepted by Microsoft. Any reference to "anniversary date" refers to the anniversary of the effective date of the applicable initial or renewal term for each year this Enrollment is in effect.

**Term.** The initial term of this Enrollment will expire on the last day of the month, 36 full calendar months from the effective date of the initial term. The renewal term will expire 36 full calendar months after the effective date of the renewal term.

## *Terms and Conditions*

### *1. Definitions.*

Terms used but not defined in this Enrollment will have the definition in the Enterprise Agreement. The following definitions are used in this Enrollment:

"Additional Product" means any Product identified as such in the Product Terms and chosen by Enrolled Affiliate under this Enrollment.

"Community" means the community consisting of one or more of the following: (1) a Government, (2) an Enrolled Affiliate using eligible Government Community Cloud Services to provide solutions to a Government or a qualified member of the Community, or (3) a Customer with Customer Data that is subject to Government regulations for which Customer determines and Microsoft agrees that the use of Government Community Cloud Services is appropriate to meet Customer's regulatory requirements.

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Membership in the Community is ultimately at Microsoft's discretion, which may vary by Government Community Cloud Service.

"Enterprise Online Service" means any Online Service designated as an Enterprise Online Service in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Online Services are treated as Online Services, except as noted.

"Enterprise Product" means any Desktop Platform Product that Microsoft designates as an Enterprise Product in the Product Terms and chosen by Enrolled Affiliate under this Enrollment. Enterprise Products must be licensed for all Qualified Devices and Qualified Users on an Enterprise-wide basis under this program.

"Expiration Date" means the date upon which the Enrollment expires.

"Federal Agency" means a bureau, office, agency, department or other entity of the United States Government.

"Government" means a Federal Agency, State/Local Entity, or Tribal Entity acting in its governmental capacity.

"Government Community Cloud Services" means Microsoft Online Services that are provisioned in Microsoft's multi-tenant data centers for exclusive use by or for the Community and offered in accordance with the National Institute of Standards and Technology (NIST) Special Publication 800-145. Microsoft Online Services that are Government Community Cloud Services are designated as such in the Use Rights and Product Terms.

"Industry Device" (also known as line of business device) means any device that: (1) is not useable in its deployed configuration as a general purpose personal computing device (such as a personal computer), a multi-function server, or a commercially viable substitute for one of these systems; and (2) only employs an industry or task-specific software program (e.g. a computer-aided design program used by an architect or a point of sale program) ("Industry Program"). The device may include features and functions derived from Microsoft software or third-party software. If the device performs desktop functions (such as email, word processing, spreadsheets, database, network or Internet browsing, or scheduling, or personal finance), then the desktop functions: (1) may only be used for the purpose of supporting the Industry Program functionality; and (2) must be technically integrated with the Industry Program or employ technically enforced policies or architecture to operate only when used with the Industry Program functionality.

"Managed Device" means any device on which any Affiliate in the Enterprise directly or indirectly controls one or more operating system environments. Examples of Managed Devices can be found in the Product Terms.

"Qualified Device" means any device that is used by or for the benefit of Enrolled Affiliate's Enterprise and is: (1) a personal desktop computer, portable computer, workstation, or similar device capable of running Windows Pro locally (in a physical or virtual operating system environment), or (2) a device used to access a virtual desktop infrastructure ("VDI"). Qualified Devices do not include any device that is: (1) designated as a server and not used as a personal computer, (2) an Industry Device, or (3) not a Managed Device. At its option, the Enrolled Affiliate may designate any device excluded above (e.g., Industry Device) that is used by or for the benefit of the Enrolled Affiliate's Enterprise as a Qualified Device for all or a subset of Enterprise Products or Online Services the Enrolled Affiliate has selected.

"Qualified User" means a person (e.g., employee, consultant, contingent staff) who: (1) is a user of a Qualified Device, or (2) accesses any server software requiring an Enterprise Product Client Access License or any Enterprise Online Service. It does not include a person who accesses server software or an Online Service solely under a License identified in the Qualified User exemptions in the Product Terms.

"Reseller" means an entity authorized by Microsoft to resell Licenses under this program and engaged by an Enrolled Affiliate to provide pre- and post-transaction assistance related to this agreement;

"Reserved License" means for an Online Service identified as eligible for true-ups in the Product Terms, the License reserved by Enrolled Affiliate prior to use and for which Microsoft will make the Online Service available for activation.

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"State/Local Entity" means (1) any agency of a state or local government in the United States, or (2) any United States county, borough, commonwealth, city, municipality, town, township, special purpose district, or other similar type of governmental instrumentality established by the laws of Customer's state and located within Customer's state's jurisdiction and geographic boundaries.

"Tribal Entity" means a federally recognized tribal entity performing tribal governmental functions and eligible for funding and services from the U.S. Department of Interior by virtue of its status as an Indian tribe.

"Use Rights" means, with respect to any licensing program, the use rights or terms of service for each Product and version published for that licensing program at the Volume Licensing Site and updated from time to time. The Use Rights include the Product-Specific License Terms, the License Model terms, the Universal License Terms, the Data Protection Terms, and the Other Legal Terms. The Use Rights supersede the terms of any end user license agreement (on-screen or otherwise) that accompanies a Product.

"Volume Licensing Site" means http://www.microsoft.com/licensing/contracts or a successor site.

## *2. Order requirements.*

**a. Minimum order requirements.** Enrolled Affiliate's Enterprise must have a minimum of 250 Qualified Users or Qualified Devices. The initial order must include at least 250 Licenses for Enterprise Products or Enterprise Online Services.

**(i) Enterprise commitment.** Enrolled Affiliate must order enough Licenses to cover all Qualified Users or Qualified Devices, depending on the License Type, with one or more Enterprise Products or a mix of Enterprise Products and the corresponding Enterprise Online Services (as long as all Qualified Devices not covered by a License are only used by users covered with a user License).

**(ii) Enterprise Online Services only.** If no Enterprise Product is ordered, then Enrolled Affiliate need only maintain at least 250 Subscription Licenses for Enterprise Online Services**.**

**b. Additional Products.** Upon satisfying the minimum order requirements above, Enrolled Affiliate may order Additional Products.

**c. Use Rights for Enterprise Products.** For Enterprise Products, if a new Product version has more restrictive use rights than the version that is current at the start of the applicable initial or renewal term of the Enrollment, those more restrictive use rights will not apply to Enrolled Affiliate's use of that Product during that term.

**d. Country of usage.** Enrolled Affiliate must specify the countries where Licenses will be used on its initial order and on any additional orders.

**e. Resellers.** Enrolled Affiliate must choose and maintain a Reseller authorized in the United States. Enrolled Affiliate will acquire its Licenses through its chosen Reseller. Orders must be submitted to the Reseller who will transmit the order to Microsoft. The Reseller and Enrolled Affiliate determine pricing and payment terms as between them, and Microsoft will invoice the Reseller based on those terms. Throughout this Agreement the term "price" refers to reference price. Resellers and other third parties do not have authority to bind or impose any obligation or liability on Microsoft.

**f. Adding Products.**

**(i) Adding new Products not previously ordered**. New Enterprise Products or Enterprise Online Services may be added at any time by contacting a Microsoft Account Manager or Reseller. New Additional Products, other than Online Services, may be used if an order is placed in the month the Product is first used. For Additional Products that are Online Services, an initial order for the Online Service is required prior to use.

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**(ii) Adding Licenses for previously ordered Products.** Additional Licenses for previously ordered Products other than Online Services may be added at any time but must be included in the next true-up order. Additional Licenses for Online Services must be ordered prior to use, unless the Online Services are (1) identified as eligible for true-up in the Product Terms or (2) included as part of other Licenses.

**g. True-up requirements.** Enrolled Affiliate must submit an annual true-up order that accounts for any changes since the initial order or last order. If there are no changes, then an update statement must be submitted instead of a true-up order.

**(i) Enterprise Products.** For Enterprise Products, Enrolled Affiliate must determine the number of Qualified Devices and Qualified Users (if ordering user-based Licenses) at the time the true-up order is placed and must order additional Licenses for all Qualified Devices and Qualified Users that are not already covered by existing Licenses, including any Enterprise Online Services.

**(ii) Additional Products.** For Additional Products that have been previously ordered under this Enrollment, Enrolled Affiliate must determine the maximum number of Additional Products used since the latter of the initial order, the last true-up order, or the prior anniversary date and submit a true-up order that accounts for any increase.

**(iii) Online Services.** For Online Services identified as eligible for true-up in the Product Terms, Enrolled Affiliate may place a reservation order for the additional Licenses prior to use and payment may be deferred until the next true-up order. Microsoft will provide a report of Reserved Licenses ordered but not yet invoiced to Enrolled Affiliate and its Reseller. Reserved Licenses will be invoiced retrospectively to the month in which they were ordered.

**(iv) Subscription License reductions.** Enrolled Affiliate may reduce the quantity of Subscription Licenses at the Enrollment anniversary date on a prospective basis if permitted in the Product Terms, as follows:

**1)** For Subscription Licenses that are part of an Enterprise-wide purchase, Licenses may be reduced if the total quantity of Licenses and Software Assurance for an applicable group meets or exceeds the quantity of Qualified Devices and Qualified Users (if ordering user-based Licenses) identified on the Product Selection Form, and includes any additional Qualified Devices and Qualified Users added in any prior true-up orders. Step-up Licenses do not count towards this total count.

**2)** For Enterprise Online Services that are not a part of an Enterprise-wide purchase, Licenses can be reduced as long as the initial order minimum requirements are maintained.

**3)** For Additional Products available as Subscription Licenses, Enrolled Affiliate may reduce the Licenses. If the License count is reduced to zero, then Enrolled Affiliate's use of the applicable Subscription License will be cancelled.

Invoices will be adjusted to reflect any reductions in Subscription Licenses at the true-up order Enrollment anniversary date and effective as of such date.

**(v) Update statement.** An update statement must be submitted instead of a true-up order if, since the initial order or last true-up order, Enrolled Affiliate's Enterprise: (1) has not changed the number of Qualified Devices and Qualified Users licensed with Enterprise Products or Enterprise Online Services; and (2) has not increased its usage of Additional Products. This update statement must be signed by Enrolled Affiliate's authorized representative.

**(vi) True-up order period.** The true-up order or update statement must be received by Microsoft between 60 and 30 days prior to each Enrollment anniversary date. The third-year true-up order or update statement is due within 30 days prior to the Expiration Date, and any license reservations within this 30 day period will not be accepted. Enrolled Affiliate

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may submit true-up orders more often to account for increases in Product usage, but an annual true-up order or update statement must still be submitted during the annual order period.

**(vii) Late true-up order.** If the true-up order or update statement is not received when due, Microsoft will invoice Reseller for all Reserved Licenses not previously invoiced and Subscription License reductions cannot be reported until the following Enrollment anniversary date (or at Enrollment renewal, as applicable).

**h. Step-up Licenses.** For Licenses eligible for a step-up under this Enrollment, Enrolled Affiliate may step-up to a higher edition or suite as follows:

**(i)** For step-up Licenses included on an initial order, Enrolled Affiliate may order according to the true-up process.

**(ii)** If step-up Licenses are not included on an initial order, Enrolled Affiliate may step-up initially by following the process described in the Section titled "Adding new Products not previously ordered," then for additional step-up Licenses, by following the true-up order process.

**i. Clerical errors.** Microsoft may correct clerical errors in this Enrollment, and any documents submitted with or under this Enrollment, by providing notice by email and a reasonable opportunity for Enrolled Affiliate to object to the correction. Clerical errors include minor mistakes, unintentional additions and omissions. This provision does not apply to material terms, such as the identity, quantity or price of a Product ordered.

**j. Verifying compliance.** Microsoft may, in its discretion and at its expense, verify compliance with this Enrollment as set forth in the Enterprise Agreement.

## *3. Pricing.*

**a. Price Levels.** For both the initial and any renewal term Enrolled Affiliate's Price Level for all Products ordered under this Enrollment will be Level "D" throughout the term of the Enrollment.

**b. Setting Prices.** Enrolled Affiliate's prices for each Product or Service will be established by its Reseller. Except for Online Services designated in the Product Terms as being exempt from fixed pricing, As long as Enrolled Affiliate continues to qualify for the same price level, Microsoft's prices for Resellers for each Product or Service ordered will be fixed throughout the applicable initial or renewal Enrollment term. Microsoft's prices to Resellers are reestablished at the beginning of the renewal term.

## *4. Payment terms.*

For the initial or renewal order, Microsoft will invoice Enrolled Affiliate's Reseller in three equal annual installments. The first installment will be invoiced upon Microsoft's acceptance of this Enrollment and remaining installments will be invoiced on each subsequent Enrollment anniversary date. Subsequent orders are invoiced upon acceptance of the order and Enrolled Affiliate may elect to pay annually or upfront for Online Services and upfront for all other Licenses.

## *5. End of Enrollment term and termination.*

**a. General.** At the Expiration Date, Enrolled Affiliate must immediately order and pay for Licenses for Products it has used but has not previously submitted an order, except as otherwise provided in this Enrollment.

**b. Renewal option.** At the Expiration Date of the initial term, Enrolled Affiliate can renew Products by renewing this Enrollment for one additional 36-month term or by signing a new Enrollment. Microsoft must receive a Renewal Form, Product Selection Form, and renewal order prior to or at the Expiration Date. Microsoft will not unreasonably reject any renewal.

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Microsoft may make changes to this program that will make it necessary for Customer and its Enrolled Affiliates to enter into new agreements and Enrollments at renewal.

**c. If Enrolled Affiliate elects not to renew.**

**(i) Software Assurance.** If Enrolled Affiliate elects not to renew Software Assurance for any Product under its Enrollment, then Enrolled Affiliate will not be permitted to order Software Assurance later without first acquiring a new License with Software Assurance.

**(ii) Online Services eligible for an Extended Term.** For Online Services identified as eligible for an Extended Term in the Product Terms, the following options are available at the end of the Enrollment initial or renewal term.

**1) Extended Term.** Licenses for Online Services will automatically expire in accordance with the terms of the Enrollment. An extended term feature that allows Online Services to continue month-to-month ("Extended Term") is available. During the Extended Term, Online Services will be invoiced monthly at the then-current published price as of the Expiration Date plus a 3% administrative fee for up to one year. If Enrolled Affiliate wants an Extended Term, Enrolled Affiliate must submit a request to Microsoft at least 30 days prior to the Expiration Date.

**2) Cancellation during Extended Term.** At any time during the first year of the Extended Term, Enrolled Affiliate may terminate the Extended Term by submitting a notice of cancellation to Microsoft for each Online Service. Thereafter, either party may terminate the Extended Term by providing the other with a notice of cancellation for each Online Service. Cancellation will be effective at the end of the month following 30 days after Microsoft has received or issued the notice.

**(iii) Subscription Licenses and Online Services not eligible for an Extended Term.** If Enrolled Affiliate elects not to renew, the Licenses will be cancelled and will terminate as of the Expiration Date. Any associated media must be uninstalled and destroyed and Enrolled Affiliate's Enterprise must discontinue use. Microsoft may request written certification to verify compliance.

**d. Termination for cause.** Any termination for cause of this Enrollment will be subject to the "Termination for cause" section of the Agreement. In addition, it shall be a breach of this Enrollment if Enrolled Affiliate or any Affiliate in the Enterprise that uses Government Community Cloud Services fails to meet and maintain the conditions of membership in the definition of Community.

**e. Early termination.** Any early termination of this Enrollment will be subject to the "Early Termination" Section of the Enterprise Agreement.

For Subscription Licenses, in the event of a breach by Microsoft, or if Microsoft terminates an Online Service for regulatory reasons, Microsoft will issue Reseller a credit for any amount paid in advance for the period after termination.

## *6. Government Community Cloud.*

**a. Community requirements.** If Enrolled Affiliate purchases Government Community Cloud Services, Enrolled Affiliate certifies that it is a member of the Community and agrees to use Government Community Cloud Services solely in its capacity as a member of the Community and, for eligible Government Community Cloud Services, for the benefit of end users that are members of the Community. Use of Government Community Cloud Services by an entity that is not a member of the Community or to provide services to non-Community members is strictly prohibited and could result in termination of Enrolled Affiliate's license(s) for Government Community Cloud Services without notice. Enrolled Affiliate acknowledges that only Community members may use Government Community Cloud Services.

**b.** All terms and conditions applicable to non-Government Community Cloud Services also apply

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to their corresponding Government Community Cloud Services, except as otherwise noted in the Use Rights, Product Terms, and this Enrollment.

**c.** Enrolled Affiliate may not deploy or use Government Community Cloud Services and corresponding non-Government Community Cloud Services in the same domain.

**d.** **Use Rights for Government Community Cloud Services.** For Government Community Cloud Services, notwithstanding anything to the contrary in the Use Rights:

**(i)** Government Community Cloud Services will be offered only within the United States.

**(ii)** Additional European Terms, as set forth in the Use Rights, will not apply.

**(iii)** References to geographic areas in the Use Rights with respect to the location of Customer Data at rest, as set forth in the Use Rights, refer only to the United States.

Physically Signed

# *Enrollment Details*

## *1. Enrolled Affiliate's Enterprise.*

**a.** Identify which Agency Affiliates are included in the Enterprise. (Required) Enrolled Affiliate's Enterprise must consist of entire offices, bureaus, agencies, departments or other entities of Enrolled Affiliate, not partial offices, bureaus, agencies, or departments, or other partial entities. Check only one box in this section. If no boxes are checked, Microsoft will deem the Enterprise to include the Enrolled Affiliate only. If more than one box is checked, Microsoft will deem the Enterprise to include the largest number of Affiliates:

☒ Enrolled Affiliate only

☐ Enrolled Affiliate and all Affiliates

☐ Enrolled Affiliate and the following Affiliate(s) (Only identify specific affiliates to be included if fewer than all Affiliates are to be included in the Enterprise):

☐ Enrolled Affiliate and all Affiliates, with following Affiliate(s) excluded:

**b.** Please indicate whether the Enrolled Affiliate's Enterprise will include all new Affiliates acquired after the start of this Enrollment: Exclude future Affiliates

## *2. Contact information.*

Each party will notify the other in writing if any of the information in the following contact information page(s) changes. The asterisks (*) indicate required fields. By providing contact information, Enrolled Affiliate consents to its use for purposes of administering this Enrollment by Microsoft, its Affiliates, and other parties that help administer this Enrollment. The personal information provided in connection with this Enrollment will be used and protected in accordance with the privacy statement available at https://www.microsoft.com/licensing/servicecenter.

**a.** **Primary contact.** This contact is the primary contact for the Enrollment from within Enrolled Affiliate's Enterprise. This contact is also an Online Administrator for the Volume Licensing Service Center and may grant online access to others. The primary contact will be the default contact for all purposes unless separate contacts are identified for specific purposes

**Name of entity (must be legal entity name)*** City of Tracy
**Contact name*** **First** Kurt **Last** Tavares
**Contact email address*** Kurt.Tavares@cityoftracy.org
**Street address*** 333 Civic Center Plaza
**City*** Tracy
**State*** CA
**Postal code*** 95376-4062-
(Please provide the zip + 4, e.g. xxxxx-xxxx)
**Country*** United States
**Phone*** +12098316801
**Tax ID**
** indicates required fields*

**b.** **Notices contact and Online Administrator.** This contact (1) receives the contractual notices, (2) is the Online Administrator for the Volume Licensing Service Center and may grant online access to others, and (3) is authorized to order Reserved Licenses for eligible Online Servies, including adding or reassigning Licenses and stepping-up prior to a true-up order.

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☐ Same as primary contact (default if no information is provided below, even if the box is not checked).

**Contact name* First** Matt **Last** Engen
**Contact email address*** matt.engen@cityoftracy.org
**Street address*** 333 Civic Center Plaza
**City*** Tracy
**State*** CA
**Postal code*** 95376-4062-
(Please provide the zip + 4, e.g. xxxxx-xxxx)
**Country*** United States
**Phone*** 209-831-6806
**Language preference.** Choose the language for notices. English
☐ This contact is a third party (not the Enrolled Affiliate). Warning: This contact receives personally identifiable information of the Customer and its Affiliates.
** indicates required fields*

c. **Online Services Manager.** This contact is authorized to manage the Online Services ordered under the Enrollment and (for applicable Online Services) to add or reassign Licenses and step-up prior to a true-up order.

Same as notices contact and Online Administrator (default if no information is provided below, even if box is not checked)

**Contact name*: First** Matt **Last** Engen
**Contact email address*** matt.engen@cityoftracy.org
**Phone*** 209-831-6806
☐ This contact is from a third party organization (not the entity). Warning: This contact receives personally identifiable information of the entity.
** indicates required fields*

d. **Reseller information.** Reseller contact for this Enrollment is:

**Reseller company name*** SoftwareONE, Inc.
**Street address (PO boxes will not be accepted)*** 20875 Crossroads Circle, Suite 1
**City*** Waukesha
**State*** WI
**Postal code*** 53186-4093
**Country*** United States
**Contact name*** MS Admin*
**Phone*** 262-317-5555
**Contact email address*** ms-admin.us@softwareone.com
** indicates required fields*

By signing below, the Reseller identified above confirms that all information provided in this Enrollment is correct.

| | |
|---|---|
| **Signature*** | DocuSigned by: Erick Chavez D0FFCC408C22479... |
| **Printed name*** | Erick Chavez |
| **Printed title*** | Operations Analyst |
| **Date*** | 6/18/2020 |

** indicates required fields*

**Changing a Reseller.** If Microsoft or the Reseller chooses to discontinue doing business with each other, Enrolled Affiliate must choose a replacement Reseller. If Enrolled Affiliate or the Reseller intends to terminate their relationship, the initiating party must notify Microsoft and the

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other party using a form provided by Microsoft at least 90 days prior to the date on which the change is to take effect.

**e.** If Enrolled Affiliate requires a separate contact for any of the following, attach the Supplemental Contact Information form. *Otherwise, the notices contact and Online Administrator remains the default.*

**(i)** Additional notices contact
**(ii)** Software Assurance manager
**(iii)** Subscriptions manager
**(iv)** Customer Support Manager (CSM) contact

## *3. Financing elections.*

Is a purchase under this Enrollment being financed through MS Financing? ☐ Yes, ☒ No.

If a purchase under this Enrollment is financed through MS Financing, and Enrolled Affiliate chooses not to finance any associated taxes, it must pay these taxes directly to Microsoft.

DocuSign Signed

DocuSign Envelope ID: A595437F-6707-4CE8-A8F2-43D32BC6E4E2

Microsoft Volume Licensing

# Previous Enrollment(s)/Agreement(s) Form

**Entity Name:** City of Tracy
**Contract that this form is attached to:** State Local Government

For the purposes of this form, "entity" can mean the signing entity, Customer, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

Please provide a description of the previous Enrollment(s), Agreement(s), Purchasing Account(s), and/or Affiliate Registration(s) being renewed or consolidated into the new contract identified above.

**a.** Entity may select below any previous contract(s) from which to transfer MSDN subscribers to this new contract. Entity shall ensure that each MSDN subscriber transferred is either properly licensed under the new contract or is removed.

**b.** Entity may select below only one previous contract from which to transfer the Software Assurance (SA) Benefit contact details, i.e., benefits contact (*not* the SA manager) and the program codes, to this new contract.

**c.** An Open License cannot be used to transfer either the SA Benefit details or MSDN subscribers.

**d.** The date of the earliest expiring Enrollment/Agreement that contains SA or Online Services will be the effective date of the new contract (or SA coverage period for Select Plus).

**e.** Please insert the number of the earliest expiring Enrollment/Agreement with SA or Online Services in the appropriate fields of the new contract.

| Enrollment/Agreement/ Purchasing Account/Affiliate Registration Description | Enrollment/Agreement/ Purchasing Account/Affiliate Registration Public Customer Number | Transfer SA Benefit Contact | Transfer MSDN Subscribers |
|---|---|---|---|
| Standard Enrollment | 8488466 | X | X |

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Microsoft | Volume Licensing

# Discount Transparency Disclosure Form

| | |
|---|---|
| Date: | 6/10/2020 |
| Program: | Enterprise 6 |
| Enrollment Number: | Renewal |
| Quote Number: | 0965852.004 |
| Partner Name: | SoftwareONE, Inc. |
| Reseller Address: | 20875 Crossroads Circle, Suite 1<br>Waukesha, WI, United States, 53186-4093 |

## Discount Details

For this enrollment, Microsoft provided the Customer's Partner an additional discount off of the Partner's Net Price. The Partner is required, by Microsoft, to pass on the additional discount to the Customer by reducing the Microsoft Product resale price by an amount equal to or greater then the discount.

Listed in the table below is the maximum price the partner may charge for the Microsoft Products to be ordered under this enrollment. The Maximum Resale Price (MRP) is calculated by subtracting the additional discount provided to the Partner, from the total estimated resale price for the Microsoft Products.

The requirement to pass through the additional discount, does not mean that Microsoft is setting the Customer's actual price. Partners remain free to set the price charged for Microsoft Products at any point equal to or below MRP. The Customer's actual price will be established by a separate agreement between Customer and its Partner.

## Ordered Products

| Currency | Maximum Resale Price |
|---|---|
| US Dollar | 519,075 |

Note: The Maximum Resale Price listed in the table above only pertains to the Microsoft Products to be ordered under this Enrollment. The content of this form has no impact on the Customer's price for Non-Microsoft products and services.

In this form, the following definitions apply:
"Customer" means the entity that may enter or has entered into a Contract with the Partner.
"Contract" means a binding agreement between the Partner and Affiliate, under which Customer orders Products from Partner.
"Microsoft" means (1) the entity that has entered into an agreement with Partner under which Partner may place orders for Microsoft Products for use by the Customer and (2) the affiliates of such entity, as appropriate.
"Maximum Resale Price" means the sum of the Estimated Retail Price for all Microsoft Products ordered under the Customer Contract minus the aggregated discount off of the Partner's Net Price provided by Microsoft listed in the currency in which the Partner or Partner's reseller transacts with Microsoft.
"Product" means all Microsoft Products identified in the Product Terms, such as all Software, Online Services, and other web-based services, including pre-release or beta version. Microsoft product availability may vary by region.

**Partner:** SoftwareONE, Inc.

**Customer:** City of Tracy

**Signature of Customer's authorized representative:** _____

**Printed name:** _____

**Printed title:** _____

**Date:** _____

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Enterprise Enrollment Product Selection Form

Microsoft | Volume Licensing

**Proposal ID**

0965852.004

**Enrollment Number**

Language: English (United States)

| Enrolled Affiliate's Enterprise Products and Enterprise Online Services summary for the initial order: | | | | | |
|---|---|---|---|---|---|
| Profile | Qualified Devices | Qualified Users | Device / User Ratio | Enterprise Product Platform | CAL Licensing Model |
| Enterprise | 546 | 546 | 1.0 | No | User Licenses |

| Products | Enterprise Quantity |
|---|---|
| **Office 365 Plans** | |
| Office 365 Plan E3 USL | 317 |
| Office 365 (Plan G5) with PSTN Conferencing USL | 3 |
| **Client Access License (CAL)** | |
| **Core CAL** | |
| Bridge for Office 365 | 226 |
| Core CAL Bridge for Office 365 From SA | 320 |
| O365 GCC E3 | 226 |

| Enrolled Affiliate's Product Quantities: | | | | |
|---|---|---|---|---|
| **Price Group** | 1 | 2 | 3 | 4 |
| **Enterprise Products** | Office Professional Plus + Office 365 ProPlus + Office 365 (Plans E3 and E5) + Microsoft 365 Enterprise | Client Access License + Office 365 (Plans E1, E3 and E5) + Microsoft 365 Enterprise | Client Access License + Windows Intune + EMS USL + Microsoft 365 Enterprise | Win E3 + Win E5 + Win VDA + Microsoft 365 Enterprise |
| **Quantity** | 546 | 546 | 0 | 0 |

| Enrolled Affiliate's Price Level: | |
|---|---|
| **Product Offering / Pool** | **Price Level** |
| **Enterprise Products and Enterprise Online Services USLs:** Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Groups 1 through 4. | D |
| **Additional Product Application Pool:** Unless otherwise indicated in associated contract documents, Price level set using quantity from Group 1. | D |
| **Additional Product Server Pool:** Unless otherwise indicated in associated contract documents, Price level set using the highest quantity from Group 2 or 3. | D |
| **Additional Product Systems Pool:** Unless otherwise indicated in associated contract documents, Price level set using quantity from Group4. | D |

DocuSign Envelope ID: A595437F-6707-4CE8-A8F2-43D32BC6E4E2



| NOTES | |
|---|---|
| Unless otherwise indicated in the associated contract documents, the price level for each Product offering / pool is set as described above, based upon the quantity to price level mapping below: | |
| **Quantity of Licenses and Software Assurance** | **Price Level** |
| 2,399 and below | A |
| 2,400 to 5,999 | B |
| 6,000 to 14,999 | C |
| 15,000 and above | D |
| **Note 1:** Enterprise Online Services may not be available in all locations. Please see the Product List for a list of locations where these may be purchased. | |
| **Note 2:** Unless otherwise indicated in associated Agreement documents, the CAL selection must be the same across the Enterprise for each Profile. | |
| **Note 3:** If Enrolled Affiliate does not order an Enterprise Product or Enterprise Online Service associated with an applicable Product pool, the price level for Additional Products in the same pool will be price level "A" throughout the term of the Enrollment. Refer to the Qualifying Government Entity Addendum pricing provision for more details on price leveling. | |
| **Note 4:** Bridge CAL, Office 365 Plan E3 Add Ons, EMS Add Ons, Windows Ent SA Per User Add Ons, and Enterprise Cloud Suite Add On quantities are not included for Price Leveling, as License quantities are determined by the corresponding Enterprise Online Service(s). | |

RESOLUTION 2020-_____

AUTHORIZING STAFF TO ENTER INTO A 3-YEAR AGREEMENT WITH MICROSOFT FOR SOFTWARE LICENSES TO DESKTOP COMPUTERS AND SERVERS FOR AN ANNUAL NOT TO EXCEED AMOUNT OF $166,521

WHEREAS, The City budgeted $166,521 to purchase Microsoft licenses for software updates to desktop computers and servers, and

WHEREAS, Microsoft offers a program to municipalities by where an annual fee can be paid and Microsoft will provide the most recent version of the software to the City, and

WHEREAS, The County of Riverside has negotiated a competitive price for the annual software licensing program and this agreement may be used by any city wishing to procure the Microsoft licenses, and

WHEREAS, The Tracy Municipal Code section 2.20.220 permits the City to use a competitive program already negotiated or bid by another public agency, and

WHEREAS, The annual cost of the Microsoft licensing program for the City of Tracy is $166,520.84 each year of the three year program, and

WHEREAS, The City will use the operating budget for this program, and

WHEREAS, Software licensing is expensed to fund 602 (Central Services), an internal services fund and is re-expensed out to all funds making use of the services;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby authorizes a three-year agreement with Microsoft to supply software for City computers and servers with an annual not to exceed amount of $166,521.

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

The foregoing Resolution 2020-_____ was passed and adopted by the Tracy City Council on the 21st day of July, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 3.B

REQUEST

**ADOPT A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR THE CONSTRUCTION OF DETENTION BASIN 3A, AND AUTHORIZE THE DEPOSIT OF $765,000 WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND (RONNOCO PROPERTIES OF TRACY II, L.P., APN 240-090-02), AND APPROPRIATE THE FUNDS FROM ELLIS STORM DRAIN FUND (F332) AND PUBLIC BUILDINGS FUND (F334)**

EXECUTIVE SUMMARY

The City of Tracy's 2012 Citywide Storm Drainage Master Plan (SDMP) is intended to be utilized as a guideline document for the identification of storm drainage facilities needed to serve future land development projects under the buildout condition for the City's Sphere of Influence (SOI). In the SDMP, five major watersheds have been defined that cover the entire SOI and additional contiguous areas, including the Westside Channel Watershed. The Westside Channel Watershed is roughly 12.9 square miles in overall area and generally encompassing roughly the west half of the developed area for the City plus additional undeveloped areas. Located in the southernmost portion of this watershed is the Ellis Program Sub-basin, generally bounded by Corral Hollow Road on the east, the Delta Mendota Canal (south of Linne Road) on the south, Lammers Road on the west, and Valpico Road on the north. In order to complete the storm drainage infrastructure needed to serve the future buildout of the Westside Channel Watershed, the SDMP has identified various master plan storm drainage facilities that are recommended for construction as the need arises.

The Ellis Program Sub-basin services the Ellis Subdivision, the Avenues Specific Plan (ASP or “The Avenues”) area, UR10, and the properties east of ASP to Corral Hollow Road. These development areas are planned to provide permanent storm water quality measures offsite instead of within their respective development areas. Runoff generated by development within this sub-basin is proposed to be attenuated by two future detention basins, including Detention Basin 3A. The storm drain system for all of these areas is intended to ultimately discharge into future Detention Basin 3A. The City proposes to acquire a portion of the subject property for the location of this detention basin.

The City had completed an appraisal, made an offer and attempted to negotiate with the property owner. Despite significant efforts, the property owner has not been willing to negotiate with the City.

The subject property is owned by Ronnoco Properties of Tracy II, L.P. and consists of 60.58 acres. The property is located at 12501 W. Valpico Road, and is currently being farmed. The property is located in unincorporated San Joaquin County, and is not in the City’s Sphere of Influence. The City requires 15.94 acres of the property for Detention Basin 3A with appraised value of $691,667.61, and 1.69 acres for proposed Fire Station with appraised value of $73,332.39.

In order to complete the acquisition of the property in a timely manner without delaying construction of this Project, the City Council is requested to adopt a Resolution of Necessity to initiate eminent domain proceedings to acquire the subject real property. However, the City will still continue working toward completing a voluntary acquisition of the property with the property owner during the eminent domain proceedings. The City is authorized to initiate eminent domain proceedings for properties outside the City limits for drainage purposes under Code of Civil Procedure section 1240.125.

The City also requires the construction of a fire station on another portion of the same property. A companion Resolution of Necessity was adopted for this acquisition by the Tracy Rural Fire Protection District on February 18, 2020.

DISCUSSION

The City prepared the Initial Study/California Environmental Quality Act Guidelines Section 15183 Analysis for the Citywide Storm Drainage Master Plan in November 2012. The City Council approved this CEQA document on April 16, 2013 by Resolution No. 2013-056.

The City and its consultants have designed the Project so that a minimum amount of private property is required for acquisition.

In order to adopt a Resolution of Necessity, a total of four affirmative votes from the City Council are required. In addition, the Council must find and determine as follows:

**1. The public interest and necessity require the proposed project.**

The City's Citywide Storm Drainage Master Plan identifies Detention Basin 3A to be necessary for stormwater flow to the Westside Channel Watershed.

With the development of new residential areas including the Tracy Hills and Ellis projects, and The Avenues, a substantial volume of stormwater runoff will result, and will need to be mitigated by the construction of Detention Basin 3A.

**2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury**.

To accommodate the area needed for Detention Basin 3A, the subject 15.94 acre portion of the subject property has been selected. The area is on the eastern boundary of the property, along Valpico Road. The remaining portions of this agricultural property are easily accessible from Valpico Road. Damage to the remaining portion of the property does not appear to be present as a result of the proposed acquisition. The amount of land selected (15.94 acres) is the smallest area possible to construct a detention basin that will accept the expected stormwater runoff from new developments.

The City has extensively studied the design and location of Detention Basin 3A, including locating the detention basin within the Avenues Project, or surrounding the proposed fire station on the west side of the subject property. Placing the Detention Basin within The Avenues is impractical from an engineering standpoint. All property in this area of Tracy is sloped downwards to the north. In order to take advantage of gravity, the proposed location of Basin 3A is most optimal. If the new detention basin were to be placed within The Avenues, it would need to be much deeper than at the proposed location on Valpico Road, in order to allow for storage of expected stormwater volumes, and so that all portions of The Avenues would be able to flow stormwater into the new basin by gravity. This would drastically increase construction costs, and would result in high maintenance costs to establish proper security around the basin and to maintain the required slopes.

Placing the new detention basin to surround the new fire station on the west side of the subject property is also not desired from an engineering standpoint. This would require construction and maintenance of an extensive access road for access to the detention basin, and was rejected by engineering staff and consultants as an unacceptable design. The proposed location of Detention Basin 3A also will be to the benefit of a number of other undeveloped properties along Valpico Road, including two churches, which have constructed temporary detention ponds on their properties.

**3. The property described in the resolution is necessary for the proposed project.**

In order for construction of Detention Basin 3A to occur, the subject property described in this report must be acquired. Otherwise, there is not enough land otherwise available to construct the new detention basin and comply with the City's Storm Drainage Master Plan.

**4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.**

As explained previously in this report, the written offer required by California law has been provided to the affected property owner. A voluntary agreement has not been possible.

The purpose of the hearing is not to determine value of the property, but to determine whether the requirements for adopting the resolution have been met. As discussed above, the Project is necessary in order to complete construction of Detention Basin 3A. The Project has been carefully designed to minimize the amount of private property and easements necessary to construct the Project.

## STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority, which is to provide an outstanding quality of life by enhancing the City's amenities, business mix and services and cultivating connections to promote positive change and progress in our community.

## FISCAL IMPACT

The City will need to deposit $765,000 for the appraised value of the property with the State of California Condemnation Deposits Fund. The funding source for this will come from the $691,668 from the Ellis Storm Drain Fund (F332) and $73,332 from the Public Buildings Fund (F334).

## RECOMMENDATION

Staff recommends that the City Council adopt a Resolution of Necessity to acquire designated property located at the subject property and further authorize the deposit of amount previously stated with the State of California Condemnation Deposit Fund and appropriate funds from aforementioned fund accounts.

Prepared by: Zabih Zaca, PE, Senior Civil Engineer

Reviewed by: Robert Armijo, PE, City Engineer / Assistant Development Services Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

RESOLUTION 2020-_____

RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE REAL PROPERTY FOR THE CONSTRUCTION OF DETENTION BASIN 3A PURSUANT TO THE CITY OF TRACY'S CITYWIDE STORM DRAINAGE MASTER PLAN, AUTHORIZING THE DEPOSIT OF $765,000 FOR RONNOCO PROPERTIES OF TRACY II, L.P., APN 240-090-02, WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND, AND AUTHORIZING THE APPROPRIATION OF FUNDS FROM THE ELLIS STORM DRAIN FUND (F332), AND PUBLIC BUILDINGS FUND (F334)

WHEREAS, The City of Tracy wishes to acquire real property described herein below for public use by the exercise of the power of eminent domain. The property is required for storm drainage infrastructure and other public purposes required for Detention Basin 3A pursuant to the City of Tracy's Citywide Storm Drainage Master Plan ("Project"), and

WHEREAS, Pursuant to Chapter 4, Title 7, Part 3 of the Code of Civil Procedure, written notice of the intent to consider the adoption of this resolution of necessity was sent on January 24, 2020 to the owners of record of the said property, and

WHEREAS, The City prepared the Initial Study/California Environmental Quality Act Guidelines Section 15183 Analysis for the Citywide Storm Drainage Master Plan in November 2012. The City Council approved this CEQA document on November 2012, and

WHEREAS, Due consideration of all oral and documentary evidence introduced has been given;

NOW, THEREFORE, BE IT RESOLVED, by vote of two-thirds or more of its members, the City Council of the City of Tracy ("City Council") does hereby find and resolve as follows:

1. The findings and declarations contained in this resolution are based upon the record before the City Council on February 18, 2020, when the City Council received and discussed the Staff Report accompanying this resolution, and the testimony, records and documents produced at the hearing, all of which are incorporated by this reference; and

2. The real property to be acquired is located at 12501 W. Valpico Road in unincorporated San Joaquin County, California, Assessor Parcel No. 240-090-02 and more specifically described in **Exhibits A** and **B** attached hereto and made a part hereof; and

3. The property is to be acquired for the construction of a public storm drainage detention basin, pursuant to the authority granted in Government Code sections 37350.5, 40401, 40404 and 66462.5; Title 7, Part 3 of the Code of Civil Procedure (including but not limited to Code of Civil Procedure section 1240.125); and other provisions of law; and

4. The public interest and necessity require the proposed Project; and

5. The proposed project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury; and

6. The real property described herein is necessary for the proposed Project; and

7. The offer required by Section 7267.2 of the Government Code has been made to the owners of record.

Special counsel, Price, Postel & Parma LLP are hereby AUTHORIZED AND EMPOWERED:

To acquire in the name of the City of Tracy, by condemnation, the said property in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, the Government Code and the Constitution of California; and

To prepare and prosecute in the name of the City of Tracy, such proceedings in the proper court as are necessary for such acquisition; and

To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the City of Tracy to take immediate possession and use said property for said public uses and purposes.

* * * * * * * * * * *

The foregoing Resolution 2020-_____ was passed and adopted by the Tracy City Council on the 21st day of July 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

**EXHIBIT A**
**LEGAL DESCRIPTION**
**EAST SIDE ALTERNATIVE**
**(PARCEL A)**

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

A PORTION OF THE SOUTHEAST ONE QUARTER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 31, SAID POINT BEING AT THE INTERSECTION OF THE CENTERLINES OF VALPICO ROAD AND CORRAL HOLLOW ROAD, AS SHOWN ON RECORD OF SURVEY, FILED FOR RECORD OCTOBER 8, 2010, IN BOOK 37 OF SURVEYS, AT PAGE 106, SAN JOAQUIN COUNTY RECORDS; THENCE SOUTH 89 DEGREES 46 MINUTES WEST, ALONG THE CENTERLINE OF SAID VALPICO ROAD (50 FEET IN WIDTH), 3419.20 FEET TO A POINT; THENCE NORTH 00 DEGREES 14 MINUTES WEST, 25.00 FEET TO A POINT ON THE NORTH LINE OF SAID VALPICO ROAD, SAID POINT ALSO BEING THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE NORTH 00 DEGREES 26 MINUTES 30 SECONDS WEST, ALONG THE ¼ (ONE-QUARTER) SECTION LINE OF SAID SECTION 31, 295.00 FEET TO A POINT; THENCE NORTH 89 DEGREES 46 MINUTES EAST, 250.00 FEET TO A POINT; THENCE SOUTH 00 DEGREES 26 MINUTES 30 SECONDS EAST, 295.00 FEET TO THE NORTH LINE OF SAID VALPICO ROAD; THENCE SOUTH 89 DEGREES 46 MINUTES WEST, ALONG THE NORTH LINE OF SAID VALPICO ROAD, 250.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.69 ACRES, MORE OR LESS.




1-24-19

**EXHIBIT A**
**LEGAL DESCRIPTION**
**EAST SIDE ALTERNATIVE**
**(PARCEL B)**

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

A PORTION OF THE SOUTHEAST ONE QUARTER OF SECTION 31, TOWNSHIP 2 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 31, SAID POINT BEING AT THE INTERSECTION OF THE CENTERLINES OF VALPICO ROAD AND CORRAL HOLLOW ROAD, AS SHOWN ON RECORD OF SURVEY, FILED FOR RECORD JANUARY 24, 1968, IN BOOK 17 OF SURVEYS, AT PAGE 24, SAN JOAQUIN COUNTY RECORDS; THENCE SOUTH 89 DEGREES 46 MINUTES WEST, ALONG THE CENTERLINE OF SAID VALPICO ROAD (50 FEET IN WIDTH), 1546.10 FEET TO A POINT; THENCE NORTH 00 DEGREES 14 MINUTES WEST, 25.00 FEET TO A POINT ON THE NORTH LINE OF SAID VALPICO ROAD, SAID POINT ALSO BEING THE **TRUE POINT OF BEGINNING** OF THE HEREIN DESCRIBED PARCEL OF LAND; THENCE SOUTH 89 DEGREES 46 MINUTES WEST, ALONG THE NORTH LINE OF SAID VALPICO ROAD, 800.00 FEET TO A POINT; THENCE NORTH 00 DEGREES 14 MINUTES WEST, 900.00 FEET TO A POINT; THENCE NORTH 89 DEGREES 46 MINUTES EAST, 555.30 FEET TO THE SOUTHWESTERLY LINE OF THE WEST SIDE IRRIGATION DISTRICT RIGHT-OF-WAY, AS DESCRIBED IN BOOK A OF DEEDS, VOLUME 383, AT PAGE 213, RECORDED AUGUST 1, 1919, SAN JOAQUIN COUNTY RECORDS; THENCE SOUTH 45 DEGREES 58 MINUTES EAST, ALONG SAID SOUTHWESTERLY LINE OF WEST SIDE IRRIGATION DISTRICT RIGHT-OF-WAY LINE, 180.86 FEET TO A POINT; THENCE SOUTH 67 DEGREES 07

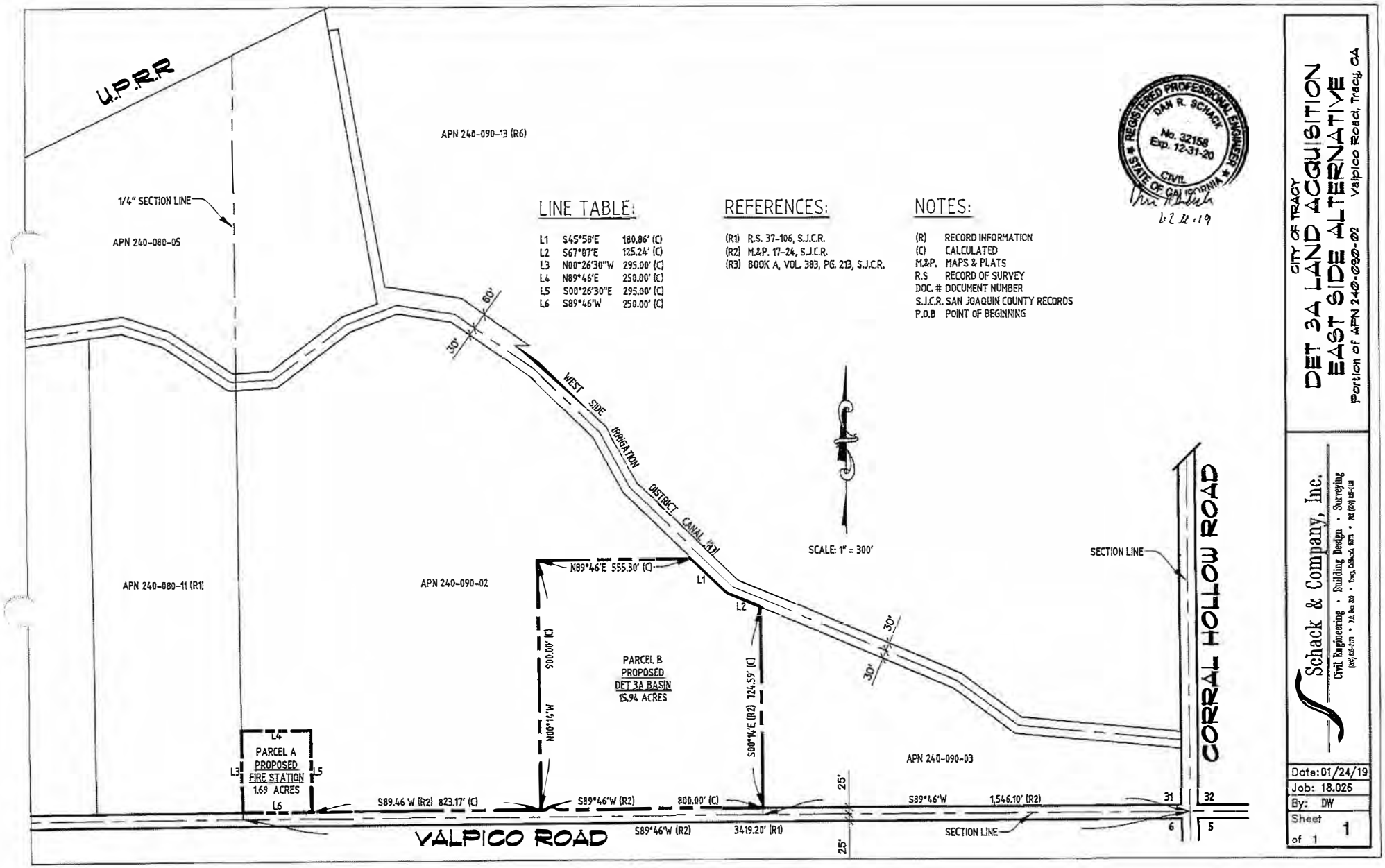
MINUTES EAST, ALONG SAID SOUTHWESTERLY LINE OF WEST SIDE IRRIGATION DISTRICT RIGHT-OF-WAY, 125.24 FEET TO A POINT; THENCE SOUTH 00 DEGREES 14 MINUTES EAST, 724.59 FEET TO THE POINT OF BEGINNING.

CONTAINING 15.94 ACRES, MORE OR LESS.




1.24.19

# EXHIBIT B




SCALE: 1" = 300'

## LINE TABLE:

| | | |
|---|---|---|
| L1 | S45°58'E | 180.86' (C) |
| L2 | S67°07'E | 125.24' (C) |
| L3 | N00°26'30"W | 295.00' (C) |
| L4 | N89°46'E | 250.00' (C) |
| L5 | S00°26'30"E | 295.00' (C) |
| L6 | S89°46'W | 250.00' (C) |

## REFERENCES:

(R1) R.S. 37-106, S.J.C.R.
(R2) M.&P. 17-24, S.J.C.R.
(R3) BOOK A, VOL. 383, PG. 213, S.J.C.R.

## NOTES:

(R) RECORD INFORMATION
(C) CALCULATED
M.&P. MAPS & PLATS
R.S RECORD OF SURVEY
DOC. # DOCUMENT NUMBER
S.J.C.R. SAN JOAQUIN COUNTY RECORDS
P.O.B POINT OF BEGINNING

REGISTERED PROFESSIONAL ENGINEER
DAN R. SCHACK
No. 32158
Exp. 12-31-20
CIVIL
STATE OF CALIFORNIA

1-22-19

CITY OF TRACY

# DET 3A LAND ACQUISITION
# EAST SIDE ALTERNATIVE

Portion of APN 240-090-02 Valpico Road, Tracy, CA

Schack & Company, Inc.
Civil Engineering • Building Design • Surveying
(209) 656-1111 • 715 Sno Rd • Tracy, California 95376 • FAX (209) 835-1138

Date: 01/24/19
Job: 18.026
By: DW
Sheet 1 of 1

July 21, 2020

AGENDA ITEM 3.C

REQUEST

**CONSIDER ADOPTION OF AN AMENDMENT TO RESOLUTION NO. 2019-231 AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAYS AND TEMPORARY CONSTRUCTION EASEMENTS FROM CERTAIN REAL PROPERTIES FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM WEST SCHULTE ROAD TO LINNE ROAD, AND AUTHORIZE THE DEPOSIT OF $15,200 FOR STEVENSON PARCEL, $48,000 FOR TLC, INC. PARCEL, $29,400 FOR PRABHAKARAN PARCEL, $10,400 FOR CARTER PARCEL, $90,300 FOR DURKEE PARCEL, $57,100 FOR GALVAO PARCEL, $23,800 FOR SCHIRMER PARCEL, $39,600 FOR KING PARCEL, AND $32,300 FOR SOLOMON AND REITZ PARCEL, WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND**

EXECUTIVE SUMMARY

The City has an approved Capital Improvement Project (CIP) to construct improvements for the widening of Corral Hollow Road from West Schulte Road (also known as Old Schulte Road) to Linne Road, CIP 73144 (the "Project"). The Project is often referred to as the Corral Hollow Widening Project. The Project is more fully described in **Exhibit A,** the Staff Report that accompanied the City of Tracy's Resolution No. 2019-231, adopted on November 19, 2019. For property owners with whom the City could not reach a private agreement for possession of the property interest(s) for the Project, counsel for the City has commenced eminent domain proceedings. In the eminent domain proceedings, Property Owners Tender Loving Care, Inc., Durkee, and Galvao have contested the City's right to take property outside of the City's jurisdiction. After a hearing on the issue, the Court has instructed the City to amend Resolution No. 2019-231 to include the complete scope of statutory authority authorizing these extra-territorial acquisitions.

DISCUSSION

Construction of the Project requires the acquisition of real property for right-of-way purposes from fifty-five (55) properties owned by 52 property owners. The City completed appraisals and made offers to the owners of these properties. Out of fifty-five (55) parcels, the City has secured the required properties and easements or is in the process of final agreements for acquisition for fifty-two (52) of the parcels. The City has not been able to secure rights-of-way, easements and real properties from three (3) parcels, Durkee, Galvao, and Tender Loving Care, Inc., the owners of which retained legal counsel to dispute the City's right to possession. Specifically, counsel for these property owners objected to the City's Resolution of Necessity, adopted on November 19, 2019, arguing that the Resolution did not cite the complete scope of statutory authority supporting the City's right to take these parcels. Although counsel for the City contended otherwise, the Court agreed with this argument, and has instructed the City to amend its Resolution of Necessity to include the complete scope of statutory authority authorizing these extra-territorial acquisitions. As a result, in order to complete the acquisitions of rights-of-way and easements for these three (3) parcels in a timely manner and without delaying construction of the Project, the City Council is requested to

adopt an Amendment to Resolution No. 2019-231 that cites the full scope of statutory authority so that the City can amend the complaints in eminent domain for these three (3) parcels and acquire the subject easements and real properties. The City will continue working toward voluntary settlement with the property owners and with their counsel throughout the eminent domain proceedings.

## STRATEGIC PLAN

This proposed amendment to Resolution No. 2019-231 is a routine item and does not relate to the Council's Strategic Plans.

## FISCAL IMPACT

The proposed amendment to Resolution No. 2019-231 does not have any additional fiscal impacts.

## RECOMMENDATION

That the City Council adopt an Amendment to Resolution No. 2019-231 citing the full scope of legal authority upon which the City's right to take the properties referenced in Resolution No. 2019-231 is based.

Prepared by: Kul Sharma, Utilities Director

Reviewed by: Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## ATTACHMENTS

Exhibit A - November 19, 2019, Staff Report

EXHIBIT A

November 19, 2019

AGENDA ITEM _____

REQUEST

**CONSIDER ADOPTION OF A RESOLUTION OF NECESSITY AUTHORIZING THE INITIATION OF EMINENT DOMAIN PROCEEDINGS TO ACQUIRE RIGHT-OF-WAYS AND TEMPORARY CONSTRUCTION EASEMENTS FROM CERTAIN REAL PROPERTIES FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM WEST SCHULTE ROAD TO LINNE ROAD, AND AUTHORIZE THE DEPOSIT OF $15,200 FOR STEVENSON PARCEL, $48,000 FOR TLC, INC. PARCEL, $29,400 FOR PRABHAKARAN PARCEL, $10,400 FOR CARTER PARCEL, $90,300 FOR DURKEE PARCEL, $57,100 FOR GALVAO PARCEL, $23,800 FOR SCHIRMER PARCEL, $39,600 FOR KING PARCEL, AND $32,300 FOR SOLOMON AND REITZ PARCEL, WITH THE STATE OF CALIFORNIA CONDEMNATION DEPOSIT FUND**

EXECUTIVE SUMMARY

The City has an approved Capital Improvement Project (CIP) to construct improvements for the widening of Corral Hollow Road from West Schulte Road (also known as Old Schulte Road) to Linne Road, CIP 73144 (Project). The Project is often referred to as the Corral Hollow Widening Project. The City's 2011 Transportation Master Plan requires the widening of Corral Hollow Road to improve traffic circulation in this part of the City. The Project involves widening Corral Hollow Road from existing two lanes to four lanes with median, service lane, sidewalk, storm drainage and street lights. The precise plan line for this segment of Corral Hollow Road was approved by the City Council on November 15, 2016. The Project passes through San Joaquin County's jurisdiction and the City entered into a cooperative agreement with the County on February 9, 2016, to acquire right-of-ways and complete construction in the County. The project design is complete and involves acquisition of easements and rights-of-way from adjacent property owners (55 parcels) to accommodate the road widening.

Out of fifty-five (55) parcels, the City has not been able to secure rights-of-way, easements and real properties from the remaining nine (9) parcels. In order to complete the acquisitions of right-of-ways and easements in a timely manner without delaying construction of this project, the City Council is requested to adopt a Resolution of Necessity to initiate eminent domain proceedings to acquire the subject easements and real properties. However, the City will still continue working toward completing voluntary acquisitions of such real properties and easements with the property owners during eminent domain proceedings and condemnation process.

DISCUSSION

Corral Hollow Road from West Schulte Road to Linne Road is a major roadway arterial connecting the City's north-south corridor. The City of Tracy's Transportation Master Plan (2012) identifies widening of Corral Hollow Road to improve traffic circulation and relieve congestion. With the development of Ellis and Tracy Hills project, widening of Corral Hollow Road is critical to move vehicles in this corridor.

Design of Corral Hollow Road Widening Project from West Schulte Road (also known as Old Schulte Road) to Linne Road is complete and staff has been working on acquisition of rights-of-way and easements from the fronting property owners for construction of improvements. The scope of the Project includes the widening of the road from existing two lanes to four lanes complete with medians, service lane, sidewalk, street lighting and storm drainage from west Schulte Road to Linne Road. The roadway precise plan line along with road cross section was approved by City Council on November 15, 2016.

The City prepared the Initial Study and Mitigated Negative Declaration (IS/MND) in accordance with California Environmental Quality Act (CEQA). The City Council approved the Project and adopted the IS/MND on February 20, 2018. An amendment to the IS/MND to include PGE improvements required for the project was approved by the City Council on June 18, 2019.

The City and its consultants have designed the Project so that a minimum amount of easements and private property are acquired. Construction of the improvements for widening the roadway requires the acquisition of real property for right-of-way purposes from fifty-five (55) properties owned by 52 property owners. The City completed appraisals and made offers to owners of these properties. The City has secured required properties and easements from thirty-four (34) properties and is in the process of final agreements for acquisition for twelve (12) other properties for the right-of-way purposes. The City has reached an impasse with the nine (9) property owners. The owners of record of these properties and the needed property and/or easements are as follows:

1. John and Stacey Stevenson, 26204 S. Corral Hollow Road, Tracy, California, (APN 242-030-41). A 569 square feet of frontage real property and a 925 square feet construction easement on the existing 26,930 square feet parcel.

2. Tender Loving Care, Inc., 26097 S Corral Hollow Road, Tracy, California, (APN 240-100-07). A 11,337 square feet of frontage real property (7,920 square feet encumbered by public right-of-way and 3,417 square feet unencumbered) and a 3,850 square feet construction easement on the existing 43,560 square feet parcel.

3. Prabhakaran Family Trust, 26172 S. Corral Hollow Road, Tracy, California, (APN 242-030-40). A 2,307 square feet of frontage real property and a 2,600 square feet construction easement on the existing 43,560 square feet parcel.

4. Bonny Carter, 27350 S. Corral Hollow Road, Tracy, California, (APN 244-030-13). A 5,995 square feet construction easement on the existing 81,120 square feet parcel.

5. Michael and Emily Durkee, 26909 S. Corral Hollow Road, Tracy, California, (APN 240-090-04). A 2,291 square feet of frontage real property and a 6,120 square feet construction easement on the existing 43,814 square feet parcel.

6. Maximo and Maria Galvao, 25883 S. Corral Hollow Road, Tracy, California, (APN 240-100-02). A 12,611 square feet of frontage real property (9,001 square feet encumbered by public right-of-way and 3,610 square feet unencumbered) and a 3,680 square feet construction easement on the existing 52,752 square feet parcel.

7. Mathew Schirmer, 26391 S. Corral Hollow Road, Tracy, California, (APN 240-100-15). A 6,967 square feet of frontage real property (5,085 square feet encumbered by public right-of-way and 1,660 square feet unencumbered) and a 2,515 square feet construction easement on the existing 25,369 square feet parcel.

8. Errol Gene King, et al, 26220 S. Corral Hollow Road, Tracy, California, (APN 242-030-42). A 1,630 square feet of frontage real property and a 2,085 square feet construction easement on the existing 12,992 square feet parcel.

9. Patrick Salomon and Anneliese Reitz, 26325 S. Corral Hollow Road, Tracy, California, (APN 240-100-14). A 6,058 square feet of frontage real property (4,422 square feet encumbered by public right-of-way and 1,636 square feet unencumbered) and a 2,125 square feet construction easement on the existing 22,039 square feet parcel.

The City has obtained the latest appraisals for the properties described above by an independent licensed appraiser. The owners of record of the above properties have been sent a summary of the appraisals and offers to purchase the required properties and easements. The property owners and their agents were also sent an information handbook explaining the process and their rights. All parties were also informed of this hearing to adopt the attached Resolution of Necessity and their right to speak at the City Council meeting. To date, negotiations conducted by City staff and the City's right-of-way consultants have not resulted in agreed prices for the required properties.

A check of records with the San Joaquin County Recorder on October 10, 2019, ascertained that all property owners are still owners of record for these properties. Staff recommends that a Resolution of Necessity be adopted at this time. This will allow for the filing of eminent domain proceedings to acquire the required properties. Should the owners of record, wish to enter into negotiations to allow the City to purchase the property, such negotiations can occur even after filing the eminent domain action.

In order to adopt a Resolution of Necessity, a total of four (4/5) affirmative votes from the City Council are required. In addition, the Council must find and determine as follows:

**1. The public interest and necessity require the proposed project.**

Corral Hollow Road from Linne Road to Parkside Drive is a major arterial connecting the City's north-south corridor. The City's Roadway Master Plan identifies widening Corral Hollow Road from Linne Road to Parkside Drive. With the development of the Ellis and Tracy Hills projects, widening of this portion of Corral Hollow Road is critical to move vehicular traffic to and from the northern and southern corridors of the City.

With the development of new residential areas including the Tracy Hills and Ellis projects, a substantial volume of vehicular traffic to and from these properties is anticipated and will need to be mitigated by the widening of Corral Hollow Road.

**2. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury**;

To accommodate the arterial roadway as planned, additional road right-of-way is needed. Additional right-of-way averaging about 14 feet in width, and ranging from 7.5 feet to 35 feet in width, would be purchased from approximately 52 adjoining residents, churches, developers and other property owners. Temporary construction easements and long-term public utility easements will also be acquired from each property owner, as needed.

Due to historic development in the project area, the proposed Corral Hollow Road design is expected to use a minimum 88-feet wide right-of-way. The 88-feet wide right-of-way would provide two travel lanes (11-feet each) in each direction (north and south); an 8-feet wide safety/service lane in each direction; and 5.5 to 10.5-feet wide sidewalks on both sides. Between the travel lanes would be located a 14-feet wide center median/left turn pocket area that may be raised or striped. With the reduced width right-of-way, the majority of the 2-mile alignment will not include planned bicycle facilities. Instead, the project will incorporate 8-feet wide safety/service lanes located between the second 11-feet travel lane and curb.

The existing right-of-way of Corral Hollow Road is being used to the maximum extent possible. The additional right-of-way required has been minimized to the extent possible, and consists solely of frontage along the existing properties.

**3. The properties described in the resolution are necessary for the proposed project**

In order for the Corral Hollow Widening Project to occur, the properties described in this report must be acquired. Otherwise, there is not enough right-of-way available to construct the new roadway and comply with the City's Transportation Master Plan.

**4. That either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence**

As explained previously in this report, the written offers required by California law have been provided to all of the affected property owners. Voluntary agreements have not been possible with the owners identified above.

The purpose of the hearing is not to determine value of the property, but to determine whether the requirements for adopting the resolution have been met. As discussed above, the project is necessary in order to complete roadway widening. The project has been carefully designed to minimize the amount of private property and easements necessary to construct the project.

FISCAL IMPACT

The City will need to deposit the appraised value of the properties with the State of California Condemnation Deposits Fund. These funds have been budgeted in CIP 73144, for FY 19-20, and are within the project's budgeted amount.

RECOMMENDATION

That the City Council adopt a Resolution of Necessity to acquire designated property and easements located at the following addresses and Assessor Parcel Numbers (APN) by eminent domain for the purpose of constructing improvements for widening of Corral Hollow Road and further authorize the deposit of the amounts listed against each property with the State of California Condemnation Deposit fund:

1. John and Stacey Stevenson, 26204 S. Corral Hollow Road, Tracy, California, (APN 242-030-41) - $15,200

2. Tender Loving Care, Inc., 26097 S Corral Hollow Road, Tracy, California, (APN 240-100-07) - $ 48,000.

3. Prabhakaran Family Trust, 26172 S. Corral Hollow Road, Tracy, California, (APN 242-030-40) - $29,400.

4. Bonny Carter, 27350 S. Corral Hollow Road, Tracy, California, (APN 244-030-13) - $10,400

5. Michael and Emily Durkee, 26909 S. Corral Hollow Road, Tracy, California, (APN 240-090-04) $ 90,300.

6. Maximo and Maria Galvao, 25883 S. Corral Hollow Road, Tracy, California, (APN 240-100-02) $ 57,100.

7. Mathew Schirmer, 26391 S. Corral Hollow Road, Tracy, California, (APN 240-100-15) - $ 23,800

8. Errol Gene King, et al, 26220 S. Corral Hollow Road, Tracy, California, (APN 242-030-42) - $ 39,600

9. Patrick Salomon and Anneliese Reitz, 26325 S. Corral Hollow Road, Tracy, California, (APN 240-100-14) – $32,300

Prepared by: Ripon Bhatia, Senior Civil Engineer

Reviewed by: Kul Sharma, Utilities Director
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

RESOLUTION NO. 2020-___

AMENDING RESOLUTION OF NECESSITY (RESOLUTION NO. 2019-231) OF THE CITY OF TRACY TO CONDEMN REAL PROPERTIES IN CONNECTION WITH THE WIDENING OF CORRAL HOLLOW ROAD FROM WEST SCHULTE ROAD TO LINNE ROAD; MAKE FINDINGS AND DETERMINATIONS; AUTHORIZE EMINENT DOMAIN PROCEEDINGS AND APPLICATIONS FOR POSSESSION PRIOR TO JUDGMENT; DRAW AND DEPOSIT WARRANTS (PORTION OF STEVENSON, APN 242-030-41; TENDER LOVING CARE, APN 240-100-07; PRABHAKARAN, APN 242-030-40; CARTER, APN 244-030-13; DURKEE, APN 240-090-04; GALVAO, APN 240-100-02; SCHIRMER, APN 240-100-15; KING, APN 242-030-42; AND SALOMON/REITZ, APN 240-100-14)

Except as expressly set forth herein, the City of Tracy's Resolution No. 2019-231, adopted on November 19, 2019, and attached hereto as **Exhibit A**, will remain in full force and effort as originally adopted.

Resolution No. 2019-231 shall be amended as follows with respect to the following properties only:

a) Tender Loving Care, Inc., 26097 S Corral Hollow Road, Tracy, California, (APN 240-100-07), more specifically described in **Exhibit B** attached hereto and made a part hereof.

b) Michael and Emily Durkee, 26909 S. Corral Hollow Road, Tracy, California, (APN 240-090-04), more specifically described in **Exhibit C** attached hereto and made a part hereof.

c) Maximo and Maria Galvao, 25883 S. Corral Hollow Road, Tracy, California, (APN 240-100-02), more specifically described in **Exhibit D** attached hereto and made a part hereof.

The amendments to Resolution No. 2019-231 are as follows:

3. The properties are to be acquired for the rights-of-way and easements for the Project, pursuant to the authority granted in Government Code sections 1240.140, 37350.5, 40401, 40404 and 66462.5; Title 7, Part 3 of the Code of Civil Procedure; Government Code section 6502; Streets & Highways Code section 1810; the City-County Cooperative Agreement For Corral Hollow Road Widening Project, attached hereto as **Exhibit E**; and other provisions of law;

Special counsel, Price, Postel & Parma LLP are hereby AUTHORIZED AND EMPOWERED:

To acquire in the name of the City of Tracy, by condemnation, the said properties in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, the Government Code, the Streets & Highways Code, the Constitution of California, and the City-County Cooperative Agreement For Corral Hollow Road Widening Project;

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

The foregoing Resolution No. 2020- was passed and adopted by the Tracy City Council on the 21st day of July, 2020 by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

# EXHIBIT A

RESOLUTION 2019-231

RESOLUTION OF NECESSITY OF THE CITY OF TRACY TO CONDEMN REAL PROPERTIES IN CONNECTION WITH THE WIDENING OF CORRAL HOLLOW ROAD FROM WEST SCHULTE ROAD TO LINNE ROAD; MAKE FINDINGS AND DETERMINATIONS; AUTHORIZE EMINENT DOMAIN PROCEEDINGS AND APPLICATIONS FOR POSSESSION PRIOR TO JUDGMENT; DRAW AND DEPOSIT WARRANTS (PORTION OF STEVENSON, APN 242-030-41; TENDER LOVING CARE, APN 240-100-07; PRABHAKARAN, APN 242-030-40; CARTER, APN 244-030-13; DURKEE, APN 240-090-04; GALVAO, APN 240-100-02; SCHIRMER, APN 240-100-15; KING, APN 242-030-42; AND SALOMON/REITZ, APN 240-100-14)

WHEREAS, The City of Tracy wishes to acquire the real properties described herein for public use by the exercise of the power of eminent domain. The properties are required for the project to widen Corral Hollow Road from West Schulte Road to Linne Road (the "Project"), and

WHEREAS, Pursuant to Chapter 4, Title 7, Part 3 of the Code of Civil Procedure, written notice of the intent to consider the adoption of this resolution of necessity was sent on October 31, 2019, to the owners of record of the said properties, and

WHEREAS, Due consideration of all oral and documentary evidence introduced has been given;

NOW, THEREFORE, by vote of four (4/5) or more of its members, the City Council of the City of Tracy does find and resolve as follows:

1. The findings and declarations contained in this resolution are based upon the record before the City Council on November 19, 2019, when the City Council received and discussed the Staff Report accompanying this resolution, and the testimony, records and documents produced at the hearing, all of which are incorporated by this reference;

2. The properties to be acquired are:

a) John and Stacey Stevenson, 26204 S. Corral Hollow Road, Tracy, California, (APN 242-030-41). The property to be acquired consists of 569 square feet of frontage real property in fee simple, and 925 square feet for a temporary construction easement, more specifically described in **Attachment A** attached hereto and made a part hereof.

b) Tender Loving Care, Inc., 26097 S. Corral Hollow Road, Tracy, California, (APN 240-100-07). The property to be acquired consists of 11,337 square feet of frontage property in fee simple, and 3,850 square feet for a temporary construction easement, more specifically described in **Attachment B** attached hereto and made a part hereof.

c) Prabhakaran Family Trust, 26172 S. Corral Hollow Road, Tracy, California, (APN 242-030-40). The property to be acquired consists of 2,307 square feet of frontage real property in fee simple, and 2,600 square feet for a temporary construction easement, more specifically described in **Attachment C** attached hereto and made a part hereof.

d) Bonny Carter, 27350 S. Corral Hollow Road, Tracy, California, (APN 244-030-13). The property to be acquired consists of a 5,995 square foot temporary construction easement, more specifically described in **Attachment D** attached hereto and made a part hereof.

e) Michael and Emily Durkee, 26909 S. Corral Hollow Road, Tracy, California, (APN 240-090-04). The property to be acquired consists of 2,291 square feet of frontage real property in fee simple, and 6,120 square feet for a temporary construction easement, more specifically described in **Attachment E** attached hereto and made a part hereof.

f) Maximo and Maria Galvao, 25883 S. Corral Hollow Road, Tracy, California, (APN 240-100-02). The property to be acquired consists of 12,611 square feet of frontage real property in fee simple, and 3,680 square feet for a temporary construction easement, more specifically described in **Attachment F** attached hereto and made a part hereof.

g) Mathew Schirmer, 26391 S. Corral Hollow Road, Tracy, California, (APN 240-100-15). The property to be acquired consists of 6,967 square feet of frontage real property in fee simple and 2,515 square feet for a temporary construction easement, more specifically described in **Attachment G** attached hereto and made a part hereof.

h) Errol Gene King, et al, 26220 S. Corral Hollow Road, Tracy, California, (APN 242-030-42). The property to be acquired consists of 1,630 square feet of frontage real property in fee simple, and 2,085 square feet for a temporary construction easement, more specifically described in **Attachment H** attached hereto and made a part hereof.

i) Patrick Salomon and Anneliese Reitz, 26325 S. Corral Hollow Road, Tracy, California, (APN 240-100-14). The property to be acquired consists of 6,058 square feet of frontage real property in fee simple, and 2,125 square feet for a temporary construction easement, more specifically described in **Attachment I** attached hereto and made a part hereof.

3. The properties are to be acquired for the right-of-ways and easements for the Project, pursuant to the authority granted in Government Code sections 37350.5, 40401, 40404 and 66462.5; Title 7, Part 3 of the Code of Civil Procedure; and other provisions of law;

4. The City prepared the Initial Study and Mitigated Negative Declaration (IS/MND) in accordance with California Environmental Quality Act (CEQA). The City Council approved the Project and adopted the IS/MND on February 20, 2018. An amendment to the IS/MND to include Pacific Gas & Electric improvements required for the Project was approved by the City Council on June 18, 2019;

5. The public interest and necessity require the Project;

6. The Project is planned or located in the manner which will be most compatible with the greatest public good and the least private injury;

7. The real property interests described herein are necessary for the Project; and

8. The offers required by Section 7267.2 of the Government Code have been made to the owners of record.

Special counsel, Price, Postel & Parma LLP are hereby AUTHORIZED AND EMPOWERED:

To acquire in the name of the City of Tracy, by condemnation, the said properties in accordance with the provisions of the eminent domain law, the Code of Civil Procedure, the Government Code and the Constitution of California;

To prepare and prosecute in the name of the City of Tracy, such proceedings in the proper court as are necessary for such acquisitions; and

To deposit the probable amounts of compensation, based on appraisals, and to apply to said court for an order permitting the City of Tracy to take immediate possession and use said properties for said public uses and purposes.

The foregoing Resolution 2019-231 was passed and adopted by the Tracy City Council on the 19th day of November, 2019, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

MAYOR

ATTEST:

CITY CLERK

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## STEVENSON (2000-026008)
## APN 242-030-41
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to Stevenson, recorded in Document No.2000-026008, Official Records of San Joaquin County, said parcel being Parcel D, as last said parcel is shown on the map in Book 24 of Surveys, Page 26, San Joaquin County Records and more particularly described as follows:

**Beginning** at the northwesterly corner of said Parcel D; thence along the northerly line of last said parcel South 89°39'01" East 14.26 feet; thence across last said parcel South 00°17'57" West 40.00 feet to the generally southerly line of last said parcel; thence along last said line North 89°39'01" West 14.20 feet to the westerly line of last said parcel, last said line also being the easterly line of Corral Hollow Road, as said road is shown on said map; thence along last said line North 00°12'09" East 40.00 feet to the **Point of Beginning**.

Containing 569 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

This description and its accompanying plat were prepared by or under the direction of:

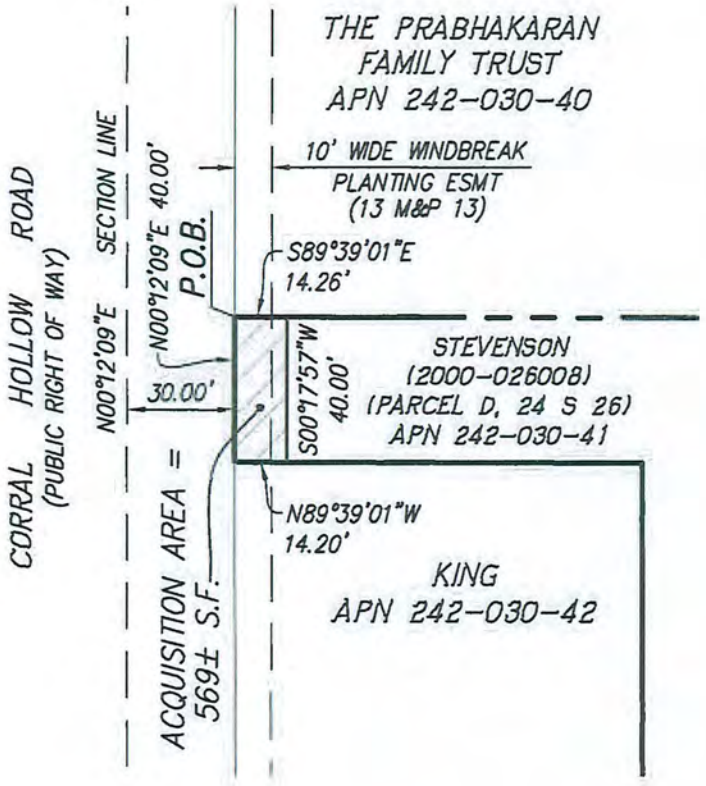
April 9, 2018

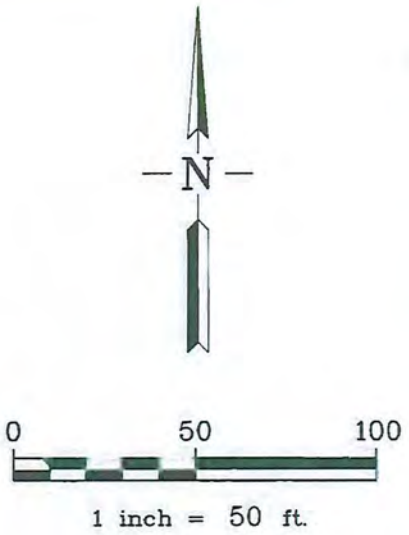
Scott A. Shortlidge, PLS 6441 Date

Attachment 2

LEGEND

| | |
|---|---|
| ——— | PROPERTY LINE |
| ——— | ACQUISITION LINE |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| ▨ | ACQUISITION AREA |







## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.

*SCOTT A. SHORTLIDGE, P.L.S. 6441*
*APRIL 9, 2018*

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\E04-APN 24203041-STEVENSON.DWG 4/10/2018 1:57:58 PM ALAN MULLEN

# EXHIBIT B

## PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION

## CORRAL HOLLOW ROAD

**CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA**


RJA

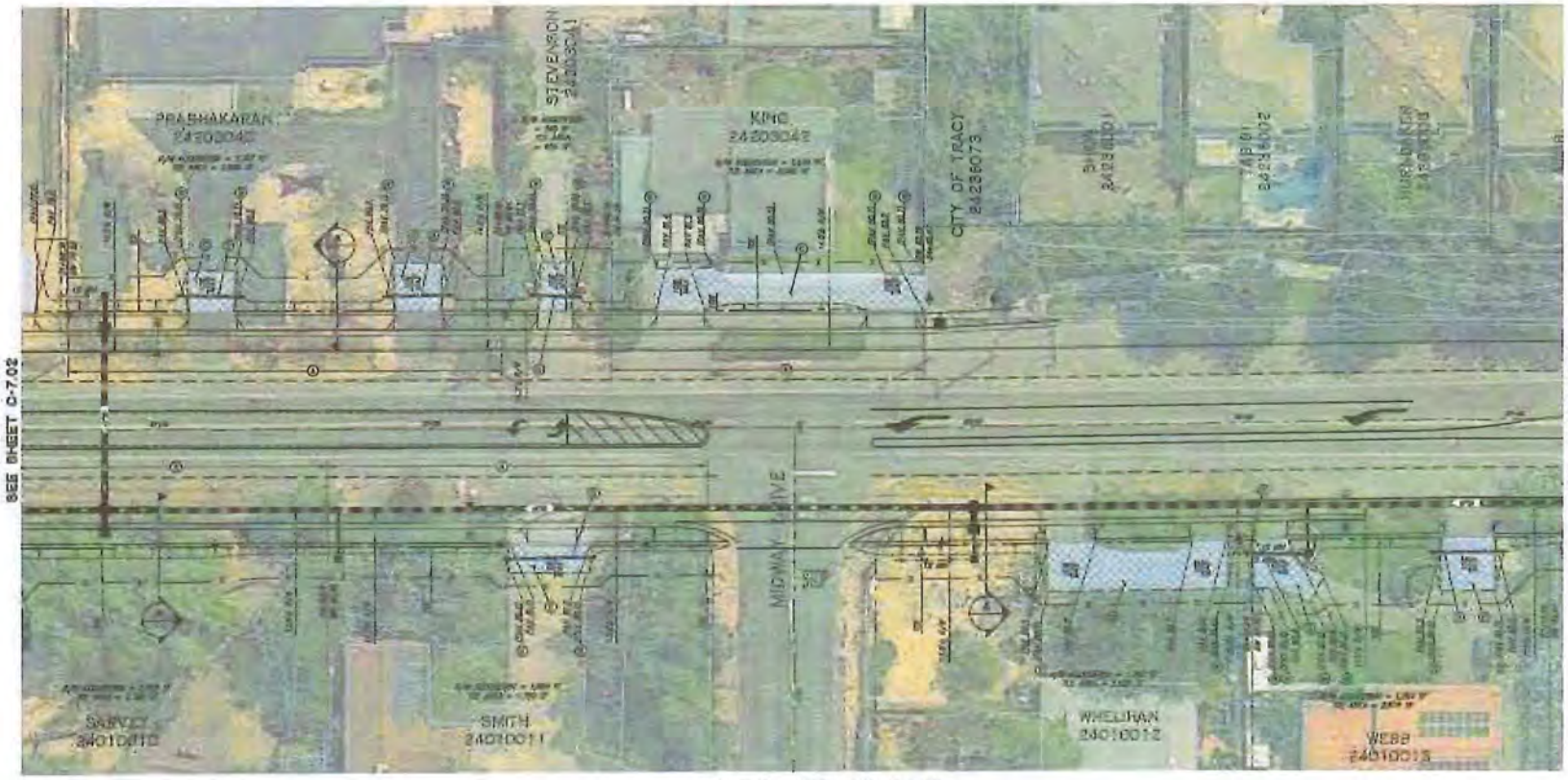
**RUGGERI-JENSEN-AZAR**

ENGINEERS • PLANNERS • SURVEYORS

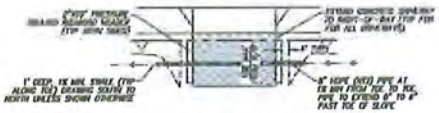
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588

PHONE: (925) 227-9100 FAX: (925) 227-9300

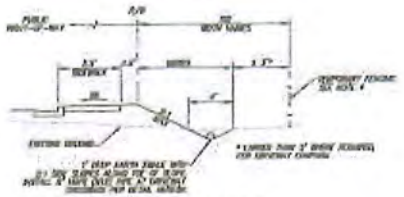

| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




CORRAL HOLLOW ROAD



8" HDPE PIPE CROSSING/
DRIVEWAY DETAIL
NOT TO SCALE



SECTION A
NOT TO SCALE

GENERAL NOTES:

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR IS CLEAR EXISTING TREES, BUSHES, AND VEGETATION IN THE AREA.
3. CONTRACTOR IS LOST & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN LOD LIMITS.
4. CONTRACTOR IS INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TOE WHERE NO FENCES EXIST, CONSTRUCTORS IS INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TOE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTRACTORS HSA, EPIC CONTRACTOR SHALL BE CONSCIOUS OF ALL CAUTION SIGNAGE PROVIDED.

CONSTRUCTION NOTES:

A. REMOVE EXISTING FENCE, SEE HOND FENCES SHALL BE REMOVED TO THE LIMIT.
B. REMOVE EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CORNERS.
C. REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/FENCE DRIVEWAY AND REPLACE WITH 5" AC/AB/5" AC PAVING 5"X24" PRECISION RIBBED REVERSED MEDIANS PER DRIVEWAY DETAIL MEDIANS.
D. INSTALL 8" HDPE (DIP) AT 1% MIN UNDER DRIVEWAY PER DETAIL MEDIANS.

LEGEND

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- R.S.P.E.
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- NEW DRIVEWAY ELEVATION
- EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (DIP)
- NEW PIPE TRANSITION



1 inch = 100 ft.

CAUTION EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE
1-800-227-2600

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE CONDITIONS SHOWN CITY OF TRACY AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR ERRORS AND/OR OMISSIONS THAT MAY BE PRESENT ON THESE PLANS

CITY ENGINEER — DATE

RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS
(707) 426-3300

REVISIONS

| NO. | DESCRIPTION | DATE | APPROVED |
|---|---|---|---|

DESIGNED BY
DRAWN BY
CHECKED BY
DATE

LOT FINE GRADING AND CONFORM PLANS

IMPROVEMENT PLANS
CORRAL HOLLOW ROAD
WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET
C-7.03
OF ## SHEETS

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## TENDER LOVING CARE, INC. (1999-101072)
## APN 240-100-07
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to Tender Loving Care, Inc., recorded in Document No. 1999-101072, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel; thence along the easterly line of said parcel, last said line also being the easterly line of Section 31, T2S, R5E, MDB&M, South 00°12'09" West 263.98 feet to the southerly line of said parcel; thence along last said line North 89°39'24" West 43.16 feet; thence across said parcel North 00°17'57" East 263.98 feet to the northerly line of said parcel; thence along last said line South 89°39'24" East 42.72 feet to the **Point of Beginning.**

Containing 11,337 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

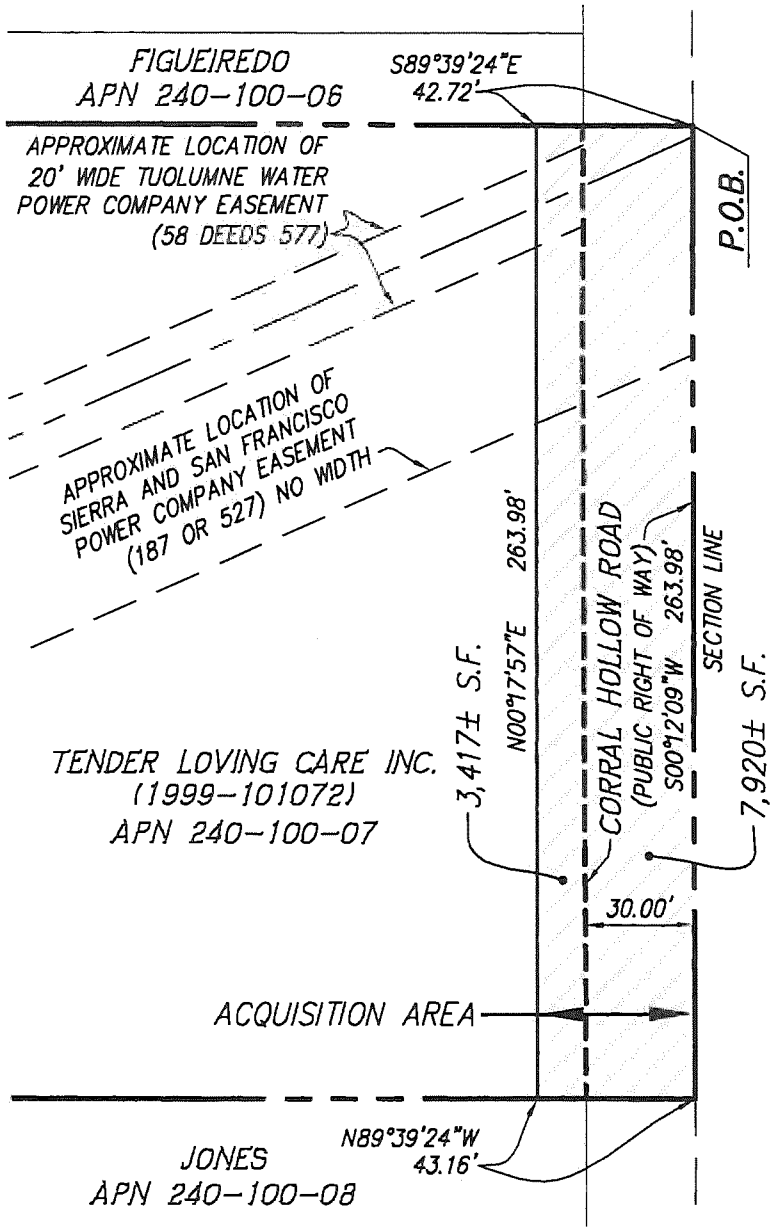
This description and its accompanying plat were prepared by or under the direction of:

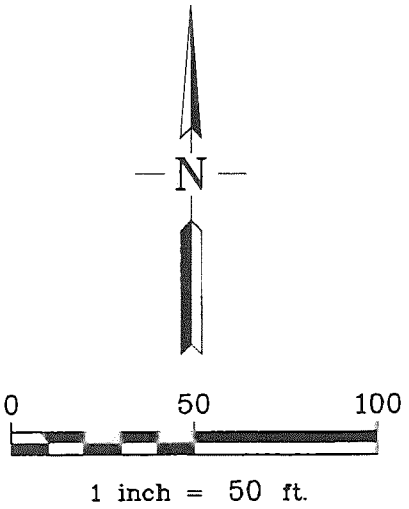
April 5, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

| | |
|---|---|
| | PROPERTY LINE |
| | ACQUISITION LINE |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| | ACQUISITION AREA |




## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.




SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\WD6-APN 24010007-TENDER LOVING CARE.DWG 4/5/2018 6:59:11 PM ALAN MULLEN

# EXHIBIT B

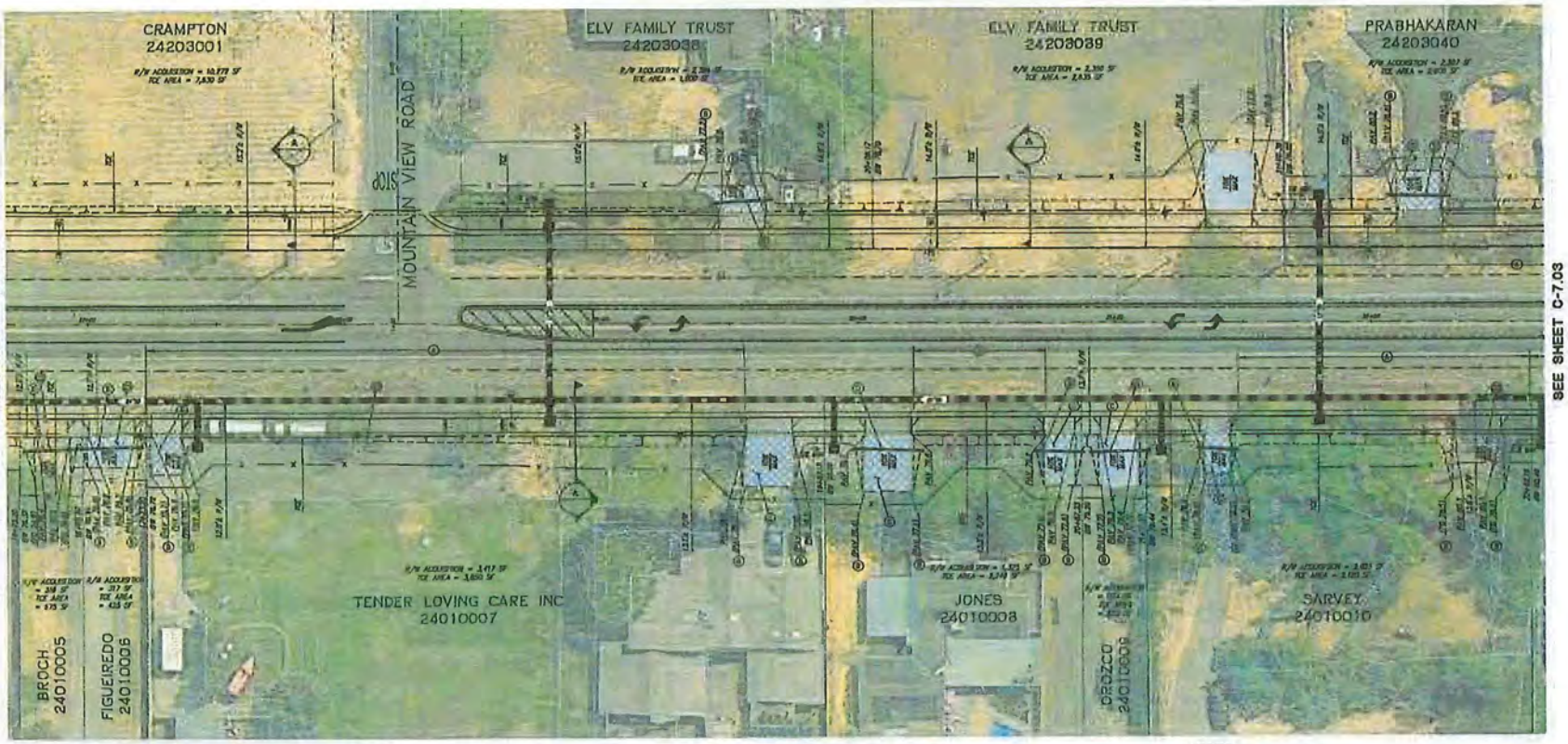
PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA


RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300


| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




CORRAL HOLLOW ROAD

8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL
NOT TO SCALE

SECTION A
NOT TO SCALE

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO TCE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TCE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TCE. WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TCE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE CODIZANT OF ALL EXISTING OVERHEAD FACILITIES.
6. ALL DISTURBED AREAS (BACK OF WALK, SLOPES AND EARTH SWALES) TO BE HYDROSEEDED. CONTRACTOR SHALL WATER AND HYDROSEED UNTIL ESTABLISHED AND STABLE.

**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE. SIDE YARD FENCES SHALL BE REMOVED TO TCE LIMIT.

(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/6.5" AB. INSTALL 3"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (SDR) AT 1% MIN UNDER DRIVEWAY PER DETAIL HEREON.

(E) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 4" AC/10" AB. INSTALL 3"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(F) GRADE DRIVE ACCESS AT 10% MAX. SLOPE MAY BE STEEPENED ON BROCH PARCEL TO PRESERVE EX TREE (AT BROCH'S REQUEST).

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAY XX.X — NEW DRIVEWAY ELEVATION
- (PAY XX.X) — EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (SDR)
- NEW FIRE HYDRANT

0 20 40 80
1 Inch = 20 Ft.

CAUTION! EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

CALL TOLL FREE 1-800-227-2600 AT LEAST TWO DAYS BEFORE YOU DIG

UNDERGROUND SERVICE ALERT OF NORTHERN CALIFORNIA

CITY OF TRACY

RUGGERI-JENSEN-AZAR

LOT FINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET C-7.02
OF 66 SHEETS

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## THE PRABHAKARAN FAMILY TRUST (2016-120958)
## APN 242-030-40
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to the Prabhakaran Family Trust, dated April 5, 2014 recorded in Document No.2016-120958, Official Records of San Joaquin County, said parcel being Parcel C, as last said parcel is shown on the map in Book 24 of Surveys, Page 26, San Joaquin County Records and more particularly described as follows:

**Beginning** at the northwesterly corner of said Parcel C; thence along the northerly line of last said parcel South 89°39'01" East 14.53 feet; thence across last said parcel South 00°17'57" West 160.19 feet to the southerly line of last said parcel; thence along last said line North 89°39'01" West 14.26 feet to the westerly line of last said parcel, last said line also being the easterly line of Corral Hollow Road, as said road is shown on said map; thence along last said line North 00°12'09" East 160.19 feet to the **Point of Beginning**.

Containing 2,307 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

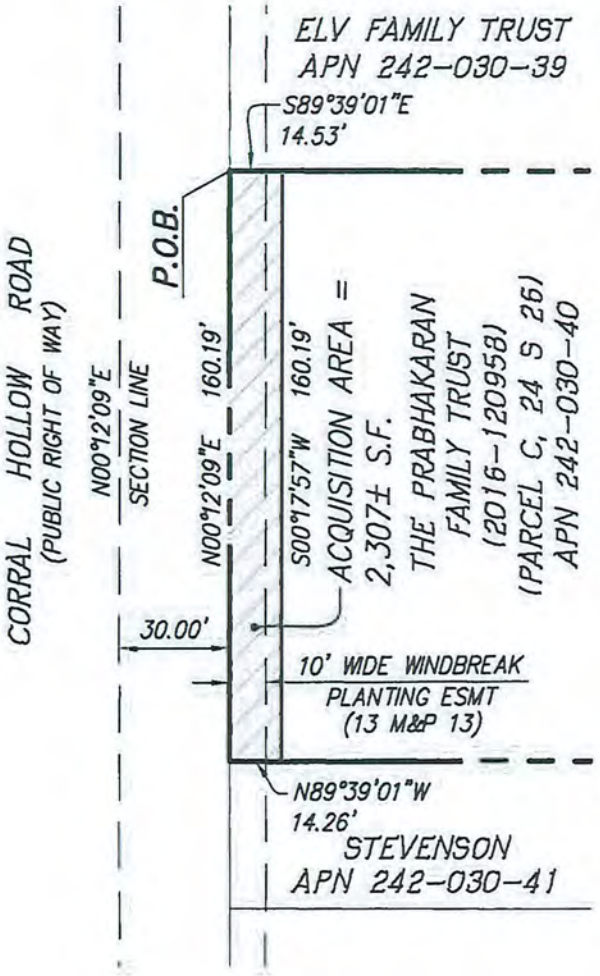
This description and its accompanying plat were prepared by or under the direction of:

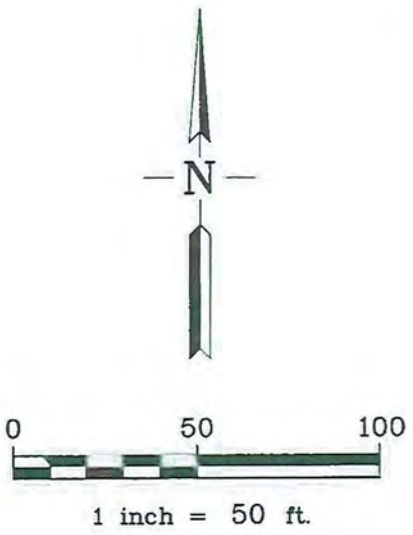
April 9, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

| | |
|---|---|
| ——— | PROPERTY LINE |
| ——— | ACQUISITION LINE |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| ▨ | ACQUISITION AREA |




## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.




SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\E03-APN 24203040-PRABHAKARAN.DWG 4/10/2018 1:48:39 PM ALAN MULLEN

# EXHIBIT B

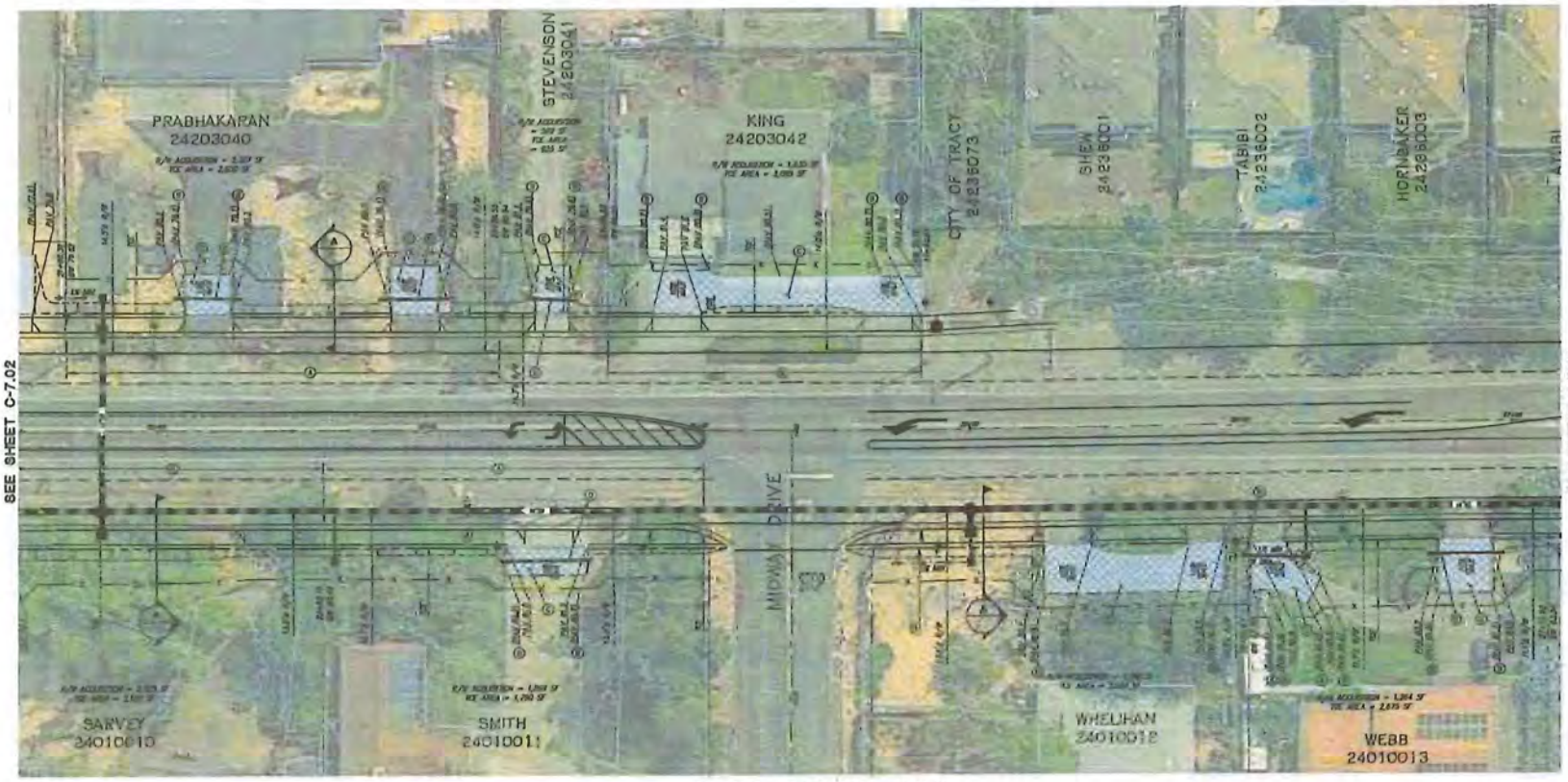
PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

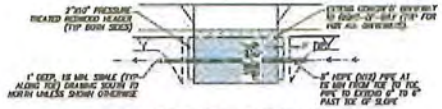
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA


RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

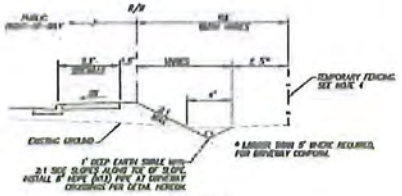

| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




CORRAL HOLLOW ROAD




8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL
NOT TO SCALE




SECTION A
NOT TO SCALE

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO TOE LINE.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TOE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TOE. WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TOE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE CONSCIENT OF ALL EXISTING OVERHEAD FACILITIES.

**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE, SEE YARD FENCES SHALL BE REVISED TO TOE LIMIT.

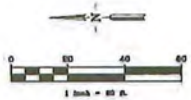
(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/6.5" AB. INSTALL 2"x10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (M12) AT 1% MIN UNDER DRIVEWAY PER DETAIL HEREON.

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAY XX.X NEW DRIVEWAY ELEVATION
- (PAY XX.X) EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (M12)
- NEW FIRE HYDRANT




CAUTION! EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE 1-800-227-2600

CITY OF TRACY

LOT FINE GRADING AND CONFORM PLANS

IMPROVEMENT PLANS

CORRAL HOLLOW ROAD WIDENING CIP-73144

CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

RUGGERI-JENSEN-AZAR

SHEET C-7.03 OF 00 SHEETS

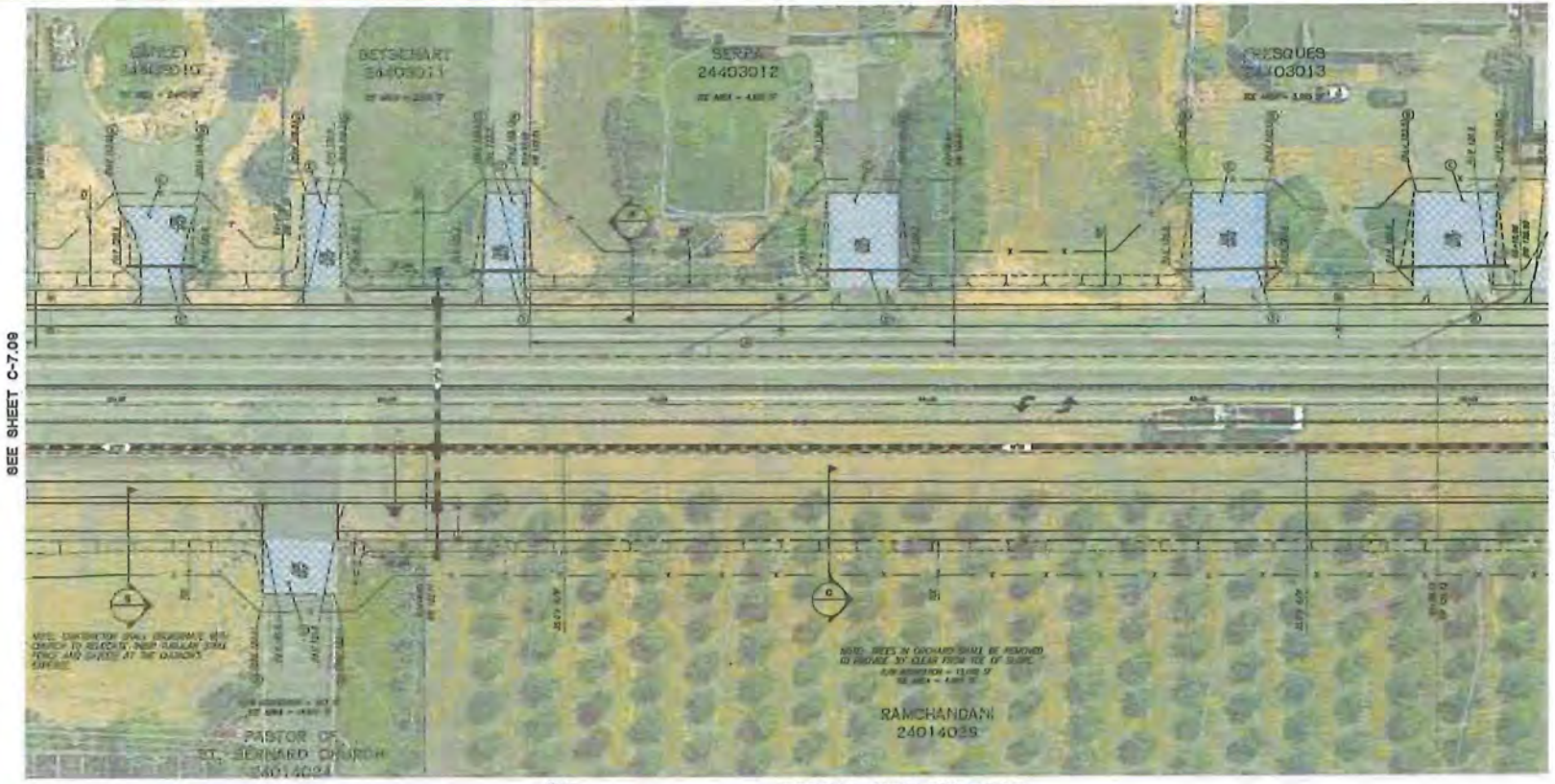
## LEGAL DESCRIPTION

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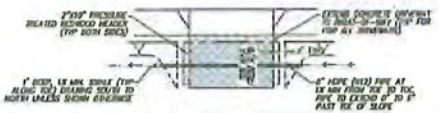
A PORTION OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN, SAN JOAQUIN COUNTY, CALIFORNIA.

BEGINNING AT A POINT ON THE EAST LINE OF CORRAL HOLLOW ROAD, SAID POINT BEING SOUTH 0° 12' WEST 1279.98 FEET AND SOUTH 89° 48' EAST 30.00 FEET FROM THE NORTHWEST CORNER OF THE NORTHWEST 1/4 OF SECTION 5, TOWNSHIP 3 SOUTH, RANGE 5 EAST, MOUNT DIABLO BASE AND MERIDIAN (SAID POINT IS ALSO 1254.98 FEET FROM THE SOUTH LINE OF VAL PICO ROAD); THENCE SOUTH 89° 48' EAST 416.80 FEET AND PARALLEL TO THE SOUTH LINE OF VAL PICO ROAD TO A POINT; THENCE SOUTH 0° 12' WEST 209.02 FEET AND PARALLEL TO THE EAST LINE OF CORRAL HOLLOW ROAD TO A POINT; THENCE NORTH 89° 48' WEST 416.80 FEET TO A POINT ON THE EAST LINE OF CORRAL HOLLOW ROAD; THENCE NORTH 0° 12' EAST 209.02 FEET ALONG THE EAST LINE OF CORRAL HOLLOW ROAD TO THE POINT OF BEGINNING.

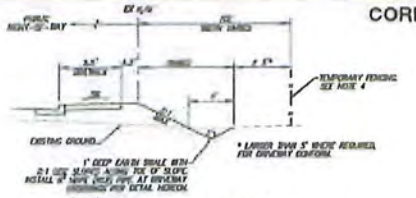
APN: 244-030-13



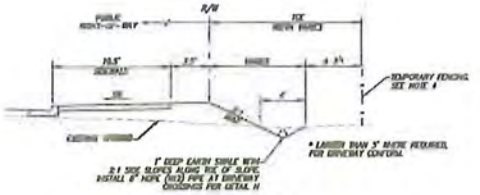

CORRAL HOLLOW ROAD



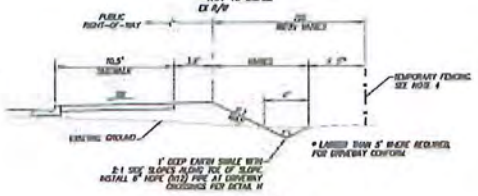
8" HDPE PIPE CROSSING/
DRIVEWAY DETAIL
NOT TO SCALE



SECTION A
NOT TO SCALE



SECTION C
NOT TO SCALE



SECTION B
NOT TO SCALE

**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE. SEE YARD FENCES SHALL BE REMOVED TO ICE LINE.

(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/8.5" AB. INSTALL 3"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (N12) AT 1% MIN UNDER DRIVEWAY PER DETAIL HEREON.

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO ICE LINE.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN ICE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG ICE TOE, WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE ICE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE RESPONSIBLE OF ALL EXISTING OVERHEAD FACILITIES.

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAV XX.X NEW DRIVEWAY ELEVATION
- (PAV XX.X) EXISTING DRIVEWAY ELEVATION
- NEW MH/T
- NEW STREET LIGHT
- 8" HDPE PIPE (N12)
- NEW FIRE HYDRANT

0 20 40 60
1 inch = 20 ft.

CAUTION! EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE
1-800-227-2600
AT LEAST TWO DAYS BEFORE YOU DIG

UNDERGROUND SERVICE ALERT OF NORTHERN CALIFORNIA

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE CONDITIONS AND REQUIREMENTS NOTED HEREON AND NOT RESPONSIBLE FOR ERRORS AND OMISSIONS THAT MAY BE FOUND ON THESE PLANS

DIRECTOR OF PUBLIC WORKS — DATE

RUGGERI-JENSEN-AZAR

REVISIONS

LOT FINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET
C-7.10
OF 00 SHEETS

Attachment E

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## DURKEE (2012-120878)
## APN 240-090-04
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of parcel of land described in the deed to Durkee, recorded in Document No. 2012-120878, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel; thence along the easterly line of said parcel, last said line also being the westerly line of Corral Hollow Road, South 00°12'04" West 169.99 feet to the southerly line of said parcel; thence along last said line North 84°16'24" West 13.32 feet; thence across said parcel North 00°12'04" East 56.83 feet and North 00°13'43" West 100.00 feet to the northerly line of said parcel; thence along last said line South 89°47'54" East 14.01 feet to the **Point of Beginning**.

Containing 2,291 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

END OF DESCRIPTION

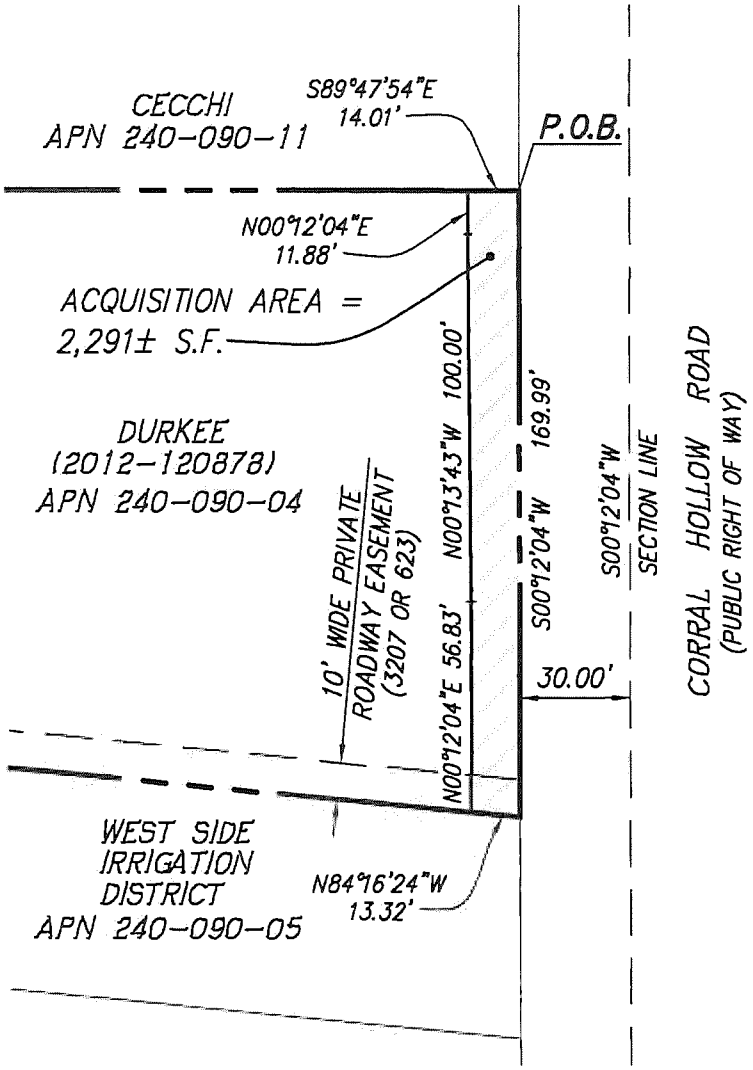
This description and its accompanying plat were prepared by or under the direction of:

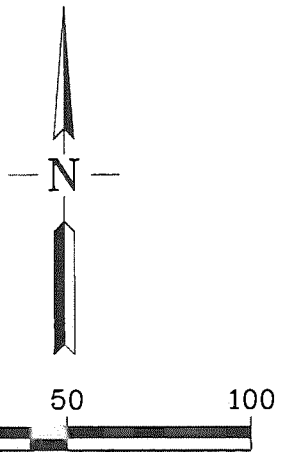
April 5, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

| | |
|---|---|
| ---------- | PROPERTY LINE |
| ———— | ACQUISITION LINE |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| ▭ | ACQUISITION AREA |




1 inch = 50 ft.

## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.




SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\12108J-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\W18-APN 24009004-DURKEE.DWG 4/10/2018 11:08:32 AM ALAN MULLEN

# EXHIBIT B

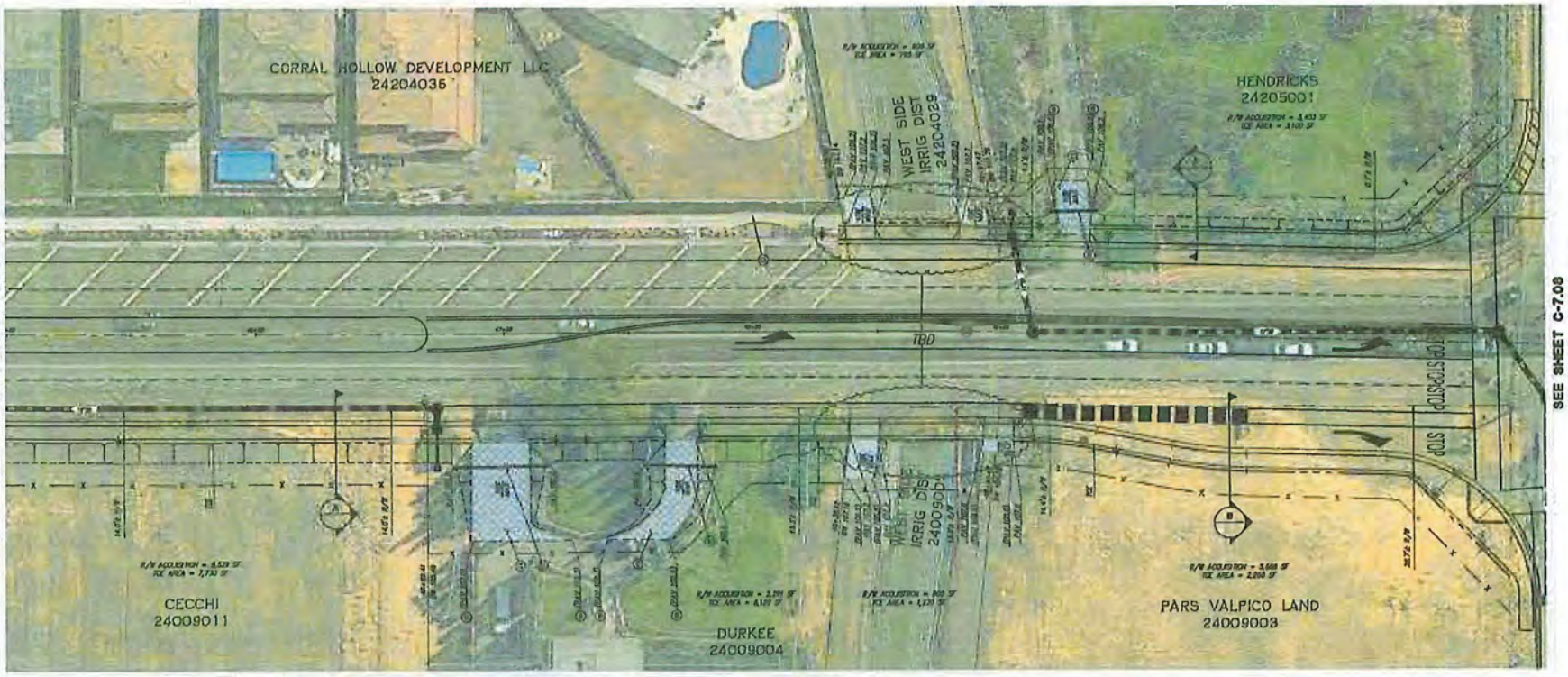
PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

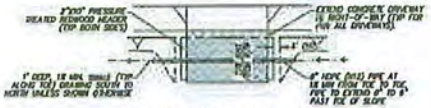
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA


RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

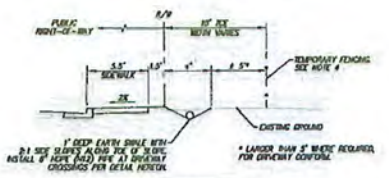

| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 12108JIP |



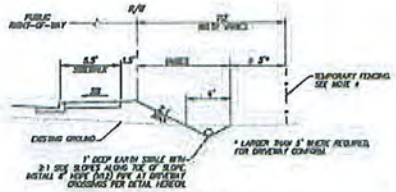

CORRAL HOLLOW ROAD



8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL
NOT TO SCALE



SECTION B
NOT TO SCALE



SECTION A
NOT TO SCALE

**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE. SEE TWO FENCES SHALL BE REMOVED TO TCE LIMIT.

(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/8.5" AB. INSTALL 3"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (TYP.) AT 18" MIN UNDER DRIVEWAY PER DETAIL HEREON.

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO TCE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TCE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' REX GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TCE. WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TCE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE COGNIZANT OF ALL EXISTING OVERHEAD FACILITIES.

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAV XX.X — NEW DRIVEWAY ELEVATION
- (PAV XX.X) — EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (TYP.)
- NEW FIRE HYDRANT

0 20 40 80
1 Inch = 20 ft.

CAUTION EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE 1-800-227-2600 AT LEAST TWO DAYS BEFORE YOU DIG

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE CONDITIONS AND REQUIREMENTS NOTED. APPROVAL NOT RESPONSIBLE FOR ERRORS AND/OR OMISSION THAT MAY BE PRESENT ON THESE PLANS

DATE

RUGGERI-JENSEN-AZAR

REVISIONS

| NO. | DESCRIPTION | DATE | APPROVED |
|---|---|---|---|

DESIGNED BY:
DRAWN BY:
CHECKED BY:
APPROVED BY:

LOT TYPE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET C-7.07 OF 66 SHEETS

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## GALVAO (1987-107725)
## APN 240-100-02
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to Galvao, recorded on November 25, 1987 in Document No. 1987-107725, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel said corner being on the easterly line of Section 31, T2S, R5E, MDB&M; thence along said easterly line South 00°12'09" West 299.98 feet to the generally southerly line of said parcel; thence along last said line North 89°39'24" West 42.11 feet; thence across said parcel North 00°17'57" East 289.36 feet and North 44°41'22" West 15.03 feet to the northerly line of said parcel; thence along last said line South 89°39'24" East 52.23 feet to the **Point of Beginning**.

Containing 12,611 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

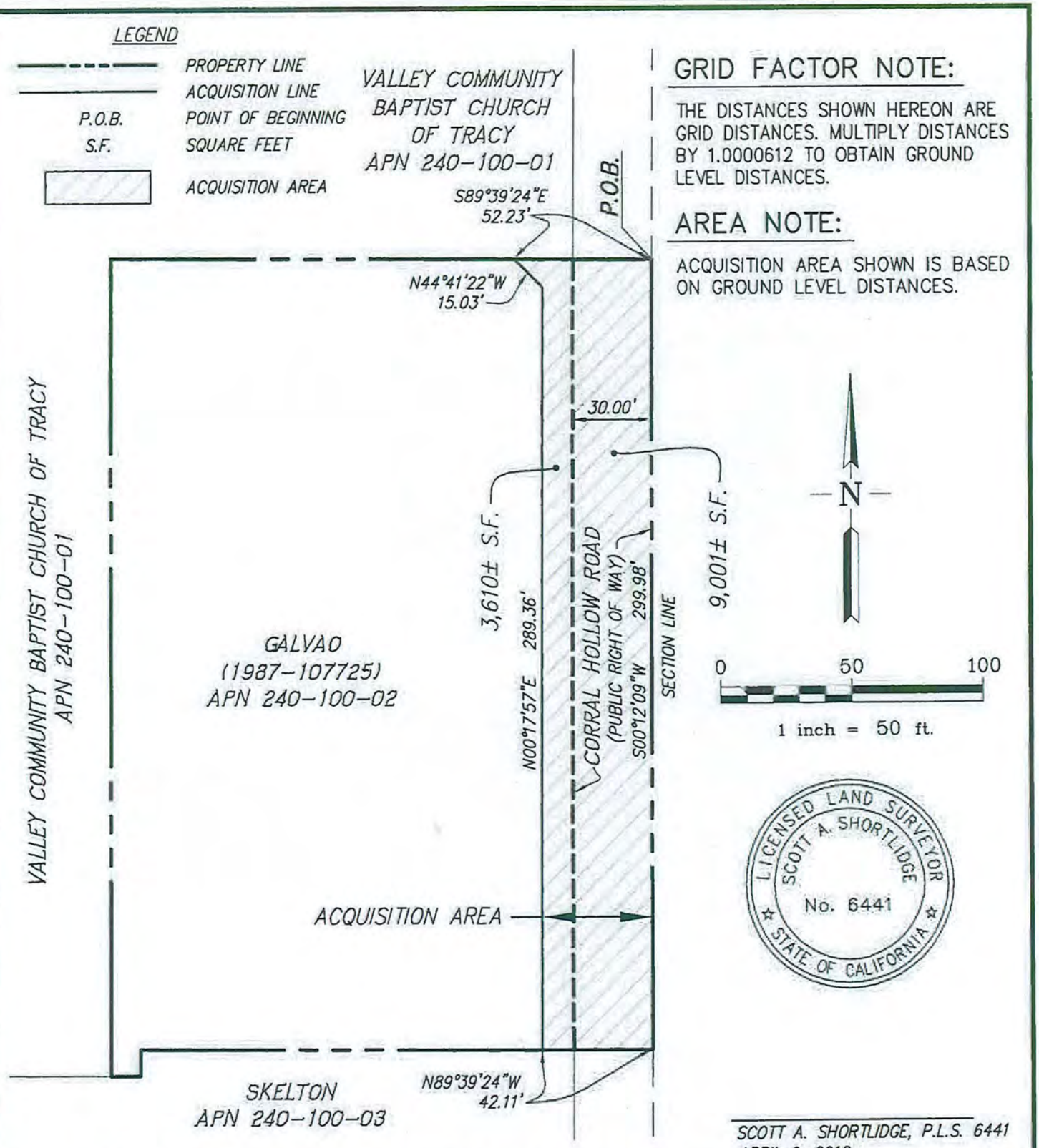
See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

This description and its accompanying plat were prepared by or under the direction of:

April 5, 2018

Scott A. Shortlidge, PLS 6441 Date




## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.

LICENSED LAND SURVEYOR
SCOTT A. SHORTLIDGE
No. 6441
STATE OF CALIFORNIA

SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\W01-APN 24010002-GALVAO.DWG 4/5/2018 6:42:47 PM ALAN MULLEN

# EXHIBIT B

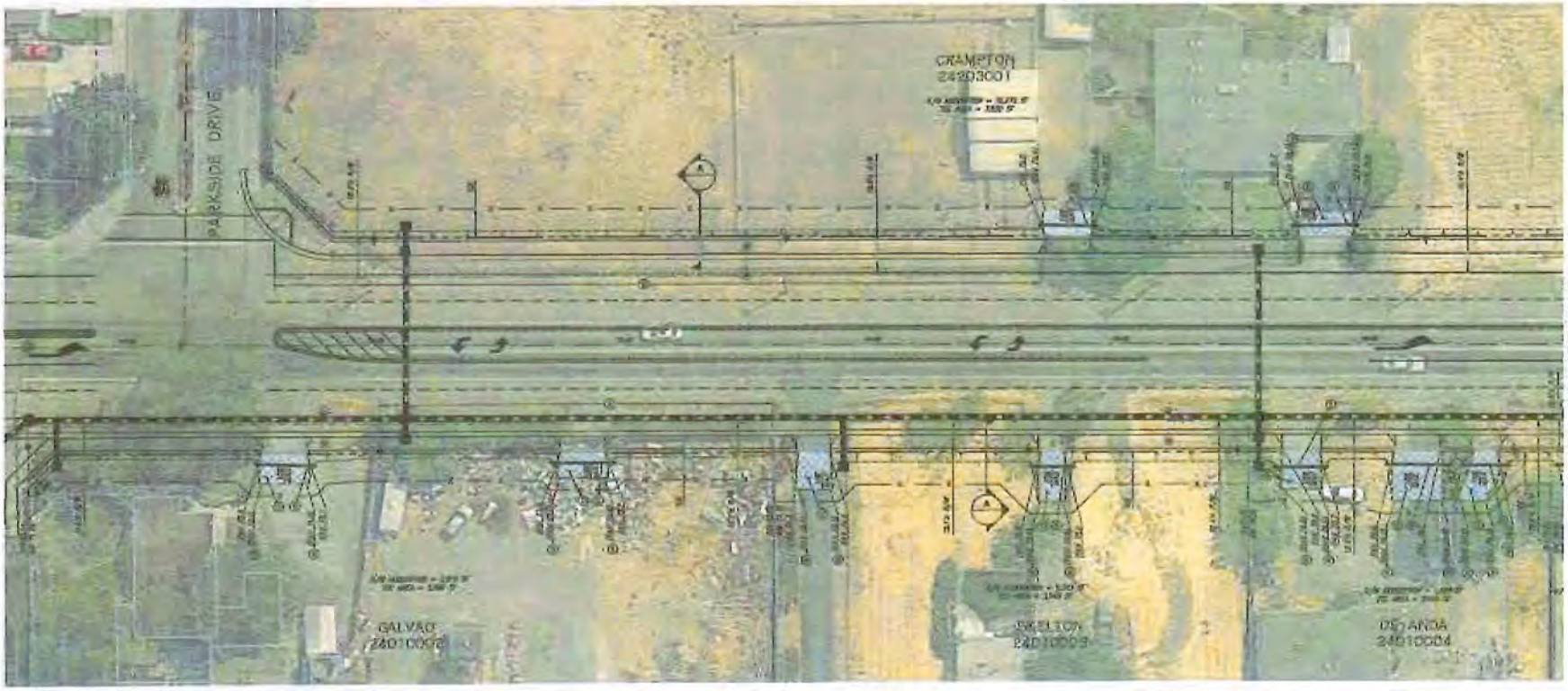
PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

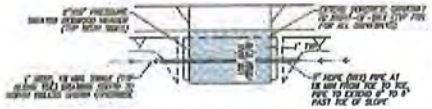
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

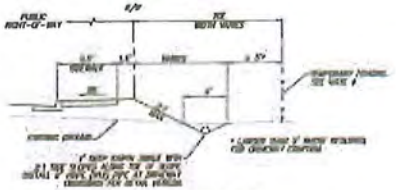
| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




## CORRAL HOLLOW ROAD



8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL
NOT TO SCALE



SECTION A
NOT TO SCALE

### GENERAL NOTES:

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING WEEDS, SHRUBS, AND VEGETATION TO TCE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TCE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TCE, WHERE NO FENCES EXIST, CONTRACTOR TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TCE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE COGNIZANT OF ALL EXISTING OVERHEAD FACILITIES.
6. ALL DISTURBED AREAS (BACK OF WALK, SLOPES AND EARTH SWALES) TO BE HYDROSEEDED. CONTRACTOR SHALL WATER AND HYDROSEED UNTIL ESTABLISHED AND STABLE.

### CONSTRUCTION NOTES:

(A) REMOVE EXISTING FENCE. SEE DWG FENCES SHALL BE REMOVED TO TCE LIMIT.

(B) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE (A.C.) DRIVEWAY AND REPLACE WITH 3" MINIMUM A.C. OVER 6" CLASS 2 AGGREGATE BASE PER STANDARD PLAN RD200. MATCH EXISTING DRIVEWAY GRADE.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" MINIMUM A.C. OVER 6" CLASS 2 AGGREGATE BASE PER STANDARD PLAN RD200. MATCH EXISTING DRIVEWAY GRADE. REFER TO DETAIL 8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL.

(D) INSTALL 6" HDPE (SDR17 AS TO BE UNDER DRIVEWAY PER DETAIL HEREON)

### STILL TO RESOLVE

1. IS CROSS-LOT DRAINAGE (PER EXISTING CONDITION) ACCEPTABLE?
2. UPDATE POLE LOCATION ONCE POE/ATT DESIGN IS COMPLETE

### LEGEND

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- STAKEOUT LINE
- SLOPE
- REMOVE EXISTING AC/PCC OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- FAV XX.X NEW DRIVEWAY ELEVATION
- (FAV XX.X) EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 6" HDPE PIPE (N12)
- NEW FIRE HYDRANT



CAUTION! EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

CITY OF TRACY

RJA
RUGGERI-JENSEN-AZAR

LOT FINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET C-7.01
OF ## SHEETS

Attachment G

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## SCHIRMER (2016-147893)
## APN 240-100-15
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to Schirmer, recorded in Document No. 2016-147893, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel; thence along the easterly line of said parcel, last said line also being the easterly line of Section 31, T2S, R5E, MDB&M, South 00°12'04" West 169.49 feet to the southerly line of said parcel; thence along last said line North 89°39'24" West 41.11 feet; thence across said parcel North 01°22'25" East 0.29 feet and North 00°12'04" East 169.20 feet to the northerly line of said parcel; thence along last said line South 89°39'24" East 41.10 feet to the **Point of Beginning**.

Containing 6,967 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

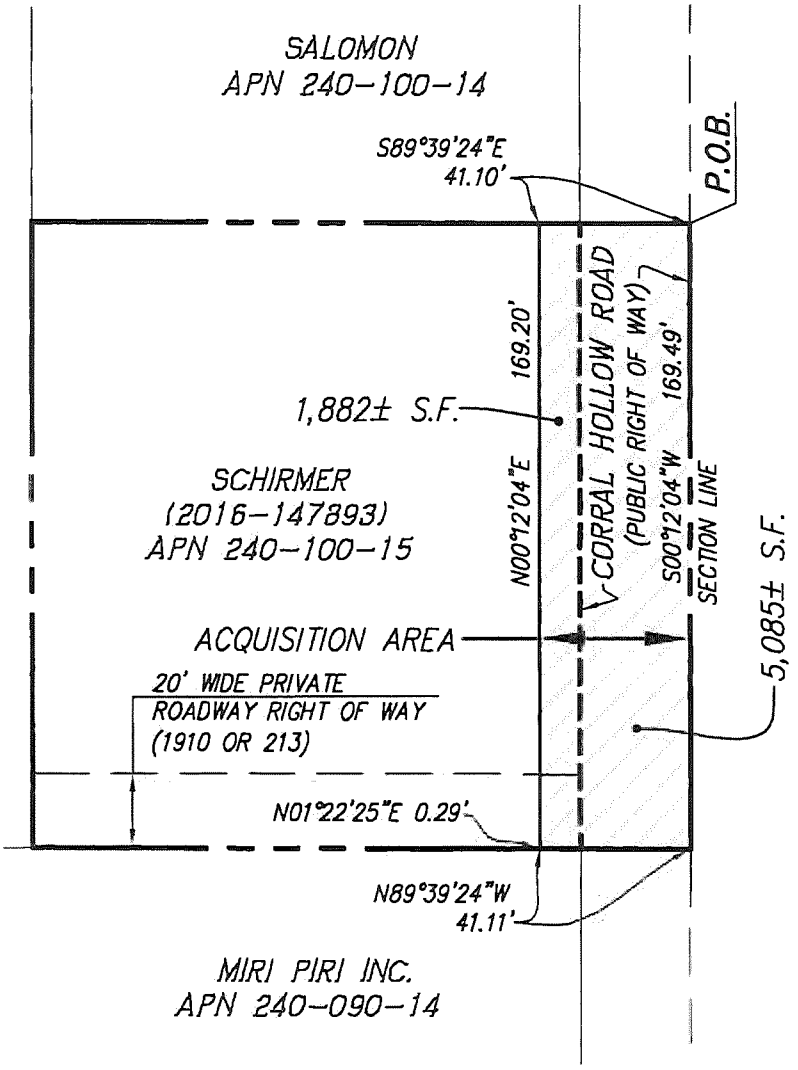
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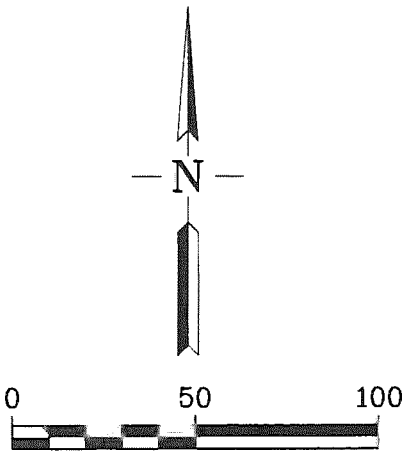
April 5, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

| | |
|---|---|
| PROPERTY LINE | |
| ACQUISITION LINE | |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| | ACQUISITION AREA |




1 inch = 50 ft.

## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.




SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\W14-APN 24010015-SCHIRMER.DWG 4/6/2018 1:27:37 PM ALAN MULLEN

# EXHIBIT B

PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA


RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300


| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL
NOT TO SCALE

SECTION B
NOT TO SCALE

SECTION A
NOT TO SCALE

**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE. SEE YARD FENCES SHALL BE REMOVED TO TCE LIMIT.

(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/8.3" AB. INSTALL 3"X6" PRESSURE TREATED REDWOOD HEADERS FOR DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (WI) AT 1% MIN UNDER DRIVEWAY FOR DETAIL HEREON.

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING WEEDS, SHRUBS, AND VEGETATION TO TCE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TCE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TCE. WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TCE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE COGNIZANT OF ALL EXISTING OVERHEAD FACILITIES.

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAV XX.X — NEW DRIVEWAY ELEVATION
- (PAV XX.X) — EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (WI)
- NEW FIRE HYDRANT

0 20 40 60
1 inch = 20 ft.

CAUTION! EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE 1-800-227-2600 AT LEAST TWO DAYS BEFORE YOU DIG

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE CONDITIONS AND REQUIREMENTS NOTED AND ANY REVISIONS SHALL BE APPROVED BY THE CITY ENGINEER. DEVIATION FROM THESE PLANS WITHOUT SUCH APPROVAL MAY RESULT IN THE REMOVAL OF THE DEVIATION THAT MAY BE PRESENT ON THESE PLANS.

ROBERT ARMIJO P.E. — CITY ENGINEER — DATE

RUGGERI-JENSEN-AZAR

REVISIONS

| NO. | DATE | BY |
|---|---|---|

DESIGNED PR
DRAWN PR
CHECKED PR
DATE
FILE NO.

LOT FINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD
WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET
C-7.04
OF 44 SHEETS

Attachment H

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## THE ERROL GENE KING LIVING TRUST (2012-071009)
## APN 242-030-42
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to The Errol Gene King Living Trust, recorded in Document No.2012-071009, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northwesterly corner of said parcel; thence along the northerly line of said parcel South 89°39'01" East 14.20 feet; thence across said parcel South 00°17'57" West 115.61 feet to the southerly line of said parcel; thence along last said line North 89°37'58" West 14.00 feet to the westerly line of said parcel, last said line also being the easterly line of Corral Hollow Road; thence along last said line North 00°12'09" East 115.60 feet to the **Point of Beginning**.

Containing 1,630 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

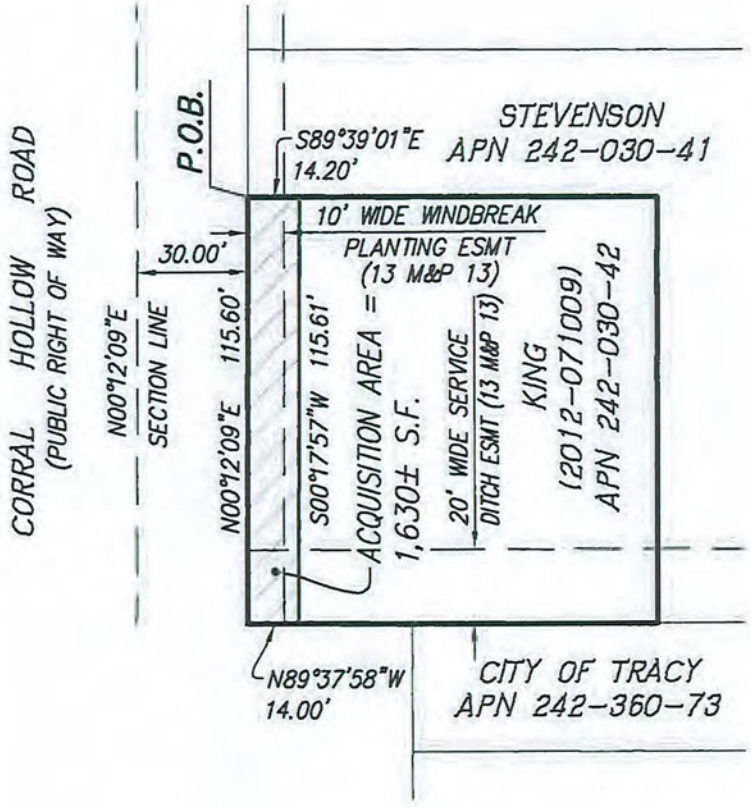
This description and its accompanying plat were prepared by or under the direction of:

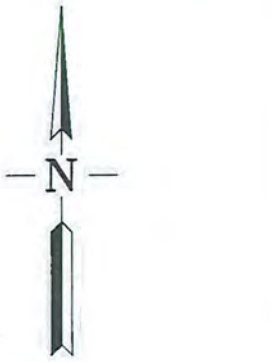
April 9, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

| | |
|---|---|
| ——— | PROPERTY LINE |
| ——— | ACQUISITION LINE |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| ▨ | ACQUISITION AREA |




LICENSED LAND SURVEYOR
SCOTT A. SHORTLIDGE
No. 6441
STATE OF CALIFORNIA

## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.

SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\E05-APN 24203042-KING.DWG 4/10/2018 2:07:24 PM ALAN MULLEN

# EXHIBIT B

PLAT TO ACCOMPANY LEGAL DESCRIPTION

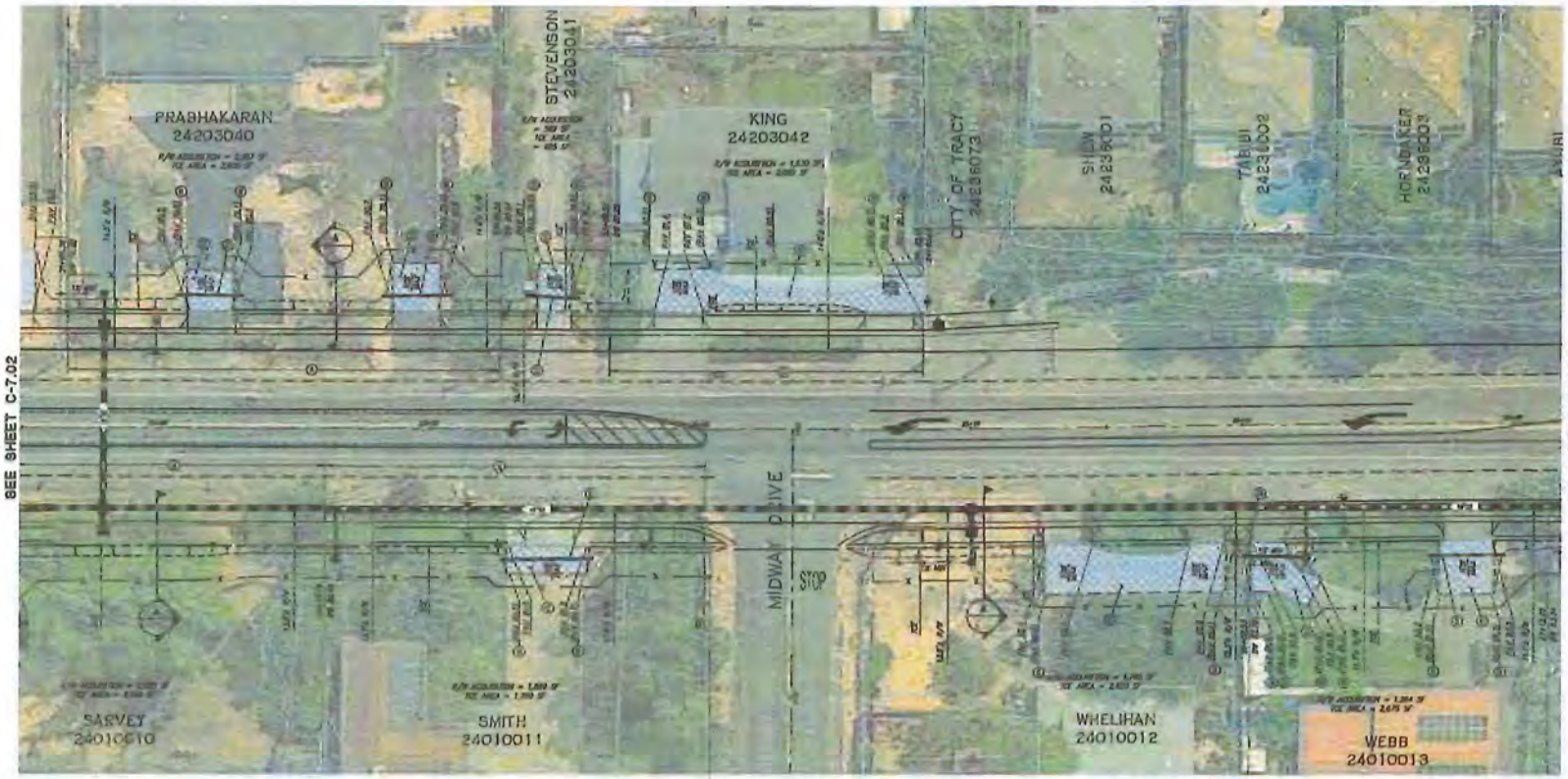
RIGHT OF WAY ACQUISITION

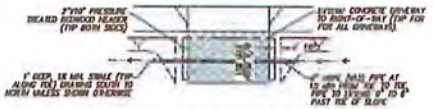
CORRAL HOLLOW ROAD

CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

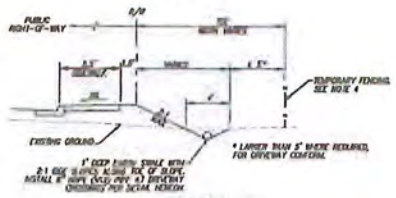

RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300


| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




8" HDPE PIPE CROSSING/
DRIVEWAY DETAIL
NOT TO SCALE




SECTION A
NOT TO SCALE

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO TOE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TOE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 5' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TOE. WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TOE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE COGNIZANT OF ALL EXISTING OVERHEAD FACILITIES.

**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE. SEE YARD FENCES SHALL BE REMOVED TO TOE LIMIT.

(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONTOUR.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/8.5" AB. INSTALL 3"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (ASTM F714) AT 12 GPM UNDER DRIVEWAY PER DETAIL HEREON.

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/PB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAY XX.X — NEW DRIVEWAY ELEVATION
- (PAY XX.X) — EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (TYP.)
- NEW FIRE HYDRANT

0 20 40 80

1 Inch = 80 ft.

CAUTION! EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE
1-800-227-2600
AT LEAST TWO WORKING DAYS BEFORE YOU DIG

CITY OF TRACY

RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS

LOT FINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET
C-7.03
OF ## SHEETS

Attachment I

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## SALOMON & REITZ (2012-027040)
## APN 240-100-14
## TRACY, CALIFORNIA

Real property situate in the City of Tracy, County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to the Salomon and Reitz, recorded in Document No. 2012-027040, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel; thence along the easterly line of said parcel, last said line also being the easterly line of Section 31, T2S, R5E, MDB&M, South 00°12'04" West 147.38 feet to the southerly line of said parcel; thence along last said line North 89°39'24" West 41.10 feet; thence across said parcel North 00°12'04" East 147.39 feet to the northerly line of said parcel; thence along last said line South 89°38'50" East 41.10 feet to the **Point of Beginning**.

Containing 6,058 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

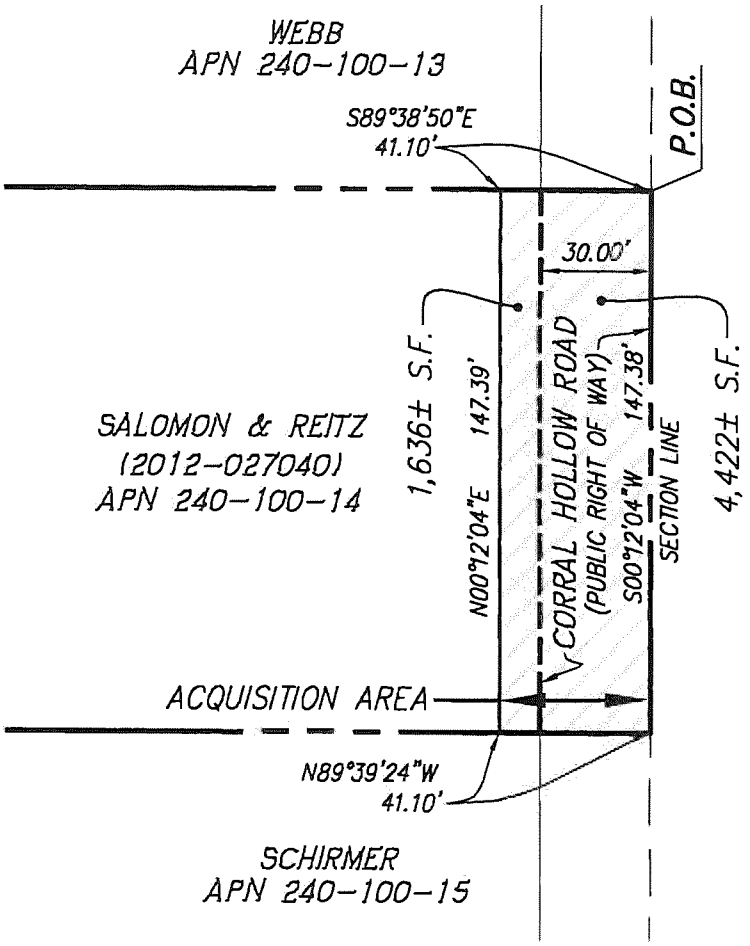
This description and its accompanying plat were prepared by or under the direction of:

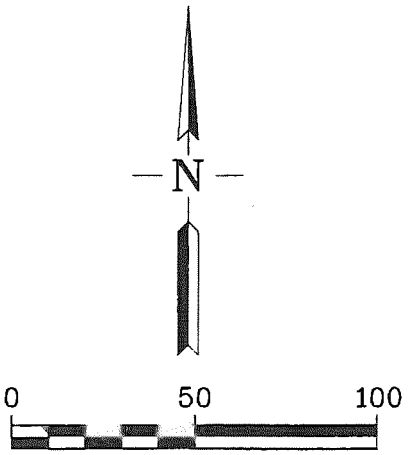
April 5, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

| | |
|---|---|
| PROPERTY LINE | |
| ACQUISITION LINE | |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| | ACQUISITION AREA |




1 inch = 50 ft.

## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.




SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\W13-APN 24010014-SALOMON & REITZ.DWG 4/6/2018 11:44:16 AM ALAN MULLEN

# EXHIBIT B

PLAT TO ACCOMPANY LEGAL DESCRIPTION

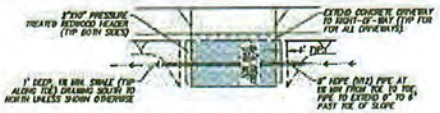
## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA


RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

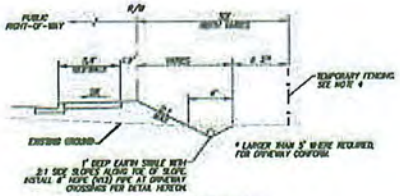

| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |










**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE. SEE YARD FENCES SHALL BE REMOVED TO ICE LIMIT

(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/6.5" AB. INSTALL 3"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (M12) AT 1% MIN UNDER DRIVEWAY PER DETAIL HEREON.

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO ICE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN ICE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE ICE. WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE ICE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE CONSCIENT OF ALL EXISTING OVERHEAD FACILITIES.

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- (PAY XX.X) NEW DRIVEWAY ELEVATION
- (PAY XX.X) EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (M12)
- NEW FIRE HYDRANT

0 20 40 60
1 inch = 20 ft.

CAUTION EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE 1-800-227-2600 AT LEAST TWO DAYS BEFORE YOU DIG

UNDERGROUND SERVICE ALERT OF NORTHERN CALIFORNIA

CITY OF TRACY

APPROVED FOR CONSTRUCTION SUBJECT TO THE DATA SHOWN. CITY OF TRACY AND THE UNDERSIGNED ARE NOT RESPONSIBLE FOR ERRORS AND/OR OMISSIONS THAT MAY BE PRESENT ON THESE PLANS

CITY ENGINEER R.C.E. _____ DATE _____

RJA
RUGGIERI-JENSEN-AZAR
ENGINEERS • SURVEYORS • PLANNERS
4690 WESTPORT DRIVE, SUITE 300, STOCKTON, CA 95207
PHONE: (209) 956-7900 FAX: (209) 956-7901

REVISIONS

| NO. | DATE | BY |
|---|---|---|
| | | |

DESIGNED BY: _____ DRAWN BY: _____ CHECKED BY: _____ QUANTITIES BY: _____

LOT FINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET C-7.04
OF ## SHEETS

# EXHIBIT B

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## TENDER LOVING CARE, INC. (1999-101072)
## APN 240-100-07
## TRACY, CALIFORNIA

Real property situated in the County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to Tender Loving Care, Inc., recorded in Document No. 1999-101072, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel; thence along the easterly line of said parcel, last said line also being the easterly line of Section 31, T2S, R5E, MDB&M, South 00°12'09" West 263.98 feet to the southerly line of said parcel; thence along last said line North 89°39'24" West 43.16 feet; thence across said parcel North 00°17'57" East 263.98 feet to the northerly line of said parcel; thence along last said line South 89°39'24" East 42.72 feet to the **Point of Beginning**.

Containing 11,337 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

This description and its accompanying plat were prepared by or under the direction of:

April 5, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

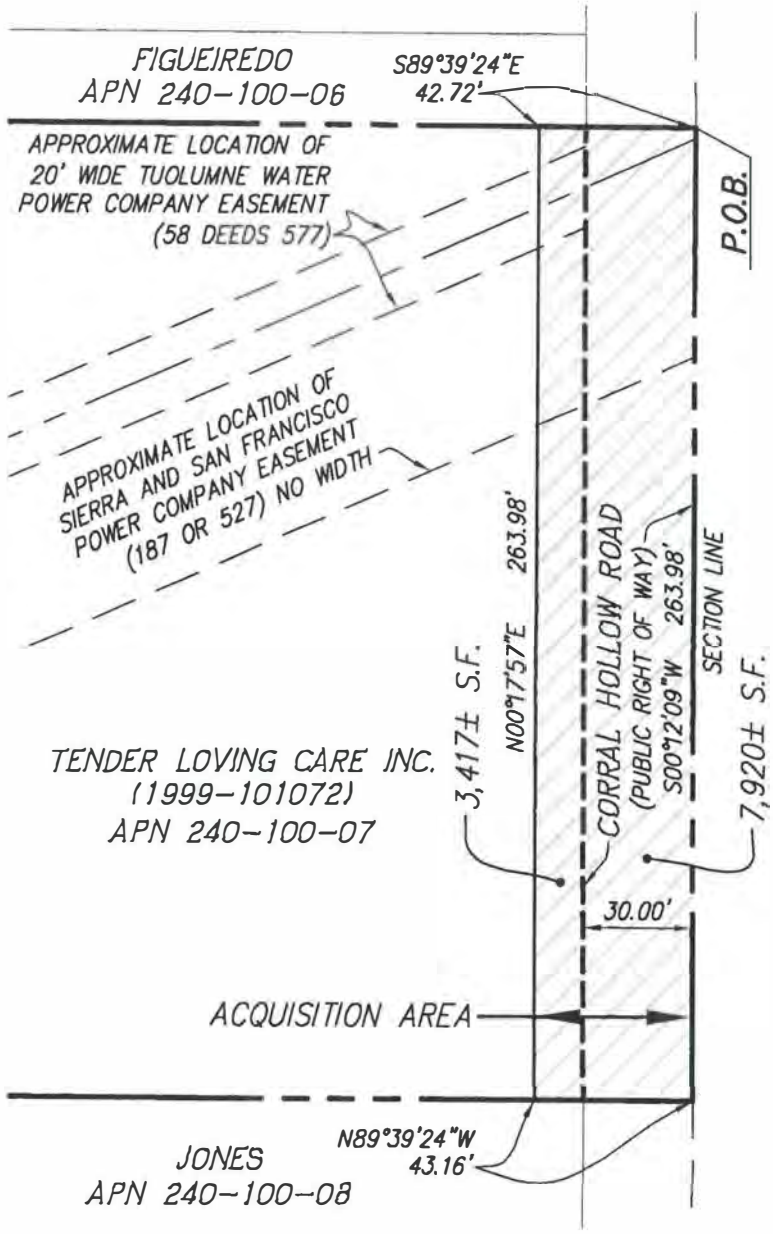
PROPERTY LINE

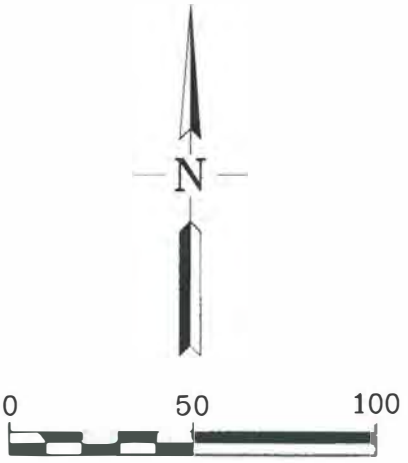
ACQUISITION LINE

P.O.B. POINT OF BEGINNING

S.F. SQUARE FEET

ACQUISITION AREA




## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.




SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

C:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\W06-APN 24010007-TENDER LOVING CARE.DWG 4/5/2018 6:59:11 PM ALAN MULLEN

# EXHIBIT B

PLAT TO ACCOMPANY LEGAL DESCRIPTION

# RIGHT OF WAY ACQUISITION
# CORRAL HOLLOW ROAD

SAN JOAQUIN COUNTY, CALIFORNIA


RJA

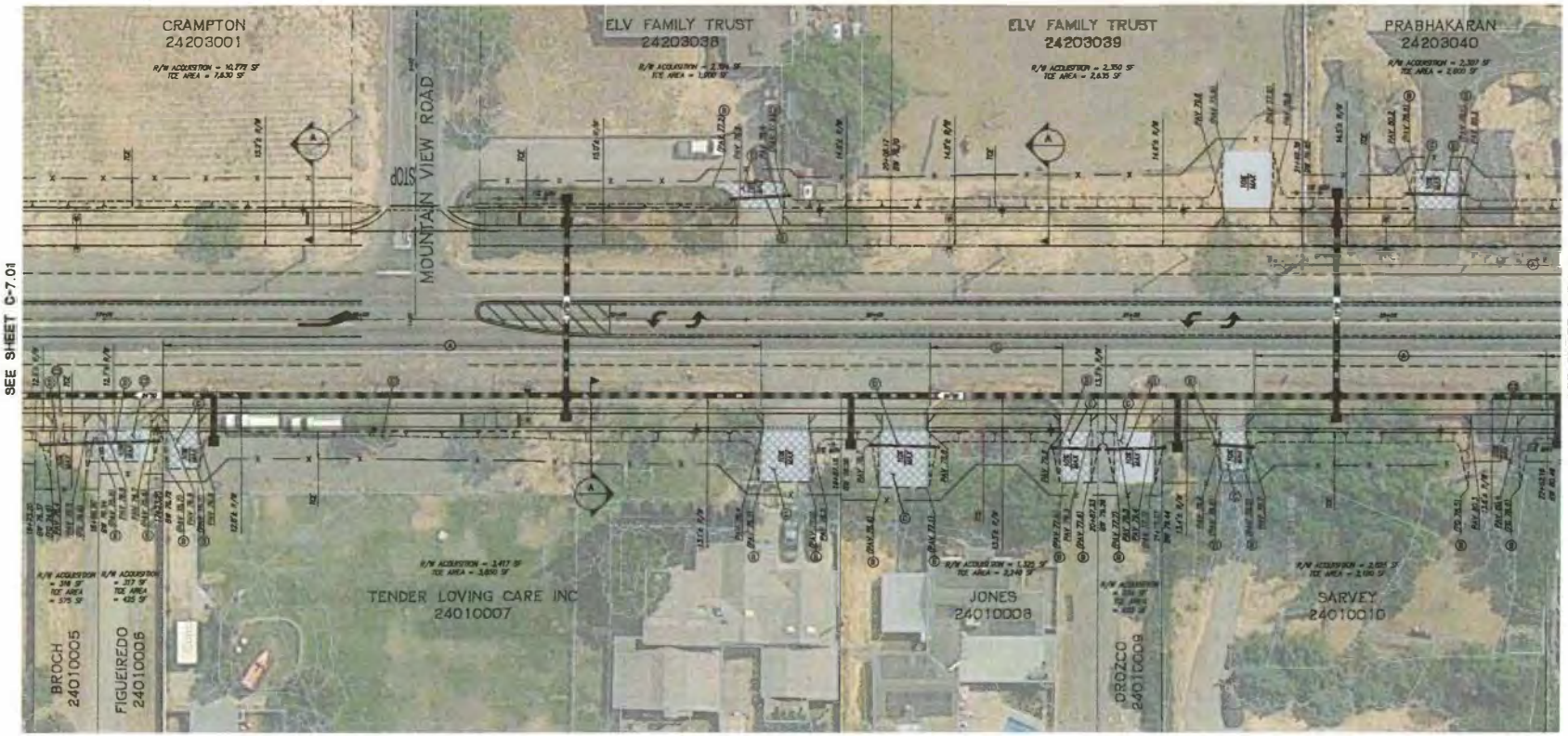
RUGGERI-JENSEN-AZAR

ENGINEERS ▪ PLANNERS ▪ SURVEYORS

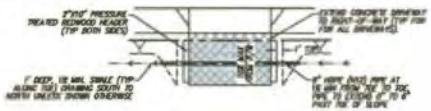
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588

PHONE: (925) 227-9100 FAX: (925) 227-9300

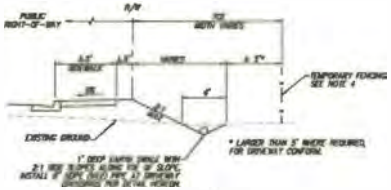

| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




CORRAL HOLLOW ROAD



**8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL**
NOT TO SCALE



**SECTION A**
NOT TO SCALE

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO TCE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TCE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TCE WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TCE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA (811) CONTRACTOR SHALL BE COGNIZANT OF ALL EXISTING OVERHEAD FACILITIES.
6. ALL DISTURBED AREAS (BACK OF WALK, SLOPES AND EARTH SWALES) TO BE HYDROSEEDED. CONTRACTOR SHALL WATER AND HYDROSEED UNTIL ESTABLISHED AND STABLE.

**CONSTRUCTION NOTES:**

(C) REMOVE EXISTING FENCE. SIDE-YARD FENCES SHALL BE REMOVED TO TCE LIMIT.

(E) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/6.5" AB. INSTALL 2"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(8) INSTALL 8" HDPE (MIN) AT TCE MIN UNDER DRIVEWAY PER DETAIL HEREON.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 4" AC/10" AB. INSTALL 2"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(22) GRADE DIRT ACCESS AT TCE MAX. SLOPE MAY BE STEEPENED ON BROCH PARCEL TO PRESERVE EX TREE (AT BROCH'S REQUEST).

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
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- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAV XX.X — NEW DRIVEWAY ELEVATION
- (PAV XX.X) — EXISTING DRIVEWAY ELEVATION
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UNDERGROUND SERVICE ALERT OF NORTHERN CALIFORNIA

RJA — RUGGERI-JENSEN-AZAR

LOT LINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET C-7.02 OF ## SHEETS

# EXHIBIT C

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## DURKEE (2012-120878)
## APN 240-090-04
## TRACY, CALIFORNIA

Real property situated in the County of San Joaquin, State of California described as follows:

Being a portion of parcel of land described in the deed to Durkee, recorded in Document No. 2012-120878, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel; thence along the easterly line of said parcel, last said line also being the westerly line of Corral Hollow Road, South 00°12'04" West 169.99 feet to the southerly line of said parcel; thence along last said line North 84°16'24" West 13.32 feet; thence across said parcel North 00°12'04" East 56.83 feet and North 00°13'43" West 100.00 feet to the northerly line of said parcel; thence along last said line South 89°47'54" East 14.01 feet to the **Point of Beginning**.

Containing 2,291 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

**END OF DESCRIPTION**

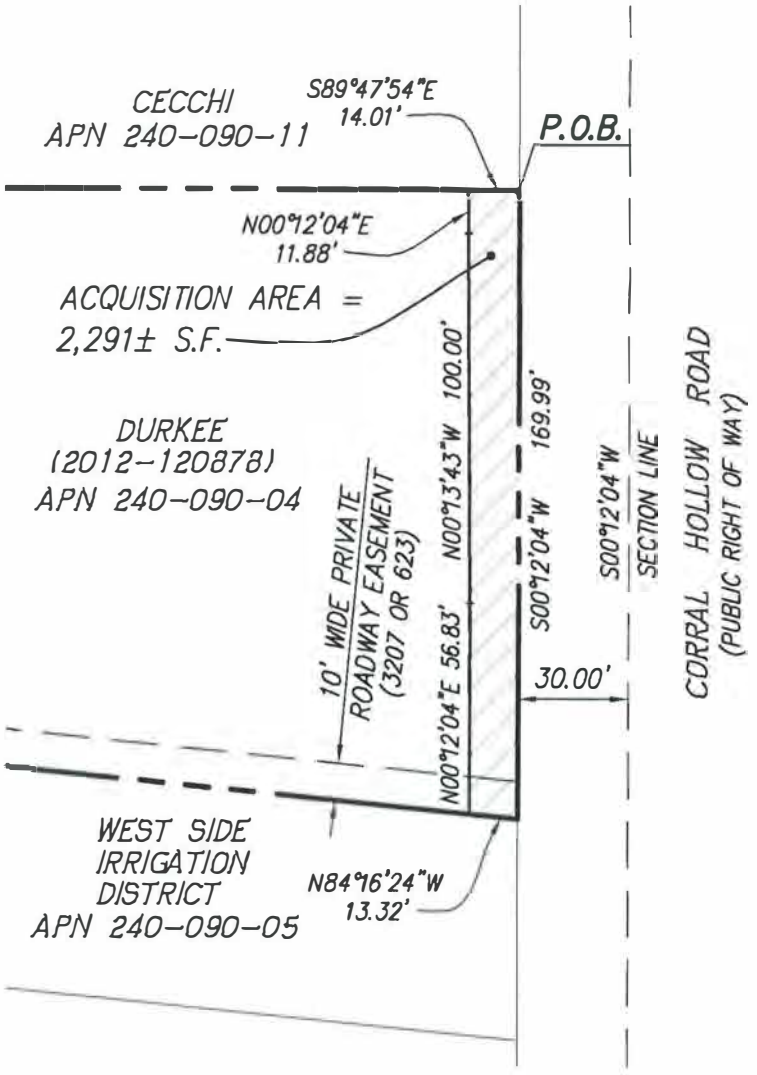
This description and its accompanying plat were prepared by or under the direction of:

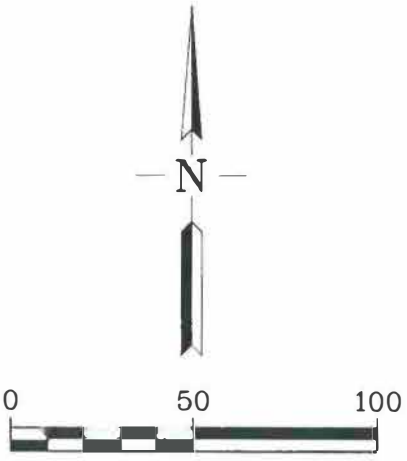
April 5, 2018

Scott A. Shortlidge, PLS 6441 Date

LEGEND

| | |
|---|---|
| ——— | PROPERTY LINE |
| ——— | ACQUISITION LINE |
| P.O.B. | POINT OF BEGINNING |
| S.F. | SQUARE FEET |
| ▨ | ACQUISITION AREA |




## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.




SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\W18-APN 24009004-DURKEE.DWG 4/10/2018 11:08:32 AM ALAN MULLEN

# EXHIBIT B

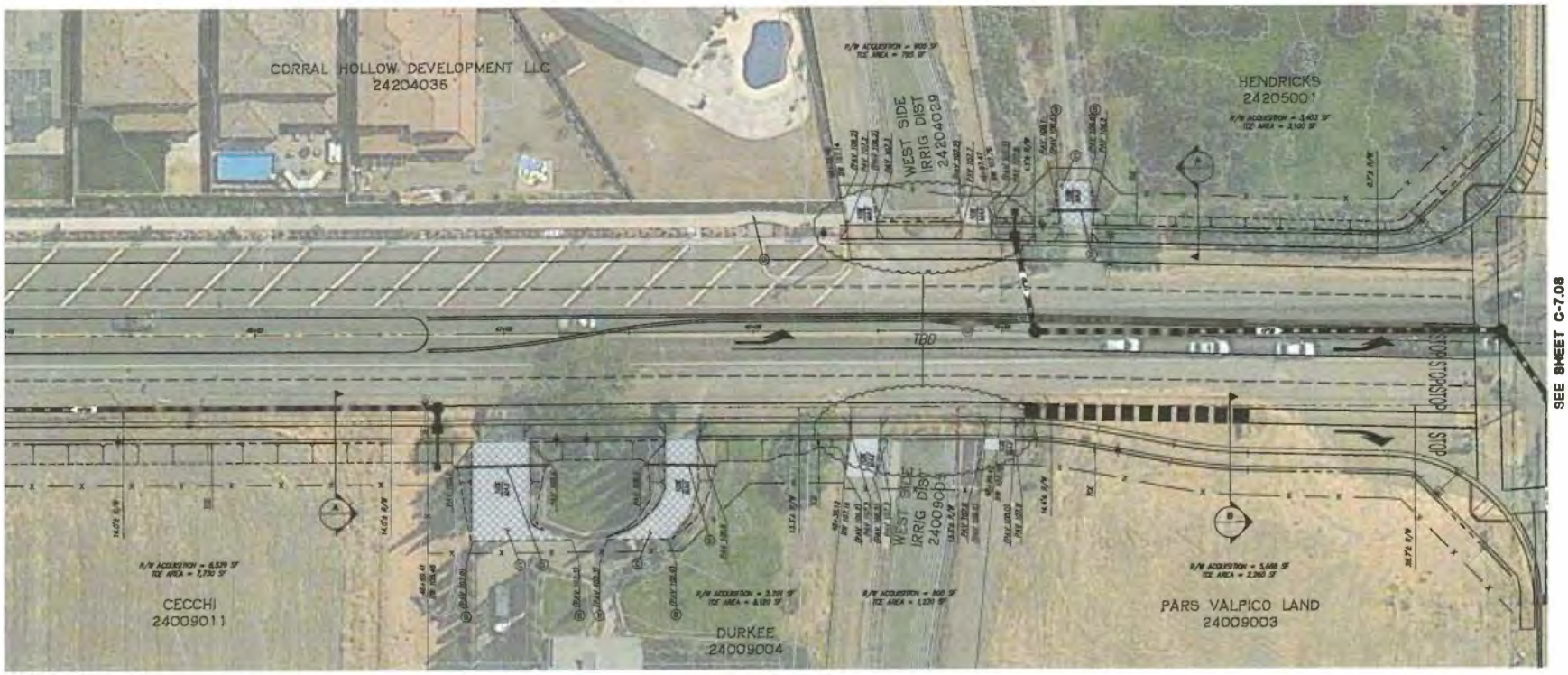
PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

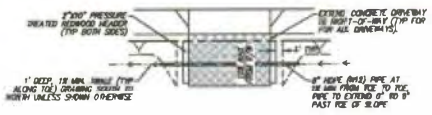
SAN JOAQUIN COUNTY, CALIFORNIA


RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

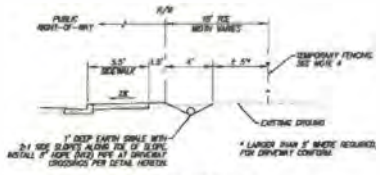

| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |



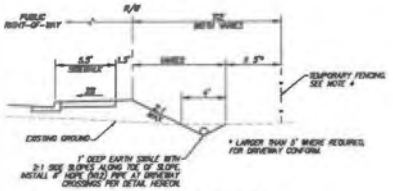

CORRAL HOLLOW ROAD




**8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL**
NOT TO SCALE




**SECTION B**
NOT TO SCALE




**SECTION A**
NOT TO SCALE

**CONSTRUCTION NOTES:**

A. REMOVE EXISTING FENCE, SIDE YARD FENCES SHALL BE REMOVED TO TOE LIMIT.

B. SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

C. REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/GRAVEL DRIVEWAY AND REPLACE WITH 3" AC/8.5" AB. INSTALL 2"X10" PRESSURE TREATED REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

D. INSTALL 8" HDPE (M12) AT 1% MIN UNDER DRIVEWAY PER DETAIL HEREON.

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
2. CONTRACTOR TO CLEAR EXISTING TREES, SHRUBS, AND VEGETATION TO TOE LIMIT.
3. CONTRACTOR TO CUT & CAP ANY EXISTING IRRIGATION SYSTEMS ENCOUNTERED WITHIN TOE LIMITS.
4. CONTRACTOR TO INSTALL TEMPORARY 6' CHAIN LINK FENCE & 16' WIDE GATES WHERE EXISTING FENCES & GATES EXIST ALONG THE TOE. WHERE NO FENCES EXIST, CONTRACTORS TO INSTALL TEMPORARY ORANGE CONSTRUCTION FENCE ALONG THE TOE WITH GAP AT EXISTING DRIVEWAY.
5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE COGNIZANT OF ALL EXISTING OVERHEAD FACILITIES.

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
- SAWCUT LINE
- SLOPE
- REMOVE EXISTING AC/AB OR CONCRETE DRIVEWAY
- NEW AC DRIVEWAY
- RELOCATED UTILITY POLE
- EXISTING UTILITY POLE
- PAV XX.X — NEW DRIVEWAY ELEVATION
- (PAV XX.X) — EXISTING DRIVEWAY ELEVATION
- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (M12)
- NEW FIRE HYDRANT

0 20 40 80
1 Inch = 20 ft.

CAUTION! EXISTING HIGH VOLTAGE ELECTRICAL LINES EXIST PARALLEL TO, AND CROSSING THE PROJECT WORK AREA. CONTRACTOR TO USE EXTREME CAUTION.

DIAL TOLL FREE 1-800-227-2600
AT LEAST TWO DAYS BEFORE YOU DIG
UNDERGROUND SERVICE ALERT OF NORTHERN CALIFORNIA

APPROVED FOR CONSTRUCTION SUBJECT TO THE DATA SHOWN. CITY OF TRACY AND THE UNDERSIGNED ASSUME NO RESPONSIBILITY FOR ACTIONS TAKEN BASED ON THIS DESIGN THAT MAY BE PRESENT ON THESE PLANS.

RUGGERI-JENSEN-AZAR
ENGINEERS • PLANNERS • SURVEYORS

LOT FINE GRADING AND CONFORM PLANS

IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET C-7.07
OF 44 SHEETS

# EXHIBIT D

# EXHIBIT A
# LEGAL DESCRIPTION
## PUBLIC RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD
## GALVAO (1987-107725)
## APN 240-100-02
## TRACY, CALIFORNIA

Real property situated in the County of San Joaquin, State of California described as follows:

Being a portion of the parcel of land described in the deed to Galvao, recorded on November 25, 1987 in Document No. 1987-107725, Official Records of San Joaquin County and more particularly described as follows:

**Beginning** at the northeasterly corner of said parcel said corner being on the easterly line of Section 31, T2S, R5E, MDB&M; thence along said easterly line South 00°12'09" West 299.98 feet to the generally southerly line of said parcel; thence along last said line North 89°39'24" West 42.11 feet; thence across said parcel North 00°17'57" East 289.36 feet and North 44°41'22" West 15.03 feet to the northerly line of said parcel; thence along last said line South 89°39'24" East 52.23 feet to the **Point of Beginning**.

Containing 12,611 square feet (ground level area) of land, more or less.

The distances written herein are Grid Distances. Multiply distances by 1.0000612 to obtain Ground Level Distances.

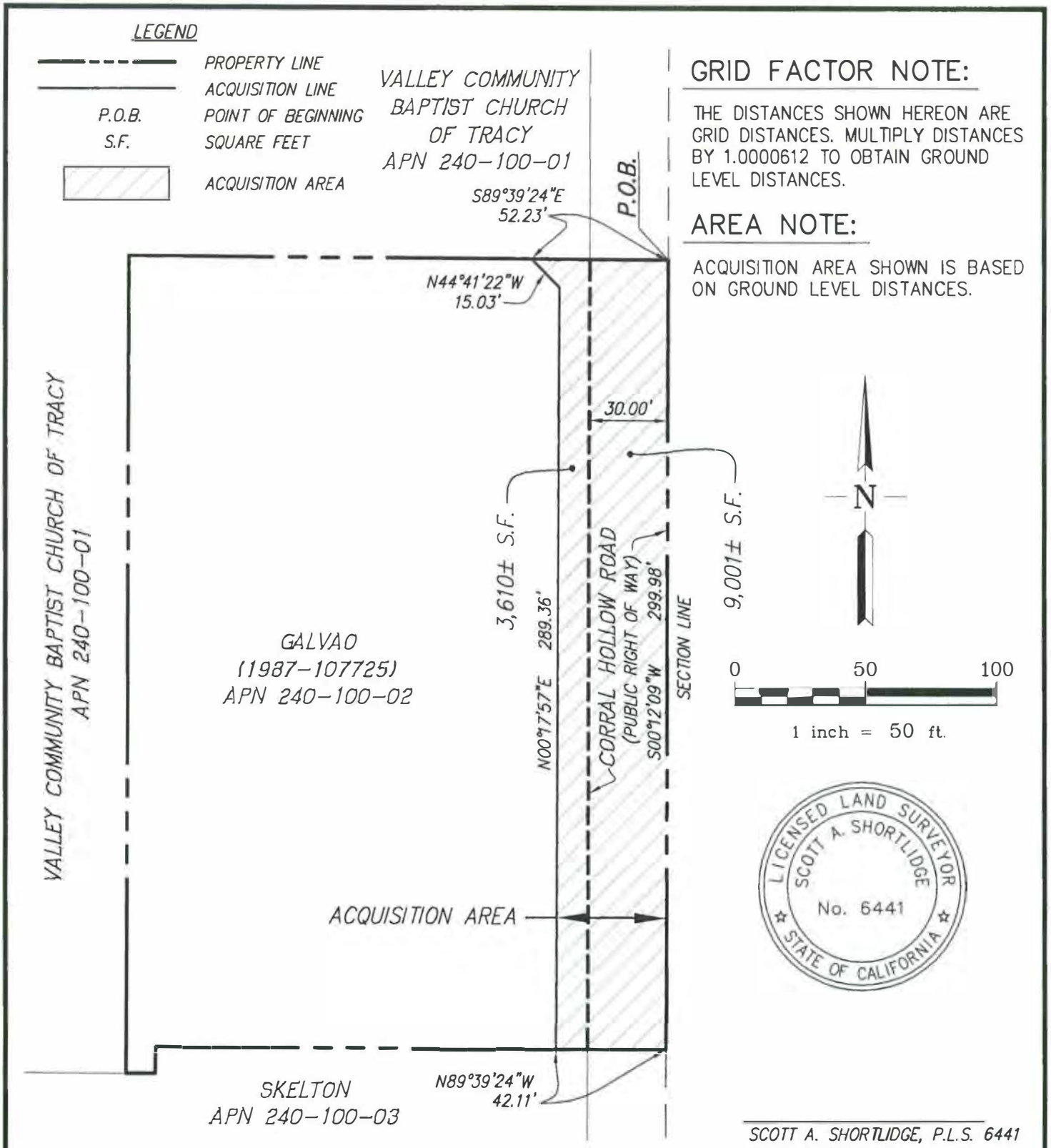
See Exhibit B - Plat to Accompany Legal Description which is attached hereto and made a part hereof:

END OF DESCRIPTION

This description and its accompanying plat were prepared by or under the direction of:

April 5, 2018

Scott A. Shortlidge, PLS 6441 Date




## GRID FACTOR NOTE:

THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.

## AREA NOTE:

ACQUISITION AREA SHOWN IS BASED ON GROUND LEVEL DISTANCES.

LICENSED LAND SURVEYOR
SCOTT A. SHORTLIDGE
No. 6441
STATE OF CALIFORNIA

SCOTT A. SHORTLIDGE, P.L.S. 6441
APRIL 9, 2018

G:\JOB2012\121083-IP\MAPPING\PLATS\CHR-RW\CHR TO SECTION LINE\W01-APN 24010002-GALVAO.DWG 4/5/2018 6:42:47 PM ALAN MULLEN

# EXHIBIT B

PLAT TO ACCOMPANY LEGAL DESCRIPTION

## RIGHT OF WAY ACQUISITION
## CORRAL HOLLOW ROAD

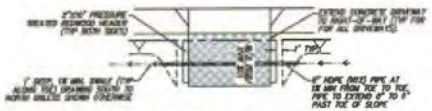
SAN JOAQUIN COUNTY, CALIFORNIA

RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

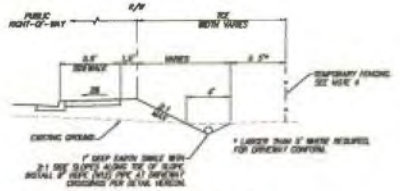
| SCALE: | DATE: | JOB NO.: |
|---|---|---|
| 1" = 50' | 4/9/2018 | 121083IP |




## CORRAL HOLLOW ROAD



**8" HDPE PIPE CROSSING/ DRIVEWAY DETAIL**
NOT TO SCALE



**SECTION A**
NOT TO SCALE

**GENERAL NOTES:**

1. CONTRACTOR SHALL REFER TO THE "EXISTING CONDITIONS, DEMOLITION AND UTILITY RELOCATION PLANS" FOR DEMOLITION REQUIRED WITHIN PUBLIC RIGHT-OF-WAY.
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5. IN ADDITION TO CONTACTING USA, (811) CONTRACTOR SHALL BE COGNIZANT OF ALL EXISTING OVERHEAD FACILITIES.
6. ALL DISTURBED AREAS (BACK OF WALK, SLOPES AND EARTH SWALES) TO BE HYDROSEEDED. CONTRACTOR SHALL WATER AND HYDROSEED UNTIL ESTABLISHED AND STABLE.

**CONSTRUCTION NOTES:**

(A) REMOVE EXISTING FENCE. SIDE YARD FENCES SHALL BE REMOVED TO TOE LIMIT.

(B) SAWCUT EXISTING CONCRETE/ASPHALT CONCRETE AT DRIVEWAY CONFORM.

(C) REMOVE EXISTING CONCRETE/ASPHALT CONCRETE/BRICK DRIVEWAY AND REPLACE WITH 3" AC/AB" AB. INSTALL 7"SW" PRESSURE CREOSOTE REDWOOD HEADERS PER DRIVEWAY DETAIL HEREON.

(D) INSTALL 8" HDPE (M12) AT 1% MIN UNDER DRIVEWAY PER DETAIL HEREON.

**STILL TO RESOLVE**

1. IS CROSS-LOT DRAINAGE (PER EXISTING CONDITION) ACCEPTABLE?
2. UPDATE POLE LOCATION ONCE POE/ATT DESIGN IS COMPLETE

**LEGEND**

- EXISTING RIGHT-OF-WAY
- NEW RIGHT-OF-WAY (R/W)
- EXISTING SIDE PROPERTY LINE
- PUBLIC UTILITY EASEMENT (PUE)
- TEMPORARY CONSTRUCTION EASEMENT (TCE)/TEMPORARY FENCE LINE
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- NEW INLET
- NEW STREET LIGHT
- 8" HDPE PIPE (M12)
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DIAL TOLL FREE 1-800-227-2600

RUGGERI-JENSEN-AZAR

LOT FINE GRADING AND CONFORM PLANS
IMPROVEMENT PLANS
CORRAL HOLLOW ROAD WIDENING CIP-73144
CITY OF TRACY, SAN JOAQUIN COUNTY, CALIFORNIA

SHEET C-7.01 OF ## SHEETS

# EXHIBIT E

A-16-23
2/9/2016

Dated 7/27/15
~~A-15-~~
A-16-23

CITY-COUNTY COOPERATIVE AGREEMENT
FOR CORRAL HOLLOW ROAD WIDENING PROJECT
BETWEEN PARKSIDE DRIVE AND I-580 RAMP

THIS AGREEMENT is made and entered into this 9th day of Feb 2016, by and between the CITY OF TRACY, a Municipal Corporation to the State of California,(hereinafter "CITY") and the COUNTY OF SAN JOAQUIN, a political subdivision of the State of California, (hereinafter "COUNTY").

WITNESSETH

WHEREAS, CITY plans to undertake a project to widen Corral Hollow Road between Parkside Drive and I-580 Interchange, including a section in the unincorporated jurisdiction of COUNTY (hereinafter referred to as "Project"), as shown on Exhibit A attached; and

WHEREAS, CITY AND COUNTY acknowledge the need to implement the Project, while being sensitive to the needs of area residents, businesses, and property owners.

NOW, THEREFORE, it is mutually agreed by and between COUNTY and CITY as follows:

1. The Project includes, but is not limited to: environmental documentation, right-of-way acquisition using eminent domain, if necessary, utility relocations, design, and construction for the widening of Corral Hollow Rd between Parkside Dr. and I-580 Interchange.

2. The parties agree that CITY is the agency for the Project, responsible for all costs related to the Project, including, but not limited to, the preparation of the environmental documentation, all right-of-way acquisition (including the use of eminent domain, if needed), utility relocations, design, and construction of Project.

3. The COUNTY and CITY hereby agree that the real property identified on Exhibit A, attached hereto and made a part of this Agreement by this reference, is the real property located in the COUNTY'S jurisdiction needed for the Project. The COUNTY and CITY agree that acquisition of the property is necessary in order to exercise each entity's powers and duties under this Agreement. CITY agrees to provide COUNTY prior written notice of any real property anticipated to be taken through the eminent domain process.

4. COUNTY agrees to request the San Joaquin Council of Governments to re-program ~~federal Congestion Mitigation and Air Quality (CMAQ) grant funds awarded to COUNTY~~ for the Corral Hollow Road-Valpico Road Intersection Improvements to reflect CITY will construct these improvements as part of Project.

5. COUNTY shall forward traffic impact or other fair share contributions collected by COUNTY from development in the unincorporated areas fronting the Project limits to CITY upon CITY'S request, after award of construction contract. All such funds shall be utilized for Project construction. Any remaining funds shall be returned by CITY to COUNTY upon Project completion.

6. Tasks to be performed by the COUNTY shall specifically include, but not be limited to, the following:

    i) Provide information and consultation to CITY to facilitate environmental documentation, right-of-way acquisition, including eminent domain acquisitions, if necessary, utility relocations, design and construction within the unincorporated area of the County;
    ii) Approving legal plats and descriptions for the conversion of COUNTY-owned right of way to roadway purposes.
    iii) Technical assistance with drainage solutions; and,
    iv) Granting needed permits at no cost to CITY.

7. Both the COUNTY and CITY acknowledge and agree that each party will incur costs in completing the Project and agree to waive right to any repayment of reimbursement from the other for any and all cost incurred by the Project.

8. Both the CITY and COUNTY agree that the ultimate design must accommodate and respect both CITY's plan for Corral Hollow Rd. and COUNTY's plan for Corral Hollow Road.

9. CITY hereby represents and warrants that the letting of Project contracts and construction will be done pursuant to the laws of the State of California.

10. COUNTY shall not be liable or responsible for and the CITY hereby expressly promises to indemnify, defend and hold COUNTY harmless from any injury, damage or loss, suffered, sustained or claimed as a result of CITY's acts or omissions under this Agreement.

11. CITY shall not be liable or responsible for, and COUNTY hereby expressly promises to defend and hold CITY harmless from any injury, damage or loss, suffered, sustained or claimed as a result of COUNTY's acts or omissions under this Agreement.

12. After Completion of the Project, portions located in COUNTY will be maintained by CITY.

13. Upon award of Project contract by CITY, CITY will initiate annexation of COUNTY portions within Project limits.

14. CITY intends to annex portions of Project within COUNTY prior to CITY acceptance of Project.

15. During Project construction, COUNTY will delegate its authority for traffic control to CITY

Execution of the foregoing agreement has been authorized by Resolution No. R-16-23, duly passed by the Board of Supervisors of San Joaquin COUNTY on 2/9/16, and by Resolution No. 2015-201, duly passed by the CITY Council of the CITY of Tracy, State of California, on December 1, 2015.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

CITY OF TRACY

MICHAEL MACIEL
Mayor

ATTEST:

NORA PIMENTEL
City Clerk

COUNTY OF SAN JOAQUIN,
Political subdivision of the
State of California

MOISES ZAPIEN
Chair, Board of Supervisors

ATTEST:

MIMI DUZENSKI, Clerk of
the Board of Supervisors

RECOMMENDED FOR APPROVAL:

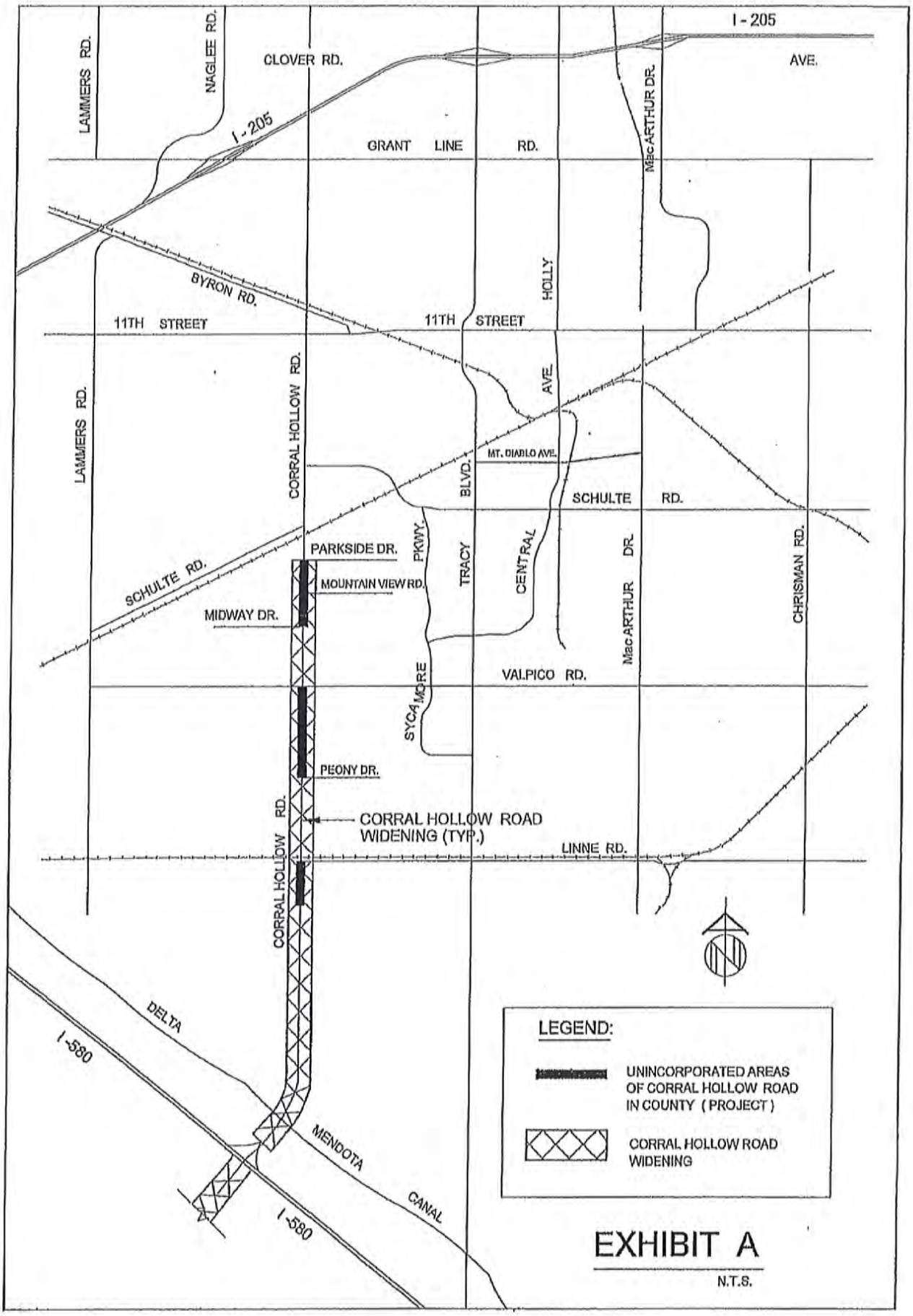
KRIS BALAJI
Director of Public Works

APPROVED AS TO FORM:

DAN SODERGREN,
City Attorney

APPROVED AS TO FORM:

LAWRENCE P. MEYERS
Deputy County Counsel




# EXHIBIT A

N.T.S.

RESOLUTION 2015-201

APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF TRACY AND SAN JOAQUIN COUNTY FOR THE WIDENING OF CORRAL HOLLOW ROAD FROM PARKSIDE DRIVE TO THE I-580 RAMP AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT

WHEREAS, The City of Tracy Roadway Master Plan identifies the widening of Corral Hollow Road from Parkside Drive to I-580 for the effective circulation of traffic in this part of the City, and

WHEREAS, The project is an approved Capital Improvement project scheduled for construction in multiple phases due to the lack of available funding at any one time and that the majority of the funding will be coming from Development Impact Fees and the other sources including Measure K sales tax, state and federal grants, and

WHEREAS, The San Joaquin Council of Governments (SJCOG) has allocated a total of $17 million (M) ($13m from measure K and $4M from Regional Traffic Impact fees) toward completion of a portion of this project between Parkside Drive to Linne Road, and

WHEREAS, Portions of Corral Hollow Road are located within the County's jurisdiction, staff has been coordinating with the County and it residents who will be impacted by this project. Additional right of ways will be required from certain properties for the widening of Corral Hollow Road, and

WHEREAS, A total of three Public Meetings were held and staff met with some residents separately on a per request basis, and

WHEREAS, After addressing the majority of the concerns of the impacted residents, both City and County Staff worked together to finalize a cooperative agreement which allows the City to acquire the required right of ways, design and construct the improvements and enforce traffic during construction, and

WHEREAS, Additional agreements between the City and County may be needed to address additional long term traffic enforcement concerns of the County residents, and

WHEREAS, The cooperative agreement has been reviewed by both City and County attorneys and after approval of the agreement by City Council, the County Board of Supervisors will approve the agreement, and

WHEREAS, There is no fiscal impact to the City General Fund and the project is primarily funded from Measure K and RTIF Funds;

NOW, THEREFORE, BE IT RESOLVED, That the City Council approves the cooperative agreement between the City of Tracy and San Joaquin County for the Widening of Corral Hollow Road from Parkside Drive to the I-580 Ramp and Authorizes the Mayor to execute the agreement.

*******

The foregoing Resolution 2015-201 was passed and adopted by the Tracy City Council on the 1st day of December, 2015, by the following vote:

AYES: COUNCIL MEMBERS: MITRACOS, RICKMAN, VARGAS, YOUNG, MACIEL

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

MAYOR

ATTEST:

CITY CLERK

THE FOREGOING DOCUMENT IS CERTIFIED TO BE A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.

CITY CLERK, CITY OF TRACY

BY:

DATE: 12/14/15

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN
STATE OF CALIFORNIA

# RESOLUTION

R-16-23

RESOLUTION PROVIDING FOR THE APPROVAL OF A COOPERATIVE AGREEMENT WITH THE CITY OF TRACY FOR THE CORRAL HOLLOW ROAD WIDENING PROJECT

---

WHEREAS, the City of Tracy (City) plans to undertake a project to widen Corral Hollow Road between Parkside Drive and Interstate 580 (hereinafter referred to as ("Project"), including sections in the unincorporated County; and,

WHEREAS, City and County acknowledge the need to implement the Project, while being sensitive to the needs of area residents, businesses, and property owners; and,

WHEREAS, City and County desire to implement a "revenue neutral" method for this Project, whereby mutual cooperation and assistance will replace fair-share funding calculation and payment.

NOW THEREFORE, BE IT RESOLVED by this Board of Supervisors that the Cooperative Agreement with the City of Tracy for the Corral Hollow Road Widening Project in the County of San Joaquin, be and is hereby approved.

BE IT FURTHER RESOLVED, the Chair of the Board of Supervisors is authorized and directed to execute the Cooperative Agreement with the City of Tracy on behalf of the County of San Joaquin.

PASSED AND ADOPTED 02/09/2016, by the following vote of the Board of Supervisors, to wit:

AYES: **Villapudua, Miller, Winn, Elliott, Zapien**

NOES: **None**

ABSENT: **None**

ABSTAIN: **None**

ATTEST:

MIMI DUZENSKI
Clerk of the Board of Supervisors
of the County of San Joaquin,
State of California

By **Mimi Duzenski**

**Moises Zapien**

MOISES ZAPIEN
Chair of the Board of Supervisors
County of San Joaquin
State of California

TE-16K026-ME3

July 21, 2020

AGENDA ITEM 3.D

REQUEST

**PUBLIC HEARING TO CONSIDER (1) APPROVING THE ENGINEER'S ANNUAL LEVY REPORT; AND (2) ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2020/2021**

EXECUTIVE SUMMARY

On June 16, 2020, Council approved the Tracy Consolidated Landscape Maintenance District (LMD) preliminary Engineer's Report, and declared its intention to levy annual assessments for the maintenance of landscaping and related appurtenances in the LMD. After consideration of public comment, it is recommended that City Council approve the final LMD Engineer's Report, and authorize the levy and collection of assessments for Fiscal Year 2020/2021 in amounts not to exceed the maximum rates previously approved by the Zones' property owners.

The assessments pay for the care and management of improvements within the public right-of-way such as median landscaping, neighborhood parks, street trees and streetscape aligned with neighborhoods. The LMD is a critical component in keeping Tracy maintained and physically attractive.

DISCUSSION

The purpose of this agenda item is to allow the City Council to: (1) hear and consider public comments pertaining to the annual Engineer's Report; (2) approve the final Engineer's Report as presented to, or modified by, Council; and (3) order the levy and collection of assessments within the LMD for Fiscal Year 2020/2021.

ASSESSMENT LEVIES

Maximum assessment rates were previously approved by the LMD property owners. Although maximum rates were approved, the assessments levied for the 41 assessable zones are based upon whether the needs of each zone warrant the levying of the maximum approved rates or a lesser rate.

The LMD zones are assessed pursuant to the Landscaping and Lighting Act of 1972 and the provisions of the California Constitution. Each year, the cost per Zone is analyzed and determined if an increase in the levy is needed based on the expenses for each zone which include annual maintenance, operation and servicing of landscape improvements, long-term maintenance and rehabilitation programs such as tree maintenance programs, streetscape revitalization and rehabilitation, and park rehabilitation and renovation projects. There is a maximum levy amount per parcel that is calculated when the Zone is annexed into the LMD. The annual assessments cannot exceed the maximum assessment rate previously approved by property owners without balloting to increase the assessments for the Zone.

It is recognized that the cost of maintaining the improvements increases slightly each year as a result of inflation. Therefore, in order to offset inflationary increases that affect service costs to the District, District assessments include a formula for increasing the *maximum* assessment rates for each future fiscal year[1]. These annual increases (3% in Fiscal Year 2020/2021) which can range from a $1.88 in the lowest maximum levy zone to $14.14 in the highest. The maximum levy amount does not equal the full amount assessed as each land classification has a different weight or know as an equivalent dwelling unit (EDU). This small CPI increases have not been sufficient to keep up with the cost of services. It has been over 20 years since rates have been increased beyond the annual inflationary rate increases for the vast majority of the Zones. To increase the rate beyond the maximum rate, excluding inflationary increases, requires a vote of the property owners within each zone per Proposition 218.

The annual inflationary rate increase allows the *maximum* rates to be increased by three percent (3%) or the percentage increase of the Consumer Price Index (CPI) for the San Francisco-Oakland-San Jose Area Region, whichever is less. The District's assessment formula complies with Government Code Section 54954.6 (a) and was approved by the City Council and the original District Property Owners.

The percentage difference for the CPI for the San Francisco-Oakland-San Jose Area applicable for the period of June 2018 to June 2019 was 3.1%. Therefore, the *maximum assessment* rates allowed for Fiscal Year 2020/2021 will be adjusted by 3.00% over the prior year's maximum assessment rates. Although inflationary rates may be applied to the *maximum* voter-approved rates, *only the assessment amount* needed for maintenance will be levied.

Based upon the estimated costs and expenditures to maintain the long and short-term landscaping and improvements within the LMD, staff recommends approval of the assigned assessment rates found in Part II ("Estimate of Costs") of the Engineer's Report for fiscal year 2020/2021. Of the 41 assessable zones, 25 zones will be assessed the maximum assessment rates allowed for Fiscal Year 2020/2021 due to operational needs including use of reserves for insufficient annual funding to cover basic maintenance costs and/or due to increased capital spending; eight zones will be assessed at a level below their maximum rate due to lower operating costs; and eight zones will not be assessed due to a Home Owners Association providing maintenance, adequate reserves, no improvements, or the zone providing a general benefit to the City of Tracy.

Expenditures for Fiscal Year 2020/2021 are estimated to be $4,951,314. The total revenues are broken down in the following manner: Levying of assessments and use of LMD reserves is estimated to be $4,832,939; $20,000 from the Drainage Fund to cover a portion of the costs for channel way/bike path landscape improvements and $98,495 from General Fund for improvements and maintenance that are largely of general benefit.

[1] This does not necessarily mean that the inflated rate will be levied. The assessments levied will be based upon the estimated costs of maintenance.

Note: Changes included in the Final Engineers Report form the Preliminary Engineer Reports presented on June 16, 2020 are as listed below

Zone 11 – previously omitted $616 for landscaping services under Contracted Services 5200
Zone 14 – previously omitted $9,206 for landscaping services under Contracted Services 5200
Zone 29 – previously omitted $21,572 for landscaping services under Contracted Services 5200
Zone 35 – previously omitted $8,701 for landscaping services under Contracted Services 5200

## STRATEGIC PLAN

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

## FISCAL IMPACT

Revenue for operations, maintenance and capital replacement in the LMD is proposed to be from the following sources:

| | |
|---|---|
| Assessments | $3,344,452 |
| Drainage Fund | $ 20,000 |
| General Fund | $ 98,495 |
| Zone Capital Reserves & CIP | $1,488,487 |
| Grand Total | $4,951,434 |

The total expenditures for the LMD for Fiscal Year 2020/2021 are estimated to be $4,951,314.

## RECOMMENDATION

At the close of the Public Hearing, Council approve, by resolution, the final "FY 2020/2021 Engineer's Report" and order the levy and collection of assessments for Fiscal Year 2020/2021.

Prepared by: Robin Kloepfer, Management Analyst II

Reviewed by: Don Scholl, Public Works Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jennifer D. Haruyama, City Manager

## ATTACHMENTS

Exhibit "A" - FY 2020/2021 Final Engineer's Report

CITY OF TRACY CALIFORNIA
Think Inside the Triangle™

# CITY OF TRACY

## ENGINEER'S REPORT
## FISCAL YEAR 2020-21
## CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT

**June 2020**

Harris & Associates

***Prepared by***

***Harris & Associates***
*1401 Willow Pass Road, Suite 500*
*Concord, CA 94520*
*www.weareharris.com*

**ENGINEER'S REPORT FOR**
**FISCAL YEAR 2020-21**
**CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT**
**City of Tracy**
**State of California**

APPROVED BY THE CITY COUNCIL FOR THE CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT OF THE CITY OF TRACY, STATE OF CALIFORNIA ON THE _____ DAY OF _____.

_____
ADRIANNE RICHARDSON
CITY CLERK
CITY OF TRACY

# TABLE OF CONTENTS

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**Introduction** 1

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**Part V – Assessment Diagram** 62

**Part VI – Assessment Roll** 63

## Appendices

**Appendix A – Improvement Areas by Zone**

**Appendix B – Consolidated Landscape Maintenance Map**

**Appendix C – Assessment Roll**

# INTRODUCTION

The City of Tracy (the "City"), is the second most populated city in San Joaquin County. The City population is approximately 95,000. Tracy is located inside a geographic triangle formed by Interstate 205 on the north side, Interstate 5 to the east, and Interstate 580 to the southwest; this has given rise to Tracy's motto, now recorded on the City's website: "Think Inside the Triangle".

Prior to Fiscal Year 2003-04, the City levied and managed three individual landscape maintenance districts identified as:

- Tracy Landscape and Lighting Assessment District 8501 formed in 1985;
- Tracy Landscape and Lighting Assessment District 8801 formed in 1988; and,
- Tracy Landscape and Lighting Assessment District 9802 formed in 1998.

Each of these original districts was formed with various Zones, and with specific areas of improvement. The parcels receiving benefit from those improvements have been assessed the costs of maintaining those improvements. At that time, the three original districts included thirty (30) different Zones. Each Zone included specific improvements that were installed as a condition of approval and the Zone improvements were maintained for the benefit of those properties.

In Fiscal Year 2003-04 the City consolidated the three existing districts into a single district pursuant to Section 22605 (d) of the 1972 Act and established the Tracy Consolidated Landscape Maintenance District. As part of the consolidation, the improvements associated with various Zones were closely evaluated and it was determined that in some areas, the special benefits to properties could be more refined by expanding the existing thirty (30) Zones to thirty-seven (37) Zones.

Several annexations have taken place over the subsequent years and there are now 41 Zones within the District. Each annexation was made pursuant to the 1972 Act and the substantive and procedural requirements of the Proposition 218.

As required by the Landscaping and Lighting Act of 1972, this Engineer's Report describes the improvements to be constructed, operated, maintained and serviced by the District for FY 2020-21, provides an estimated budget for the District, and lists the proposed assessments to be levied upon each assessable lot or parcel within the District. Following the approval of the preliminary report, either as submitted or as modified, the City Council will hold a Public Hearing to provide an opportunity for any interested person to be heard. All property owners must be noticed in accordance with Section 22626 of the Streets and Highways Code prior to the Public Hearing. At the conclusion of the Public Hearing, the City Council may adopt a resolution confirming the levy of assessments as originally proposed or as modified.

Following the adoption of this resolution, the final assessor's roll will be prepared and filed with the County Tax Collector's office to be included on the FY 2020-21 tax roll.

# IMPACTS OF PROPOSITION 218

On November 5, 1996 California voters approved Proposition 218 entitled "Right to Vote on Taxes Act" which added Article XIIID to the California Constitution. While its title refers only to taxes, Proposition 218 establishes new procedural requirements for the formation and administration of assessment districts. Proposition 218 also requires that with certain specified exceptions, which are described below, all existing assessment districts must be ratified by the property owners within the District using the new procedures.

Some of these exceptions include:

1) Any assessment imposed exclusively to finance the capital cost or maintenance and operation expenses for streets.
2) Any assessments levied pursuant to a petition signed by the persons owning all of the parcels subject to the assessment at the time the assessment was initially imposed.

However, even if assessments are initially exempt from Proposition 218, if the assessments are increased in the future, the City will need to comply with the provisions of Proposition 218 for that portion of the increased assessment unless the increase in assessment was anticipated in the assessment formula (e.g., CPI increase).

Proposition 218 does not define this term "streets", however, following the passage of Proposition 218 based on conversations with other public agency officials, attorneys, assessment engineers and Senate Bill 919, we determined that "streets" include all public improvements located within the street right-of-way. This would include median and parkway landscaping, traffic signals, safety lighting and street lighting.

It was also determined that if assessments were imposed as a condition of development and property owners agreed to the imposition of assessments and subsequently signed a development agreement confirming so, then this would suffice for the requirement of signing a petition.

The more difficult question arose in those situations where the levy of assessments was imposed as a condition of approval for land development or subdivision where the property owner did not enter into a development agreement. In those cases, if the landscape, park, or street light facilities and the resulting assessment were a condition of the land development or subdivisions approval and the property owner acquiesces to the levy of assessment, it is reasoned that this was a functional equivalent of giving express consent or signing a petition requesting the imposition of the assessment. Even the Howard Jarvis Taxpayers' Association seems to tacitly support this conclusion in its "Statement of Drafters' Intent". When discussing the exemption for existing assessments imposed pursuant to a petition, the taxpayers' association said:

> "This provision exempts most land secured financing arrangements used by developers."

Clearly acceptance of a condition of approval of a development or subdivision which requires that imposition of assessments is a common form of land secured financing used by developers to fund street lighting or landscape maintenance.

# STATEMENT OF ASSESSMENT ENGINEER

## Statement of Assessment Engineer

**AGENCY:** **CITY OF TRACY**

**PROJECT:** **CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT**

**TO:** **THE CITY COUNCIL**
**CITY OF TRACY**
**STATE OF CALIFORNIA**

**ENGINEER'S REPORT FOR FISCAL YEAR 2020-21**

The preparation of this Annual Engineer's Report ("Report") is in conformance with the obligation of the City Council for the Consolidated Landscape Maintenance District of the City of Tracy to provide landscape maintenance services upon each lot or parcel of land in the district in proportion to the estimated benefit to be received by each such lot or parcel of land for Fiscal Year 2020-21.

Pursuant to the Landscaping and Lighting Act of 1972 (Part 2 Division 15 of the Streets and Highways Code of the State of California, commencing with Section 22500) ("Act"), Article XIIID, Section 4(a) of the State of California Constitution, and in accordance with the City of Tracy's Resolution being adopted by the City Council for the Consolidated Landscape Maintenance District on the 21st day of July, 2020 this Report has been ordered for:

**CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT**

(Hereinafter referred to as the "District"),

I, K. Dennis Klingelhofer, authorized representative of the District, the duly appointed Assessment Engineer submit the following Report which consists of the following six (6) parts and Appendices:

**PART I**

**Plans and Specifications:** Plans and specifications for the improvements are as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk and are incorporated herein by reference.

**PART II**

**Estimate of Cost:** An estimate of the costs of the proposed improvements, including incidental costs and expenses in connection therewith, is as set forth on the lists thereof, attached hereto, and are on file in the Office of the City Clerk and incorporated herein by reference.

**PART III**

**Quantification of Benefit:** The quantification of benefit identifies, separates and quantifies the general and special benefits received by each parcel in the District, for the services received and the improvements provided.

**PART IV**

**Method of Assessment:** The method of assessment indicates the proposed levy of the net amount of the costs and expenses of the improvements to be levied upon the parcels of land within the District, in proportion to the estimated benefits to be received by such parcels.

**PART V**

**Assessment Diagram:** The diagram of the district and zone boundaries showing the exterior boundaries of the Assessment District and all Zones, and the lines and dimensions of each lot or parcel of land within the Assessment District. The lines and dimensions of each lot or parcel within the Assessment District are those lines and dimensions shown on the maps of the Assessor of the County of San Joaquin for the fiscal year to which this Report applies. The Assessor's maps and records are incorporated by reference herein and made part of this Report. Appendix A describes the Improvement Areas of the District by Zone. Appendix B provides the Consolidated Landscape Maintenance District Map.

**PART VI**

**Assessment Roll:** An assessment of the estimated cost of the improvements on each benefiting lot or parcel of land within the District. The proposed Assessment Roll using the Fiscal Year 2020-21 assessment rates are included in this Report as Appendix C.

**Appendices**

Appendix A – Improvement Areas by Zone

Appendix B – Consolidated Landscape Maintenance District Map

Appendix C – Assessment Roll

In conclusion, it is my opinion that the costs and expenses of the District have been assessed to the lots and parcels within the boundaries of the District in proportion to the estimated benefits to be received by each lot or parcel from the services provided.

DATED this 21st day of July, 2020

Harris & Associates

K. Dennis Klingelhofer, P.E., Assessment Engineer
R.C.E. No. 50255
Engineer of Work

# PART I – PLANS AND SPECIFICATIONS

The facilities, which have been constructed within the City of Tracy, and those which may be subsequently constructed, will be operated, serviced and maintained as generally described below:

**DESCRIPTION OF IMPROVEMENTS**
**FOR THE CITY OF TRACY**
**CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT**
**FISCAL YEAR 2020-21**

The District and assessments provide for the continued maintenance, servicing, administration and operation of specific landscaped areas and associated appurtenances for each of the forty-one (41) Zones in the District. It has been determined that the assessed parcels within each Zone receive special benefits from various landscape improvements that may include, but are not limited to: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, recreational equipment, hardscapes and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, parks or open space areas within each Zone. Services provided include the necessary operations, administration, and maintenance required to keep the improvements in a healthy, vigorous, and satisfactory condition or are necessary or convenient for the maintenance of the improvements. The continued maintenance of these improvements shall be budgeted and reviewed each fiscal year and fully or partially funded through the annual assessments. A listing of the improvement areas associated with each Zone is shown in Appendix A.

All assessable parcels identified as being within each Zone share in both the cost and the benefits of the improvements. The costs and expenses associated with the improvements in each Zone are equitably spread among all benefitting parcels within that Zone and only parcels that receive special benefit from the improvements are assessed in proportion to benefit received. The funds collected from the assessments are dispersed and used for the services and operations provided within the District. Properties receive the following special benefits from the District landscape improvements:

- Enhanced desirability of properties through association with the improvements and the aesthetic value of green space within the area.
- Improved aesthetic appeal of properties providing a positive representation of the area.
- Enhanced adaptation of the urban environment within the natural environment from adequate green space and landscaping.
- Environmental enhancement through improved erosion resistance, dust and debris control and reduced noise and air pollution.
- Increased sense of pride in ownership of property resulting from well-maintained improvements associated with the properties.
- Reduced vandalism and criminal activity resulting from well-maintained surroundings and amenities.
- The special enhancements of the properties that results from the above benefits.

The proposed budgets and maintenance costs for various Zones may include the following long-term cyclical maintenance programs:

1. Tree Maintenance Programs (Arterial, Parkway Street and Park Tree Maintenance);
2. Streetscape Revitalization and Rehabilitation Program and;
3. Park Rehabilitation and Renovation Program.

The total amount to provide these programs in each Zone where these services apply is greater than can be conveniently raised from a single annual assessment and the estimated costs of these programs for each Zone shall be raised and collected in installments as part of the annual assessments. The individual Budget pages for each Zone detail the amounts collected and/or expended each year.

The City developed these programs to fund periodic and programmed maintenance, renovation, rehabilitation, replacement and revitalization of District improvements. The City has carefully reviewed each of the associated program costs and the corresponding collection of funds has been proportionately spread to each parcel based on special benefits received from the services to be rendered within their Zone over an extended period.

## Tree Maintenance Program

The Tree Maintenance program may include both routine and emergency maintenance for the District trees, whether those trees are along streets or within parks. In the Zones assessed for this program, the following may apply:

1. Parkway street-tree maintenance, targets the trees associated with individual properties within the District installed by the City or developer that are located in the public right- of-way or City easement which the District is responsible for maintaining. This program addresses two specific maintenance issues:
    - Regular trimming and pruning of the street-trees. This program is designed to trim and prune all street-trees within the applicable Zones on a five to seven year rotation or as needed to ensure the health and growth of the trees.
    - Removal and replacement of the street-trees. The program provides for the removal and replacement of damaged or diseased trees as needed, or removal of trees whose growth has, or will potentially cause damage to existing structures such as underground utilities or sidewalks. This program may also include the replacement or repair of surrounding City improvements as needed.
2. Arterial-tree maintenance, targets the trees associated with the parkways and medians on the arterial streets adjacent to or surrounding the Zones. Similar to the parkway street-tree program, this program addresses two specific maintenance issues:
    - Regular trimming and pruning of the arterial-trees, which includes trimming and pruning of the arterial-trees as needed to ensure the health and growth of the trees.
    - Removal and replacement of the arterial-trees, including the removal or replacement of damaged or diseased trees as needed, or removal of trees whose growth has or will potentially cause damage to existing landscape improvements, sidewalks or curbs. This program may include the replacement or repair of surrounding City improvements as needed.

3. Park-tree maintenance, targets the trees within the various Parks of the District/Zones. Similar to the parkway and arterial street-tree program, this program addresses two specific maintenance issues:

    - Regular trimming and pruning of the Park-trees, which includes trimming and pruning of the trees as needed to ensure the health and growth of the trees.

    - Removal and replacement of the Park-trees, including the removal or replacement of damaged or diseased trees, or removal of trees whose growth has or will potentially cause damage to existing landscape improvements, sidewalks or curbs. This program may include the replacement or repair of surrounding City improvements as needed.

Assessments for the tree maintenance program shall be collected from only those parcels and Zones identified as receiving special benefit from each of the specific services provided. Each parcel within the District that benefits from the various tree maintenance services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with the tree maintenance, which is planned every five to seven years, depending upon Zone funding availability.

## Streetscape Revitalization and Rehabilitation Program

The Streetscape Revitalization and Rehabilitation program includes, but is not limited to the following and may include routine or emergency maintenance.

1. Removal or replacement of existing dead/dying plant materials within the medians and parkway-landscaped areas.
2. Removal of existing plant materials and replacement with new plant material or non-plant materials within the medians and parkway-landscaped areas.
3. Upgrades or renovation to the irrigation or drainage systems, electrical systems or water meters, hardscape improvements associated with the landscaping such as confirmed City sound walls, walking paths, soil and stamped concrete.

Assessments for the streetscape program shall be collected from only those parcels and Zones identified as receiving special benefit from parkway and median landscaped areas. Each parcel within the District that benefits from the streetscape revitalization and rehabilitation services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with the program, which is planned every ten years. This program is designed to ensure the long-term maintenance of all streetscape landscaping within the District.

## Park Rehabilitation and Renovation Program

There are specific costs associated the annual and regular maintenance of park improvements and facilities which are included in the annual maintenance expenses of those Zones that benefit from the parks associated with that Zone. However, the cost of periodically repairing, replacing, and upgrading the landscaping and facilities within these parks cannot be reasonably collected in a single annual assessment. Therefore, the City has established a long-term park rehabilitation and renovation program that includes the design repair and reconstruction of parks within the District.

The program anticipates revitalization design in the 13th year of a park's life, with the revitalization occurring in the 15th year. Each parcel within the District that benefits from the park rehabilitation and renovation services is assessed on an annual installment basis to meet its proportional share of the cost and expenses associated with the program. However, with current inflation rates, the majority of Zones are unable to keep up with the accelerating maintenance costs.

The costs of providing for the annual and regular maintenance of the landscape improvements as well as the long-term maintenance programs for the District have been identified as a special benefit to properties within the District. Although the location of the improvements may be visible to properties outside the District or to the public at large, the improvements have been installed and are maintained for the benefit of properties within the District. As such, there is no quantifiable general benefit from the improvements to persons or properties outside the District. The portion of the costs associated with the maintenance of the Channel-ways and the landscaped areas on Eleventh Street, generally between Lammers Road and the Railroad Tracks east of Corral Hollow Road, benefit both properties within the adjacent Zones as well as properties that are not within the District and it has been determined that the City will contribute funds to the District for the maintenance of these areas.

The assessments and Method of Assessment described in this Report utilize commonly accepted assessment engineering practices and have been established pursuant to the 1972 Act and the provisions of Proposition 218. The assessment amount for each Zone is based only on the services and improvements associated with that Zone. All assessments are apportioned based upon the special benefit received by the properties within each Zone and are over and above any general benefit conferred on the public at large. Any new or increased assessments will be subject to the substantive and procedural requirements of Proposition 218. Property owner ballot proceedings are not required if the proposed annual assessment rate is less than or equal to the maximum assessment rate previously approved for each of the Zones.

In any given fiscal year, if the assessment revenue will not allow for full maintenance service in a particular Zone, City staff will determine the scope of work to be performed, and any necessary reductions in the scope of work will likely include, but not be limited to, the reduction or elimination of the long-term renovation and rehabilitation programs and some or all of the following:

*Turf Areas*

- Reduced frequency of mowing and edging turf areas. Full scope includes mowing and edging turf areas regularly.
- No fertilization. Full scope includes fertilization multiple times a year. Limited/elimination of weed control.
- Limited/elimination of aeration.

*Ground Cover/Shrub Areas*

- Limited/elimination of emergent weed control. No fertilization.
- Limited/elimination of mowing or removal of dead plants and leaves.
- Limited/elimination of vine trimming.

*General Landscaping*

- Limited/elimination of removal of tree stakes and ties. Limited/elimination of trash pick-up in landscaping areas.
- Limited/elimination of weed and litter control for gutters, curbs, parking lots and walkways and adjacent to contract areas.
- Administration and operations of the landscaping Zones.

The proposed assessments described in this Report are based on the estimated costs associated with the regular annual maintenance, operation and servicing of landscape improvements within each Zone. The total cost of these improvements are proportionately spread to only the properties within each respective Zone based on a method of apportionment that reflects the direct and proportional special benefits to each property. In addition to the regular annual maintenance of the landscape improvements, various Zone budgets include the collection of funds associated with specific long-term maintenance and rehabilitation programs identified as: Tree Maintenance Programs; Streetscape Revitalization and Rehabilitation Program; and Park Rehabilitation and Renovation Program. The funds collected for these programs are proportionally collected from only those Zones for which these programs are provided.

The word "parcel", for the purposes of this Report, refers to an individual property assigned its own Assessment Parcel Number by the San Joaquin County Assessor's Office. The San Joaquin County Auditor/Controller uses Assessment Parcel Numbers and specific Fund Numbers to identify, on the tax roll, properties assessed for special district benefit assessments.

# PART II – ESTIMATE OF COSTS

The estimated costs of maintenance and servicing the improvements for the District as described in Part B, Plans and Specifications, for each Zone are summarized in the Zone budget tables on pages 13-53. A summary table of consolidated costs for all 41 Zones in the District is provided on page 54 of this Report.

The following is a description of the budget items including maintenance, replacement, power costs for supplying electrical energy for the illumination of the decorative lights, irrigation systems, City administrative and personnel services for the annual administration, San Joaquin County costs related to placing assessments onto the tax roll, and any Reserve collections.

## Description of Budget Items

*Personnel – 5100*

- *Field & Supervisory Personnel.* The cost associated to City staff for providing non-scheduled repairs, graffiti removal, operations and maintenance of the improvements, etc. within the Zones.

*Contracted Services – 5200*

- *Contracted Maintenance Contracts.* Includes all regularly scheduled labor, material, e.g. fertilizer, insecticides, etc., and equipment required to properly maintain and ensure the satisfactory condition of all landscaping, irrigation and drainage systems, and appurtenant facilities.
- *Utilities.* The cost of water, sewer, and electrical utilities necessary to maintain improvements within the Zones.
- *County Collection Fee.* The cost to the Consolidated District for the County to collect the assessments on the property tax bills. Cost is the lesser of $3.00 per parcel or 1% of the total amount placed onto the tax roll.
- *LMD Administration.* The costs of contracting with professionals to provide services specific to the levy administration, including preparation of the Engineer's Report, resolutions, and levy submittal to the County. These fees can also include any additional administrative, legal, or engineering services specific to the District such as the cost to prepare and mail notices of the public meeting and hearing.

Materials – 5300

- *Supplies.* Includes supplies to maintain or repair irrigation system, playgrounds, plant material, etc

Capital Project – 5600

- *Capital Improvement Projects.* These costs include the long-term replacement costs of improvements that cannot be paid for during a single fiscal year. Funds are collected over several years to pay for replacement costs.

Overhead – 5900

- Business expense not chargeable to a particular part of the District (ex: insurance, etc.)

Internal Service - 5400

*Indirect Costs.* Incidental costs and expenses of the City associated with the operation and administration of the District and the cost of maintenance, services and incidentals not included above. (ex. vehicle or building maintenance)

*Long-Term Cyclical Maintenance.* Includes the following and will be reflected in the 5200 or 5300 category for the year the funds will be expensed.

- *Streetscape Revitalization & Rehabilitation.* This represents the zone's annual installment for participation in the Streetscape Revitalization and Rehabilitation program.
- *Arterial Street Tree Maintenance.* This represents the zone's annual installment for participation in the Arterial Street Tree Maintenance program.
- *Street Tree Maintenance.* This represents the zone's annual installment for participation in the Street Tree Maintenance program.
- *Park Tree Maintenance.* This represents the zone's annual installment for participation in the Tree Maintenance program, specific to Parks.
- *Park Rehabilitation & Renovation.* This represents the zone's annual installment for participation in the Park Rehabilitation and Renovation program.

*Zone Reserve Adjustments.* Each Zone has its own Reserve Fund and monies are used from the Reserve Funds to reduce assessment amounts to individual parcels or to contribute to the Zone Reserve Funds, whether Operating Reserves or Capital Reserves.

*County Collection Fee.* The cost to the Consolidated District for the County to collect the assessments on the property tax bills. Cost is the lesser of $3.00 per parcel or 1% of the total amount placed onto the tax roll.

*Capital Improvement Projects.* These costs include the long-term replacement costs of improvements that cannot be paid for during a single fiscal year. Funds are collected over several years to pay for those replacement costs.

*Zone Reserve Adjustments.* Each Zone has its own Reserve Fund and monies are used from the Reserve Funds to reduce assessment amounts to individual parcels or to contribute to the Zone Reserve Funds, whether Operating Reserves or Capital Reserves.

*Special Tax Support.* Proceeds allocated to the City per Measure V, Special Transportation Tax, and Gas Tax that can be utilized for maintenance expenses in Zones where the City maintains the arterial, median and right-of-way landscaping.

*General Fund Support.* Represents the City's contribution to the Zones for any general benefit that the improvements within the Zones may have impact on other properties or the public at large.

*Drainage Fund Support.* Represents the City's contribution to the Zones for any channel way that the improvements within the Zones may have impact on other properties or the public at large.

*Balance to Levy.* This is the total amount to be levied and collected through assessments for the current fiscal year. It represents the sum of Total Expenses and Other Revenues subtracting the General Fund Support and the Drainage Fund Support.

*Variance.* A variance may be seen between the Levy per EDU and the Maximum Levy per EDU. The variance occurs because the Special Assessments required to meet expenses for the current fiscal year are below the maximum level. The Maximum Levy per EDU is based upon the total expenses for all improvements both existing and those planned for the future.

*Total Parcels Levied.* The total number of parcels within the Zones that will receive the special benefits during the current fiscal year.

*Total EDUs.* The total Equivalent Dwelling Units within the Zones applied to the parcels described above.

*Proposed Levy per EDU.* This amount represents the rate being applied to each parcel's individual EDU. The Levy per EDU is the result of dividing the "Special Assessment to Levy" by the Total EDUs of the Zones for the fiscal year. This rate is rounded to the nearest even pennies.

*Maximum Levy per EDU.* This is the rate per EDU approved by property owners within the Zone, in accordance with Proposition 218, adjusted for inflation as described in the Method of Apportionment. This rate is rounded to the nearest penny.

## Budget Tables

Budget tables for each zone and a summary table for the District are presented on the following pages. The following footnotes apply to all the Budgets:

1. Direct Costs for 2021-22 and 2022-23 are equal to the current year's amount plus 3% escalation to account for inflation. This is shown as an estimate only.
2. Administration Costs for 2021-22 and 2022-23 are equal to the current year's amount plus 3% escalation to account for inflation, except for the County Collection Fee, which is equal to the lesser of $3 per parcel or 1% of the levy amount.
3. Levy Adjustments for 2021-22 and 2022-23 are equal to the current year's amount plus 3% escalation to account for inflation, except for the Zone Reserve Adjustments, which equals the amount necessary to maintain the assessment rate that is at or below the maximum allowable assessment rate for that year.
4. The Maximum Assessment Rate for 2021-22 and 2022-23 are equal to the current year's Maximum Assessment Rate, plus 3% escalation for inflation. The actual escalation rate is based upon the June CPI for the San Francisco-Oakland-Hayward area, and is calculated each year.
5. The Beginning Fund Balances shown on each Budget page includes both the Operating and Cyclical Reserve amounts, and are projections of the April 2020 year-to-date estimates.

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 1**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $12,293 | $12,661 | $13,041 |
| Contracted Services - 5200 | $13,541 | $13,947 | $14,365 |
| Materials - 5300 | $4,775 | $4,919 | $5,066 |
| Capital Projects - 5600 | $978 | $1,007 | $1,037 |
| **TOTAL DIRECT** | **$31,587** | **$32,534** | **$33,510** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $2,126 | $2,190 | $2,256 |
| Internal Services - 5400 | $1,255 | $1,293 | $1,331 |
| County Collection Fee | $398 | $410 | $422 |
| **TOTAL ADMINISTRATION** | **$3,779** | **$3,892** | **$4,009** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$35,366** | **$36,427** | **$37,519** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $6,270 | $6,464 | $6,656 |
| Gas Tax Support | $0 | $0 | $2 |
| General Fund - 101 | ($988) | ($1,018) | ($1,048) |
| Storm Drain Fund - 101 | ($890) | ($917) | ($944) |
| **TOTAL ADJUSTMENTS** | **$4,392** | **$4,530** | **$4,666** |
| **Balance to Levy** | **$39,758** | **$40,957** | **$42,185** |
| **Total Revenue at Maximum Rate** | **$39,764** | **$40,957** | **$42,185** |
| Variance above/(below) Maximum Revenue | ($6) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 294 | 294 | 294 |
| Total Parcels Levied | 294 | 294 | 294 |
| Total EDUs | 617.00 | 617.00 | 617.00 |
| Total EDUs Levied | 617.00 | 617.00 | 617.00 |
| Proposed Levy per EDU | **$64.44** | $66.38 | $68.37 |
| Max Levy per EDU [4] | $64.45 | $66.38 | $68.37 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $76,580 | $83,233 | $90,114 |
| Reserve Fund Adjustment | $6,270 | $6,464 | $6,656 |
| Interest (0.5%) | $383 | $416 | $451 |
| **Projected Reserve Fund Balance at End of Year** | **$83,233** | **$90,114** | **$97,221** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 2**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $2,585 | $2,662 | $2,742 |
| Contracted Services - 5200 | $12,576 | $12,953 | $13,342 |
| Materials - 5300 | $463 | $477 | $491 |
| Capital Projects - 5600 | $206 | $212 | $218 |
| **TOTAL DIRECT** | **$15,829** | **$16,304** | **$16,793** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $447 | $461 | $474 |
| Internal Services - 5400 | $264 | $272 | $280 |
| County Collection Fee | $120 | $102 | $105 |
| **TOTAL ADMINISTRATION** | **$831** | **$834** | **$859** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$16,661** | **$17,138** | **$17,652** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($4,430) | ($4,540) | ($4,676) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($208) | ($214) | ($220) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($4,638)** | **($4,754)** | **($4,896)** |
| **Balance to Levy** | **$12,023** | **$12,385** | **$12,756** |
| **Total Revenue at Maximum Rate** | **$12,024** | **$12,385** | **$12,756** |
| Variance above/(below) Maximum Revenue | ($1) | ($0) | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 125 | 125 | 125 |
| Total Parcels Levied | 125 | 125 | 125 |
| Total EDUs | 125.00 | 125.00 | 125.00 |
| Total EDUs Levied | 125.00 | 125.00 | 125.00 |
| Proposed Levy per EDU | **$96.18** | $99.08 | $102.05 |
| Max Levy per EDU [4] | $96.19 | $99.08 | $102.05 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $16,530 | $12,182 | $7,703 |
| Reserve Fund Adjustment | ($4,430) | ($4,540) | ($4,676) |
| Interest (0.5%) | $83 | $61 | $39 |
| **Projected Reserve Fund Balance at End of Year** | **$12,182** | **$7,703** | **$3,066** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 3**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $168,657 | $173,717 | $178,928 |
| Contracted Services - 5200 | $223,823 | $230,538 | $237,454 |
| Materials - 5300 | $23,638 | $24,347 | $25,077 |
| Capital Projects - 5600 | $13,416 | $13,818 | $14,233 |
| **TOTAL DIRECT** | **$429,534** | **$442,420** | **$455,693** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $29,174 | $30,049 | $30,951 |
| Internal Services - 5400 | $17,218 | $17,735 | $18,267 |
| County Collection Fee | $4,114 | $4,114 | $4,114 |
| **TOTAL ADMINISTRATION** | **$50,506** | **$51,898** | **$53,332** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$480,041** | **$494,318** | **$509,024** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($51,387) | ($52,776) | ($54,236) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($13,555) | ($13,962) | ($14,381) |
| Storm Drain Fund - 101 | ($3,703) | ($3,814) | ($3,929) |
| **TOTAL ADJUSTMENTS** | **($68,646)** | **($70,552)** | **($72,545)** |
| **Balance to Levy** | **$411,395** | **$423,766** | **$436,479** |
| **Total Revenue at Maximum Rate** | **$411,423** | **$423,766** | **$436,479** |
| Variance above/(below) Maximum Revenue | ($29) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 2,301 | 2,301 | 2,301 |
| Total Parcels Levied | 2,301 | 2,301 | 2,301 |
| Total EDUs | 2,878.02 | 2,878.02 | 2,878.02 |
| Total EDUs Levied | 2,878.02 | 2,878.02 | 2,878.02 |
| Proposed Levy per EDU | **$142.94** | $147.24 | $151.66 |
| Max Levy per EDU [4] | $142.95 | $147.24 | $151.66 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $437,664 | $388,465 | $337,631 |
| Reserve Fund Adjustment | (51,387) | (52,776) | (54,236) |
| Interest (0.5%) | 2,188 | 1,942 | 1,688 |
| **Projected Reserve Fund Balance at End of Year** | **$388,465** | **$337,631** | **$285,084** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 4**

| | Proposed Budget FY 2020-21 | Proposed Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $86 | $88 | $91 |
| Contracted Services - 5200 | $631 | $650 | $669 |
| Materials - 5300 | $5 | $6 | $6 |
| Capital Projects - 5600 | $7 | $7 | $7 |
| **TOTAL DIRECT** | **$729** | **$751** | **$773** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $15 | $15 | $16 |
| Internal Services - 5400 | $9 | $9 | $9 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$24** | **$24** | **$25** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$752** | **$775** | **$798** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($865) | ($768) | ($791) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($7) | ($7) | ($7) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($872)** | **($775)** | **($798)** |
| **Balance to Levy** | **$0** | **$0** | **$0** |
| **Total Revenue at Maximum Rate** | **$19,985** | **$20,585** | **$21,202** |
| Variance above/(below) Maximum Revenue | ($19,985) | ($20,585) | ($21,202) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 144 | 144 | 144 |
| Total Parcels Levied | 144 | 144 | 144 |
| Total EDUs | 144.00 | 144.00 | 144.00 |
| Total EDUs Levied | 144.00 | 144.00 | 144.00 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $138.79 | $142.95 | $147.24 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $9,246 | $8,428 | $7,702 |
| Reserve Fund Adjustment | ($865) | ($768) | ($791) |
| Interest (0.5%) | $46 | $42 | $39 |
| **Projected Reserve Fund Balance at End of Year** | **$8,428** | **$7,702** | **$6,950** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 5**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $0 | $0 | $0 |
| Contracted Services - 5200 | $827 | $852 | $877 |
| Materials - 5300 | $0 | $0 | $0 |
| Capital Projects - 5600 | $0 | $0 | $0 |
| **TOTAL DIRECT** | **$827** | **$852** | **$877** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $0 | $0 | $0 |
| Internal Services - 5400 | $0 | $0 | $0 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$0** | **$0** | **$0** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$827** | **$852** | **$877** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($827) | ($852) | ($877) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | $0 | $0 | $0 |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($827)** | **($852)** | **($877)** |
| **Balance to Levy** | **$0** | **$0** | **$0** |
| **Total Revenue at Maximum Rate** | **$9,576** | **$9,864** | **$10,159** |
| Variance above/(below) Maximum Revenue | ($9,576) | ($9,864) | ($10,159) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 69 | 69 | 69 |
| Total Parcels Levied | 69 | 69 | 69 |
| Total EDUs | 69.00 | 69.00 | 69.00 |
| Total EDUs Levied | 69.00 | 69.00 | 69.00 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $138.79 | $142.95 | $147.24 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $22,467 | $23,406 | $22,672 |
| Reserve Fund Adjustment | $827 | ($852) | ($877) |
| Interest (0.5%) | $112 | $117 | $113 |
| **Projected Reserve Fund Balance at End of Year** | **$23,406** | **$22,672** | **$21,908** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 6**

| | Previous Budget FY 2020-21 | Proposed Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $0 | $0 | $0 |
| Contracted Services - 5200 | $1,973 | $2,032 | $2,093 |
| Materials - 5300 | $0 | $0 | $0 |
| Capital Projects - 5600 | $0 | $0 | $0 |
| **TOTAL DIRECT** | **$1,973** | **$2,032** | **$2,093** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $0 | $0 | $0 |
| Internal Services - 5400 | $0 | $0 | $0 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$0** | **$0** | **$0** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$1,973** | **$2,032** | **$2,093** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($1,973) | ($2,032) | ($2,093) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | $0 | $0 | $0 |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($1,973)** | **($2,032)** | **($2,093)** |
| **Balance to Levy** | **$0** | **$0** | **$0** |
| **Total Revenue at Maximum Rate** | **$6,225** | **$6,411** | **$6,604** |
| Variance above/(below) Maximum Revenue | ($6,225) | ($6,411) | ($6,604) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 45 | 45 | 45 |
| Total Parcels Levied | 45 | 45 | 45 |
| Total EDUs | 44.85 | 44.85 | 44.85 |
| Total EDUs Levied | 45.00 | 45.00 | 45.00 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $138.79 | $142.95 | $147.24 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $15,267 | $13,370 | $11,405 |
| Reserve Fund Adjustment | ($1,973) | ($2,032) | ($2,093) |
| Interest (0.5%) | $76 | $67 | $57 |
| **Projected Reserve Fund Balance at End of Year** | **$13,370** | **$11,405** | **$9,369** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 7**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $135,403 | $139,465 | $143,649 |
| Contracted Services - 5200 | $126,772 | $130,575 | $134,492 |
| Materials - 5300 | $10,040 | $10,342 | $10,652 |
| Capital Projects - 5600 | $18,646 | $19,205 | $19,781 |
| **TOTAL DIRECT** | **$290,861** | **$299,587** | **$308,574** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $40,547 | $41,763 | $43,016 |
| Internal Services - 5400 | $13,823 | $14,238 | $14,665 |
| County Collection Fee | $2,268 | $2,268 | $2,268 |
| **TOTAL ADMINISTRATION** | **$56,639** | **$58,270** | **$59,950** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$347,500** | **$357,857** | **$368,524** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($107,138) | ($110,271) | ($113,511) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($10,882) | ($11,209) | ($11,545) |
| Storm Drain Fund - 101 | ($2,648) | ($2,728) | ($2,809) |
| **TOTAL ADJUSTMENTS** | **($120,668)** | **($124,207)** | **($127,865)** |
| **Balance to Levy** | **$226,831** | **$233,649** | **$240,659** |
| **Total Revenue at Maximum Rate** | **$226,844** | **$233,649** | **$240,659** |
| Variance above/(below) Maximum Revenue | ($13) | ($0) | ($0) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1,172 | 1,172 | 1,172 |
| Total Parcels Levied | 1,172 | 1,172 | 1,172 |
| Total EDUs | 1,273.34 | 1,273.34 | 1,273.34 |
| Total EDUs Levied | 1,273.34 | 1,273.34 | 1,273.34 |
| Proposed Levy per EDU | **$178.14** | $183.48 | $189.00 |
| Max Levy per EDU [4] | $178.15 | $183.49 | $189.00 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $405,933 | $300,825 | $192,058 |
| Reserve Fund Adjustment | ($107,138) | ($110,271) | ($113,511) |
| Interest (0.5%) | $2,030 | $1,504 | $960 |
| **Projected Reserve Fund Balance at End of Year** | **$300,825** | **$192,058** | **$79,508** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 8**

| | Proposed Budget FY 2019-20 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $32,532 | $33,507 | $34,513 |
| Contracted Services - 5200 | $33,590 | $34,597 | $35,635 |
| Materials - 5300 | $2,052 | $2,113 | $2,177 |
| Capital Projects - 5600 | $2,588 | $2,665 | $2,745 |
| **TOTAL DIRECT** | **$70,761** | **$72,884** | **$75,070** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $5,627 | $5,796 | $5,970 |
| Internal Services - 5400 | $3,321 | $3,421 | $3,523 |
| County Collection Fee | $390 | $390 | $390 |
| **TOTAL ADMINISTRATION** | **$9,339** | **$9,607** | **$9,884** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$80,099** | **$82,491** | **$84,954** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($37,941) | ($39,065) | ($40,225) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($2,615) | ($2,693) | ($2,774) |
| Storm Drain Fund - 101 | ($531) | ($547) | ($564) |
| **TOTAL ADJUSTMENTS** | **($41,087)** | **($42,306)** | **($43,563)** |
| **Balance to Levy** | **$39,012** | **$40,185** | **$41,391** |
| **Total Revenue at Maximum Rate** | **$39,015** | **$40,185** | **$41,391** |
| Variance above/(below) Maximum Revenue | ($2) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 219 | 219 | 219 |
| Total Parcels Levied | 219 | 219 | 219 |
| Total EDUs | 219.00 | 219.00 | 219.00 |
| Total EDUs Levied | 219.00 | 219.00 | 219.00 |
| Proposed Levy per EDU | **$178.14** | $183.48 | $189.00 |
| Max Levy per EDU [4] | $178.15 | $183.49 | $189.00 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | ($33,100) | ($71,041) | ($110,106) |
| Reserve Fund Adjustment | ($37,941) | ($39,065) | ($40,225) |
| Interest (0.5%) | $0 | $0 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **($71,041)** | **($110,106)** | **($150,332)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 9**

| | Proposed Budget FY 2019-20 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $222,652 | $229,332 | $236,211 |
| Contracted Services - 5200 | $247,115 | $254,528 | $262,164 |
| Materials - 5300 | $14,044 | $14,465 | $14,899 |
| Capital Projects - 5600 | $17,711 | $18,242 | $18,789 |
| **TOTAL DIRECT** | **$501,521** | **$516,567** | **$532,064** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $38,514 | $39,670 | $40,860 |
| Internal Services - 5400 | $22,731 | $23,413 | $24,115 |
| County Collection Fee | $3,900 | $3,900 | $3,900 |
| **TOTAL ADMINISTRATION** | **$65,145** | **$66,982** | **$68,875** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$566,666** | **$583,549** | **$600,938** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($152,535) | ($156,969) | ($161,561) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($17,895) | ($18,432) | ($18,985) |
| Storm Drain Fund - 101 | ($6,203) | ($6,389) | ($6,581) |
| **TOTAL ADJUSTMENTS** | **($176,634)** | **($181,790)** | **($187,127)** |
| **Balance to Levy** | **$390,032** | **$401,759** | **$413,811** |
| **Total Revenue at Maximum Rate** | **$390,057** | **$401,759** | **$413,811** |
| Variance above/(below) Maximum Revenue | ($24) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 2,368 | 2,368 | 2,368 |
| Total Parcels Levied | 2,368 | 2,368 | 2,368 |
| Total EDUs | 2,441.78 | 2,441.78 | 2,441.78 |
| Total EDUs Levied | 2,441.78 | 2,441.78 | 2,441.78 |
| Proposed Levy per EDU | **$159.73** | $164.52 | $169.46 |
| Max Levy per EDU [4] | $159.74 | $164.53 | $169.47 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | ($134,263) | ($286,799) | ($443,768) |
| Reserve Fund Adjustment | ($152,535) | ($156,969) | ($161,561) |
| Interest (0.5%) | $0 | $0 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **($286,799)** | **($443,768)** | **($605,329)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 10**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $110,695 | $114,016 | $117,437 |
| Contracted Services - 5200 | $107,792 | $111,026 | $114,357 |
| Materials - 5300 | $16,982 | $17,491 | $18,016 |
| Capital Projects - 5600 | $12,270 | $12,638 | $13,018 |
| **TOTAL DIRECT** | **$247,740** | **$255,172** | **$262,827** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $26,683 | $27,483 | $28,308 |
| Internal Services - 5400 | $11,301 | $11,640 | $11,989 |
| County Collection Fee | $951 | $951 | $951 |
| **TOTAL ADMINISTRATION** | **$38,935** | **$40,074** | **$41,248** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$286,675** | **$295,247** | **$304,076** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($67,359) | ($69,329) | ($71,380) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($8,897) | ($9,164) | ($9,439) |
| Storm Drain Fund - 101 | ($5,457) | (5,621) | (5,789) |
| **TOTAL ADJUSTMENTS** | **($81,712)** | **($84,113)** | **($86,608)** |
| **Balance to Levy** | **$204,963** | **$211,134** | **$217,468** |
| **Total Revenue at Maximum Rate** | **$204,984** | **$211,134** | **$217,468** |
| Variance above/(below) Maximum Revenue | ($22) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 317 | 317 | 317 |
| Total Parcels Levied | 317 | 317 | 317 |
| Total EDUs | 2,155.46 | 2,155.46 | 2,155.46 |
| Total EDUs Levied | 2,155.46 | 2,155.46 | 2,155.46 |
| Proposed Levy per EDU | **$95.09** | $97.94 | $100.88 |
| Max Levy per EDU [4] | $95.10 | $97.95 | $100.89 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $185,615 | $119,184 | $50,452 |
| Reserve Fund Adjustment | ($67,359) | ($69,329) | ($71,380) |
| Interest (0.5%) | $928 | $596 | $252 |
| **Projected Reserve Fund Balance at End of Year** | **$119,184** | **$50,452** | **($20,676)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 11**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $1,873 | $1,929 | $1,987 |
| Contracted Services - 5200 | $1,513 | $1,558 | $1,605 |
| Materials - 5300 | $118 | $122 | $125 |
| Capital Projects - 5600 | $149 | $153 | $158 |
| **TOTAL DIRECT** | **$3,653** | **$3,763** | **$3,876** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $324 | $334 | $344 |
| Internal Services - 5400 | $191 | $197 | $203 |
| County Collection Fee | $3 | $3 | $3 |
| **TOTAL ADMINISTRATION** | **$518** | **$534** | **$550** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$4,172** | **$4,297** | **$4,426** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($2,295) | ($2,364) | ($2,435) |
| Special Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($151) | ($155) | ($160) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($2,446)** | **($2,519)** | **($2,594)** |
| **Balance to Levy** | **$1,726** | **$1,778** | **$1,831** |
| **Total Revenue at Maximum Rate** | **$1,726** | **$1,778** | **$1,831** |
| Variance above/(below) Maximum Revenue | ($0) | ($0) | ($0) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1 | 1 | 1 |
| Total Parcels Levied | 1 | 1 | 1 |
| Total EDUs | 18.15 | 18.15 | 18.15 |
| Total EDUs Levied | 18.15 | 18.15 | 18.15 |
| Proposed Levy per EDU | **$95.09** | $97.94 | $100.88 |
| Max Levy per EDU [4] | $95.10 | $97.95 | $100.89 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $2,789 | $508 | ($1,854) |
| Reserve Fund Adjustment | ($2,295) | ($2,364) | ($2,435) |
| Interest (0.5%) | $14 | $3 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **$508** | **($1,854)** | **($4,288)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 12**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $20,337 | $20,947 | $21,575 |
| Contracted Services - 5200 | $32,345 | $33,315 | $34,314 |
| Materials - 5300 | $1,283 | $1,321 | $1,361 |
| Capital Projects - 5600 | $1,618 | $1,666 | $1,716 |
| **TOTAL DIRECT** | **$55,582** | **$57,249** | **$58,967** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $3,518 | $3,623 | $3,732 |
| Internal Services - 5400 | $2,076 | $2,138 | $2,203 |
| County Collection Fee | $306 | $306 | $306 |
| **TOTAL ADMINISTRATION** | **$5,900** | **$6,068** | **$6,241** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$61,482** | **$63,317** | **$65,207** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $10,175 | $8,389 | $6,549 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,634) | ($1,684) | ($1,734) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$8,540** | **$6,705** | **$4,815** |
| **Balance to Levy** | **$70,022** | **$70,022** | **$70,022** |
| **Total Revenue at Maximum Rate** | **$140,151** | **$144,355** | **$148,686** |
| Variance above/(below) Maximum Revenue | ($70,129) | ($74,333) | ($78,664) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 102 | 102 | 102 |
| Total Parcels Levied | 102 | 102 | 102 |
| Total EDUs | 1,014.23 | 1,014.23 | 1,014.23 |
| Total EDUs Levied | 1,014.23 | 1,014.23 | 1,014.23 |
| Proposed Levy per EDU | **$69.04** | $71.11 | $73.24 |
| Max Levy per EDU [4] | $138.18 | $142.33 | $146.60 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $215,303 | $226,554 | $236,076 |
| Reserve Fund Adjustment | $10,175 | $8,389 | $6,549 |
| Interest (0.5%) | $1,077 | $1,133 | $1,180 |
| **Projected Reserve Fund Balance at End of Year** | **$226,554** | **$236,076** | **$243,805** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 13**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $24,720 | $25,462 | $26,226 |
| Contracted Services - 5200 | $65,256 | $67,213 | $69,230 |
| Materials - 5300 | $3,559 | $3,666 | $3,776 |
| Capital Projects - 5600 | $200,747 | $206,769 | $212,972 |
| **TOTAL DIRECT** | **$294,282** | **$303,110** | **$312,204** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $5,495 | $5,660 | $5,830 |
| Internal Services - 5400 | $2,524 | $2,599 | $2,677 |
| County Collection Fee | $1,254 | $1,254 | $1,254 |
| **TOTAL ADMINISTRATION** | **$9,273** | **$9,513** | **$9,761** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$303,554** | **$312,624** | **$321,965** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($173,912) | ($179,088) | ($184,423) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,987) | ($2,046) | ($2,108) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($175,899)** | **($181,134)** | **($186,531)** |
| **Balance to Levy** | **$127,655** | **$131,489** | **$135,434** |
| **Total Revenue at Maximum Rate** | **$127,659** | **$131,489** | **$135,434** |
| Variance above/(below) Maximum Revenue | ($4) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 418 | 418 | 418 |
| Total Parcels Levied | 418 | 418 | 418 |
| Total EDUs | 418.00 | 418.00 | 418.00 |
| Total EDUs Levied | 418.00 | 418.00 | 418.00 |
| Proposed Levy per EDU | **$305.40** | $314.57 | $324.00 |
| Max Levy per EDU [4] | $305.41 | $314.57 | $324.00 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $430,481 | $258,720 | $80,926 |
| Reserve Fund Adjustment | ($173,912) | ($179,088) | ($184,423) |
| Interest (0.5%) | $2,152 | $1,294 | $405 |
| **Projected Reserve Fund Balance at End of Year** | **$258,720** | **$80,926** | **($103,092)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 14**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $23,398 | $24,100 | $24,823 |
| Contracted Services - 5200 | $42,115 | $43,378 | $44,680 |
| Materials - 5300 | $1,476 | $1,520 | $1,566 |
| Capital Projects - 5600 | $1,861 | $1,917 | $1,975 |
| **TOTAL DIRECT** | **$68,850** | **$70,915** | **$73,043** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $4,047 | $4,169 | $4,294 |
| Internal Services - 5400 | $2,389 | $2,460 | $2,534 |
| County Collection Fee | $620 | $620 | $620 |
| **TOTAL ADMINISTRATION** | **$7,056** | **$7,249** | **$7,448** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$75,906** | **$78,165** | **$80,491** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($11,987) | ($12,324) | ($12,675) |
| Special Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,881) | ($1,937) | ($1,995) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($13,867)** | **($14,261)** | **($14,670)** |
| **Balance to Levy** | **$62,039** | **$63,904** | **$65,821** |
| **Total Revenue at Maximum Rate** | **$62,043** | **$63,904** | **$65,821** |
| Variance above/(below) Maximum Revenue | ($4) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 369 | 369 | 369 |
| Total Parcels Levied | 369 | 369 | 369 |
| Total EDUs | 371.00 | 371.00 | 371.00 |
| Total EDUs Levied | 371.00 | 371.00 | 371.00 |
| Proposed Levy per EDU | **$167.22** | $172.24 | $177.42 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $49,464 | $37,725 | $25,590 |
| Reserve Fund Adjustment | ($11,987) | ($12,324) | ($12,675) |
| Interest (0.5%) | $247 | $189 | $128 |
| **Projected Reserve Fund Balance at End of Year** | **$37,725** | **$25,590** | **$13,043** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 15**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $78,274 | $80,622 | $83,041 |
| Contracted Services - 5200 | $143,593 | $147,901 | $152,338 |
| Materials - 5300 | $4,937 | $5,085 | $5,238 |
| Capital Projects - 5600 | $6,226 | $6,413 | $6,605 |
| **TOTAL DIRECT** | **$233,031** | **$240,022** | **$247,222** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $13,540 | $13,946 | $14,364 |
| Internal Services - 5400 | $7,991 | $8,231 | $8,478 |
| County Collection Fee | $2,368 | $2,368 | $2,368 |
| **TOTAL ADMINISTRATION** | **$23,899** | **$24,545** | **$25,210** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$256,929** | **$264,566** | **$272,432** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($13,857) | ($14,187) | ($14,542) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($6,291) | ($6,480) | ($6,674) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($20,148)** | **($20,667)** | **($21,216)** |
| **Balance to Levy** | **$236,781** | **$243,899** | **$251,216** |
| **Total Revenue at Maximum Rate** | **$236,795** | **$243,899** | **$251,216** |
| Variance above/(below) Maximum Revenue | ($14) | ($0) | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1,187 | 1,187 | 1,187 |
| Total Parcels Levied | 1,187 | 1,187 | 1,187 |
| Total EDUs | 1,415.98 | 1,415.98 | 1,415.98 |
| Total EDUs Levied | 1,415.98 | 1,415.98 | 1,415.98 |
| Proposed Levy per EDU | **$167.22** | $172.24 | $177.42 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $19,766 | $6,007 | ($8,150) |
| Reserve Fund Adjustment | ($13,857) | ($14,187) | ($14,542) |
| Interest (0.5%) | $99 | $30 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **$6,007** | **($8,150)** | **($22,692)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 16**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $14,301 | $14,730 | $15,172 |
| Contracted Services - 5200 | $31,175 | $32,110 | $33,073 |
| Materials - 5300 | $2,402 | $2,474 | $2,548 |
| Capital Projects - 5600 | $1,138 | $1,172 | $1,207 |
| **TOTAL DIRECT** | **$49,015** | **$50,485** | **$52,000** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $2,474 | $2,548 | $2,624 |
| Internal Services - 5400 | $1,460 | $1,504 | $1,549 |
| County Collection Fee | $518 | $518 | $518 |
| **TOTAL ADMINISTRATION** | **$4,452** | **$4,570** | **$4,692** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$53,467** | **$55,055** | **$56,692** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($479) | ($475) | ($473) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,149) | ($1,184) | ($1,219) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($1,628)** | **($1,659)** | **($1,693)** |
| **Balance to Levy** | **$51,838** | **$53,397** | **$54,999** |
| **Total Revenue at Maximum Rate** | **$51,842** | **$53,397** | **$54,999** |
| Variance above/(below) Maximum Revenue | ($3) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 310 | 310 | 310 |
| Total Parcels Levied | 310 | 310 | 310 |
| Total EDUs | 310.00 | 310.00 | 310.00 |
| Total EDUs Levied | 310.00 | 310.00 | 310.00 |
| Proposed Levy per EDU | **$167.22** | $172.24 | $177.42 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $114,130 | $114,222 | $114,318 |
| Reserve Fund Adjustment | ($479) | ($475) | ($473) |
| Interest (0.5%) | $571 | $571 | $572 |
| **Projected Reserve Fund Balance at End of Year** | **$114,222** | **$114,318** | **$114,416** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 17**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $46,918 | $48,325 | $49,775 |
| Contracted Services - 5200 | $108,766 | $112,029 | $115,390 |
| Materials - 5300 | $5,959 | $6,138 | $6,322 |
| Capital Projects - 5600 | $903,926 | $931,044 | $958,975 |
| **TOTAL DIRECT** | **$1,065,569** | **$1,097,536** | **$1,130,463** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $11,848 | $12,203 | $12,570 |
| Internal Services - 5400 | $4,790 | $4,934 | $5,082 |
| County Collection Fee | $3,210 | $3,210 | $3,210 |
| **TOTAL ADMINISTRATION** | **$19,848** | **$20,347** | **$20,861** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$1,085,417** | **$1,117,883** | **$1,151,324** |
| Capital Improvement Projects | ($519,913) | $0 | $0 |
| Zone Reserves Adjustment | ($240,735) | ($783,371) | ($806,776) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($3,771) | ($3,884) | ($4,000) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($764,419)** | **($787,255)** | **($810,776)** |
| **Balance to Levy** | **$320,999** | **$330,628** | **$340,547** |
| **Total Revenue at Maximum Rate** | **$320,999** | **$330,628** | **$340,547** |
| Variance above/(below) Maximum Revenue | $0 | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1,133 | 1,133 | 1,133 |
| Total Parcels Levied | 1,133 | 1,133 | 1,133 |
| Total EDUs | 1,664.79 | 1,664.79 | 1,664.79 |
| Total EDUs Levied | 1,664.79 | 1,664.79 | 1,664.79 |
| Proposed Levy per EDU | **$192.82** | $198.60 | $204.56 |
| Max Levy per EDU [4] | $192.82 | $198.60 | $204.56 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $1,309,791 | $1,075,605 | $297,612 |
| Reserve Fund Adjustment | ($240,735) | ($783,371) | ($806,776) |
| Interest (0.5%) | $6,549 | $5,378 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **$1,075,605** | **$297,612** | **($509,164)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 18**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $28,577 | $29,434 | $30,317 |
| Contracted Services - 5200 | $48,543 | $49,999 | $51,499 |
| Materials - 5300 | $5,802 | $5,977 | $6,156 |
| Capital Projects - 5600 | $2,273 | $2,341 | $2,412 |
| **TOTAL DIRECT** | **$85,195** | **$87,751** | **$90,384** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $4,943 | $5,091 | $5,244 |
| Internal Services - 5400 | $2,917 | $3,005 | $3,095 |
| County Collection Fee | $1,164 | $1,164 | $1,164 |
| **TOTAL ADMINISTRATION** | **$9,025** | **$9,261** | **$9,503** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$94,220** | **$97,012** | **$99,887** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $24,495 | $25,263 | $26,056 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($2,297) | ($2,366) | ($2,437) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$22,198** | **$22,898** | **$23,619** |
| **Balance to Levy** | **$116,419** | **$119,909** | **$123,507** |
| **Total Revenue at Maximum Rate** | **$116,417** | **$119,909** | **$123,507** |
| Variance above/(below) Maximum Revenue | $2 | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 968 | 968 | 968 |
| Total Parcels Levied | 968 | 968 | 968 |
| Total EDUs | 977.65 | 977.65 | 977.65 |
| Total EDUs Levied | 977.65 | 977.65 | 977.65 |
| Proposed Levy per EDU | **$119.08** | $122.65 | $126.33 |
| Max Levy per EDU [4] | $119.08 | $122.65 | $126.33 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $169,311 | $194,653 | $220,889 |
| Reserve Fund Adjustment | $24,495 | $25,263 | $26,056 |
| Interest (0.5%) | $847 | $973 | $1,104 |
| **Projected Reserve Fund Balance at End of Year** | **$194,653** | **$220,889** | **$248,050** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 19**

| | Forecasted Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $36,290 | $37,379 | $38,500 |
| Contracted Services - 5200 | $88,405 | $91,058 | $93,789 |
| Materials - 5300 | $5,289 | $5,448 | $5,611 |
| Capital Projects - 5600 | $171,097 | $176,230 | $181,517 |
| **TOTAL DIRECT** | **$301,082** | **$310,114** | **$319,418** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $6,430 | $6,623 | $6,822 |
| Internal Services - 5400 | $3,705 | $3,816 | $3,931 |
| County Collection Fee | $1,491 | $1,491 | $1,491 |
| **TOTAL ADMINISTRATION** | **$11,626** | **$11,930** | **$12,243** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$312,708** | **$322,044** | **$331,661** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($148,790) | ($153,201) | ($157,752) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($2,917) | ($3,004) | ($3,094) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($151,706)** | **($156,205)** | **($160,847)** |
| **Balance to Levy** | **$161,001** | **$165,839** | **$170,814** |
| **Total Revenue at Maximum Rate** | **$161,009** | **$165,839** | **$170,814** |
| Variance above/(below) Maximum Revenue | ($7) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 497 | 497 | 497 |
| Total Parcels Levied | 497 | 497 | 497 |
| Total EDUs | 736.59 | 736.59 | 736.59 |
| Total EDUs Levied | 736.59 | 736.59 | 736.59 |
| Proposed Levy per EDU | **$218.58** | $225.14 | $231.91 |
| Max Levy per EDU [4] | $218.59 | $225.14 | $231.90 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $590,311 | $444,473 | $293,494 |
| Reserve Fund Adjustment | ($148,790) | ($153,201) | ($157,752) |
| Interest (0.5%) | $2,952 | $2,222 | $1,467 |
| **Projected Reserve Fund Balance at End of Year** | **$444,473** | **$293,494** | **$137,209** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 20**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $533 | $549 | $565 |
| Contracted Services - 5200 | $13,730 | $14,142 | $14,567 |
| Materials - 5300 | $34 | $35 | $36 |
| Capital Projects - 5600 | $42 | $44 | $45 |
| **TOTAL DIRECT** | **$14,339** | **$14,769** | **$15,212** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $92 | $95 | $98 |
| Internal Services - 5400 | $54 | $56 | $58 |
| County Collection Fee | $144 | $144 | $144 |
| **TOTAL ADMINISTRATION** | **$291** | **$295** | **$300** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$14,630** | **$15,064** | **$15,512** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($167) | $0 | $0 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($43) | ($44) | ($45) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($209)** | **($44)** | **($45)** |
| **Balance to Levy** | **$14,420** | **$15,020** | **$15,467** |
| **Total Revenue at Maximum Rate** | **$38,156** | **$39,301** | **$40,480** |
| Variance above/(below) Maximum Revenue | ($23,736) | ($24,281) | ($25,014) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 168 | 168 | 168 |
| Total Parcels Levied | 168 | 168 | 168 |
| Total EDUs | 174.56 | 174.56 | 174.56 |
| Total EDUs Levied | 174.56 | 174.56 | 174.56 |
| Proposed Levy per EDU | **$82.61** | $85.09 | $87.64 |
| Max Levy per EDU [4] | $218.59 | $225.14 | $231.90 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $160,426 | $161,061 | $161,867 |
| Reserve Fund Adjustment | ($167) | $0 | $0 |
| Interest (0.5%) | $802 | $805 | $809 |
| **Projected Reserve Fund Balance at End of Year** | **$161,061** | **$161,867** | **$162,676** |

| City of Tracy<br>Consolidated Landscape Maintenance District<br>Proposed Budget for Fiscal Year 2020-21 | | | |
|---|---|---|---|
| **Zone 21** | | | |
| | **Proposed Budget FY 2020-21** | **Forecasted Budget FY 2021-22** | **Forecasted Budget FY 2022-23** |
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $23,361 | $24,062 | $24,784 |
| Contracted Services - 5200 | $32,659 | $33,639 | $34,648 |
| Materials - 5300 | $6,473 | $6,668 | $6,868 |
| Capital Projects - 5600 | $1,858 | $1,914 | $1,971 |
| **TOTAL DIRECT** | **$64,352** | **$66,282** | **$68,271** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $4,041 | $4,162 | $4,287 |
| Internal Services - 5400 | $2,385 | $2,456 | $2,530 |
| County Collection Fee | $649 | $649 | $649 |
| **TOTAL ADMINISTRATION** | **$7,075** | **$7,267** | **$7,466** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$71,426** | **$73,550** | **$75,737** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($4,667) | ($4,784) | ($4,908) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,878) | ($1,934) | ($1,992) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($6,545)** | **($6,717)** | **($6,900)** |
| **Balance to Levy** | **$64,882** | **$66,832** | **$68,837** |
| **Total Revenue at Maximum Rate** | **$64,886** | **$66,832** | **$68,837** |
| Variance above/(below) Maximum Revenue | ($4) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 388 | 388 | 388 |
| Total Parcels Levied | 388 | 388 | 388 |
| Total EDUs | 388.00 | 388.00 | 388.00 |
| Total EDUs Levied | 388.00 | 388.00 | 388.00 |
| Proposed Levy per EDU\ | **$167.22** | $172.24 | $177.40 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $76,418 | $72,133 | $67,710 |
| Reserve Fund Adjustment | ($4,667) | ($4,784) | ($4,908) |
| Interest (0.5%) | $382 | $361 | $339 |
| **Projected Reserve Fund Balance at End of Year** | **$72,133** | **$67,710** | **$63,141** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 22**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $17,141 | $17,655 | $18,185 |
| Contracted Services - 5200 | $11,365 | $11,705 | $12,057 |
| Materials - 5300 | $3,581 | $3,689 | $3,799 |
| Capital Projects - 5600 | $1,363 | $1,404 | $1,447 |
| **TOTAL DIRECT** | **$33,450** | **$34,454** | **$35,488** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $2,965 | $3,054 | $3,146 |
| Internal Services - 5400 | $1,750 | $1,802 | $1,857 |
| County Collection Fee | $358 | $358 | $358 |
| **TOTAL ADMINISTRATION** | **$5,073** | **$5,214** | **$5,360** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$38,523** | **$39,668** | **$40,848** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($1,358) | ($1,388) | ($1,419) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,378) | ($1,419) | ($1,462) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($2,736)** | **($2,807)** | **($2,881)** |
| **Balance to Levy** | **$35,787** | **$36,861** | **$37,967** |
| **Total Revenue at Maximum Rate** | **$35,787** | **$36,861** | **$37,967** |
| Variance above/(below) Maximum Revenue | $0 | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 214 | 214 | 214 |
| Total Parcels Levied | 214 | 214 | 214 |
| Total EDUs | 214.00 | 214.00 | 214.00 |
| Total EDUs Levied | 214.00 | 214.00 | 214.00 |
| Proposed Levy per EDU | **$167.23** | $172.25 | $177.42 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $75,278 | $74,297 | $73,280 |
| Reserve Fund Adjustment | ($1,358) | ($1,388) | ($1,419) |
| Interest (0.5%) | $376 | $371 | $366 |
| **Projected Reserve Fund Balance at End of Year** | **$74,297** | **$73,280** | **$72,227** |

## City of Tracy
## Consolidated Landscape Maintenance District
## Proposed Budget for Fiscal Year 2020-21

### Zone 23

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $6,110 | $6,293 | $6,482 |
| Contracted Services - 5200 | $18,074 | $18,616 | $19,175 |
| Materials - 5300 | $385 | $397 | $409 |
| Capital Projects - 5600 | $486 | $501 | $516 |
| **TOTAL DIRECT** | **$25,055** | **$25,807** | **$26,581** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $1,057 | $1,089 | $1,121 |
| Internal Services - 5400 | $624 | $642 | $662 |
| County Collection Fee | $582 | $582 | $582 |
| **TOTAL ADMINISTRATION** | **$2,263** | **$2,313** | **$2,365** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$27,317** | **$28,120** | **$28,946** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $31,373 | $32,335 | $33,323 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($491) | ($506) | ($521) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$30,882** | **$31,830** | **$32,802** |
| **Balance to Levy** | **$58,200** | **$59,949** | **$61,748** |
| **Total Revenue at Maximum Rate** | **$58,203** | **$59,949** | **$61,748** |
| Variance above/(below) Maximum Revenue | ($3) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 302 | 302 | 302 |
| Total Parcels Levied | 302 | 302 | 302 |
| Total EDUs | 348.04 | 348.04 | 348.04 |
| Total EDUs Levied | 348.04 | 348.04 | 348.04 |
| Proposed Levy per EDU | **$167.22** | $172.24 | $177.42 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $65,572 | $97,273 | $130,095 |
| Reserve Fund Adjustment | $31,373 | $32,335 | $33,323 |
| Interest (0.5%) | $328 | $486 | $650 |
| **Projected Reserve Fund Balance at End of Year** | **$97,273** | **$130,095** | **$164,068** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 24**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $21,635 | $22,284 | $22,952 |
| Contracted Services - 5200 | $64,424 | $66,356 | $68,347 |
| Materials - 5300 | $11,365 | $11,706 | $12,057 |
| Capital Projects - 5600 | $1,778 | $1,831 | $1,886 |
| **TOTAL DIRECT** | **$99,201** | **$102,177** | **$105,242** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $3,866 | $3,982 | $4,101 |
| Internal Services - 5400 | $2,209 | $2,275 | $2,343 |
| County Collection Fee | $262 | $262 | $262 |
| **TOTAL ADMINISTRATION** | **$6,336** | **$6,518** | **$6,706** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$105,537** | **$108,695** | **$111,948** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($77,608) | $0 | ($6,867) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,739) | ($1,791) | ($1,845) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($79,347)** | **($1,791)** | **($8,712)** |
| **Balance to Levy** | **$26,190** | **$106,904** | **$103,237** |
| **Total Revenue at Maximum Rate** | **$97,310** | **$100,230** | **$103,237** |
| Variance above/(below) Maximum Revenue | ($71,120) | $6,674 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 582 | 582 | 582 |
| Total Parcels Levied | 582 | 582 | 582 |
| Total EDUs | 582.00 | 582.00 | 582.00 |
| Total EDUs Levied | 582.00 | 582.00 | 582.00 |
| Proposed Levy per EDU | **$45.00** | $46.36 | $47.76 |
| Max Levy per EDU [4] | $167.20 | $172.22 | $177.38 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $420,483 | $344,977 | $346,702 |
| Reserve Fund Adjustment | ($77,608) | $0 | ($6,867) |
| Interest (0.5%) | $2,102 | $1,725 | $1,734 |
| **Projected Reserve Fund Balance at End of Year** | **$344,977** | **$346,702** | **$341,569** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 25**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $0 | $0 | $0 |
| Contracted Services - 5200 | $0 | $0 | $0 |
| Materials - 5300 | $0 | $0 | $0 |
| Capital Projects - 5600 | $0 | $0 | $0 |
| **TOTAL DIRECT** | **$0** | **$0** | **$0** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $0 | $0 | $0 |
| LMD Administration | $0 | $0 | $0 |
| Internal Services - 5400 | $0 | $0 | $0 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$0** | **$0** | **$0** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$0** | **$0** | **$0** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $0 | $0 | $0 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | $0 | $0 | $0 |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$0** | **$0** | **$0** |
| **Balance to Levy** | **$0** | **$0** | **$0** |
| **Total Revenue at Maximum Rate** | **$0** | **$0** | **$0** |
| Variance above/(below) Maximum Revenue | $0 | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 438 | 438 | 438 |
| Total Parcels Levied | 0 | 0 | 0 |
| Total EDUs | 438.00 | 438.00 | 438.00 |
| Total EDUs Levied | 0.00 | 0.00 | 0.00 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $0.00 | $0.00 | $0.00 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $0 | $0 | $0 |
| Reserve Fund Adjustment | $0 | $0 | $0 |
| Interest (0.5%) | $0 | $0 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **$0** | **$0** | **$0** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 26**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $85,314 | $87,874 | $90,510 |
| Contracted Services - 5200 | $128,065 | $131,907 | $135,864 |
| Materials - 5300 | $13,781 | $14,195 | $14,620 |
| Capital Projects - 5600 | $6,786 | $6,990 | $7,200 |
| **TOTAL DIRECT** | **$233,946** | **$240,965** | **$248,194** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $14,758 | $15,200 | $15,656 |
| Internal Services - 5400 | $8,710 | $8,971 | $9,240 |
| County Collection Fee | $2,432 | $2,432 | $2,432 |
| **TOTAL ADMINISTRATION** | **$25,899** | **$26,603** | **$27,328** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$259,845** | **$267,568** | **$275,522** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($9,248) | ($9,441) | ($9,651) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($6,857) | ($7,062) | ($7,274) |
| Storm Drain Fund - 101 | ($567) | ($584) | ($601) |
| **TOTAL ADJUSTMENTS** | **($16,671)** | **($17,087)** | **($17,527)** |
| **Balance to Levy** | **$243,174** | **$250,481** | **$257,995** |
| **Total Revenue at Maximum Rate** | **$243,185** | **$250,481** | **$257,995** |
| Variance above/(below) Maximum Revenue | ($11) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1,130 | 1,130 | 1,130 |
| Total Parcels Levied | 1,130 | 1,130 | 1,130 |
| Total EDUs | 1,130.00 | 1,130.00 | 1,130.00 |
| Total EDUs Levied | 1,130.00 | 1,130.00 | 1,130.00 |
| Proposed Levy per EDU | **$215.20** | $221.66 | $228.31 |
| Max Levy per EDU [4] | $215.21 | $221.66 | $228.31 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $430,211 | $423,114 | $415,789 |
| Reserve Fund Adjustment | ($9,248) | ($9,441) | ($9,651) |
| Interest (0.5%) | $2,151 | $2,116 | $2,079 |
| **Projected Reserve Fund Balance at End of Year** | **$423,114** | **$415,789** | **$408,217** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 27**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2020-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $3,049 | $3,140 | $3,234 |
| Contracted Services - 5200 | $3,700 | $3,811 | $3,926 |
| Materials - 5300 | $192 | $198 | $204 |
| Capital Projects - 5600 | $243 | $250 | $257 |
| **TOTAL DIRECT** | **$7,184** | **$7,399** | **$7,621** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $527 | $543 | $559 |
| Internal Services - 5400 | $311 | $321 | $330 |
| County Collection Fee | $156 | $156 | $156 |
| **TOTAL ADMINISTRATION** | **$995** | **$1,020** | **$1,046** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$8,179** | **$8,419** | **$8,667** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $7,683 | $6,833 | $6,593 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($245) | ($252) | ($260) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$7,438** | **$6,581** | **$6,333** |
| **Balance to Levy** | **$15,617** | **$15,000** | **$15,000** |
| **Total Revenue at Maximum Rate** | **$87,054** | **$89,665** | **$92,355** |
| Variance above/(below) Maximum Revenue | ($71,437) | ($74,665) | ($77,355) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 75 | 75 | 75 |
| Total Parcels Levied | 75 | 75 | 75 |
| Total EDUs | 520.56 | 520.56 | 520.56 |
| Total EDUs Levied | 520.56 | 520.56 | 520.56 |
| Proposed Levy per EDU | **$30.00** | $30.90 | $31.83 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $64,276 | $72,280 | $79,475 |
| Reserve Fund Adjustment | $7,683 | $6,833 | $6,593 |
| Interest (0.5%) | $321 | $361 | $397 |
| **Projected Reserve Fund Balance at End of Year** | **$72,280** | **$79,475** | **$86,465** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 28**

| | Propposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $21,647 | $22,296 | $22,965 |
| Contracted Services - 5200 | $26,108 | $26,891 | $27,698 |
| Materials - 5300 | $16,365 | $16,856 | $17,362 |
| Capital Projects - 5600 | $1,650 | $1,700 | $1,750 |
| **TOTAL DIRECT** | **$65,770** | **$67,743** | **$69,775** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $3,744 | $3,857 | $3,972 |
| Internal Services - 5400 | $2,210 | $2,276 | $2,345 |
| County Collection Fee | $920 | $920 | $920 |
| **TOTAL ADMINISTRATION** | **$6,874** | **$7,053** | **$7,237** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$72,644** | **$74,796** | **$77,012** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $21,067 | $21,732 | $22,412 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,740) | ($1,792) | ($1,846) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$19,327** | **$19,941** | **$20,566** |
| **Balance to Levy** | **$91,971** | **$94,736** | **$97,578** |
| **Total Revenue at Maximum Rate** | **$91,977** | **$94,736** | **$97,578** |
| Variance above/(below) Maximum Revenue | ($5) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 550 | 550 | 550 |
| Total Parcels Levied | 550 | 550 | 550 |
| Total EDUs | 550.00 | 550.00 | 550.00 |
| Total EDUs Levied | 550.00 | 550.00 | 550.00 |
| Proposed Levy per EDU | **$167.22** | $172.24 | $177.42 |
| Max Levy per EDU [4] | $167.23 | $172.25 | $177.42 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $293,635 | $316,170 | $339,484 |
| Reserve Fund Adjustment | $21,067 | $21,732 | $22,412 |
| Interest (0.5%) | $1,468 | $1,581 | $1,697 |
| **Projected Reserve Fund Balance at End of Year** | **$316,170** | **$339,484** | **$363,593** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 29**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $34,123 | $35,147 | $36,201 |
| Contracted Services - 5200 | $67,541 | $69,567 | $71,654 |
| Materials - 5300 | $2,152 | $2,217 | $2,283 |
| Capital Projects - 5600 | $2,714 | $2,796 | $2,880 |
| **TOTAL DIRECT** | **$106,531** | **$109,727** | **$113,019** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $5,903 | $6,080 | $6,262 |
| Internal Services - 5400 | $3,484 | $3,588 | $3,696 |
| County Collection Fee | $775 | $775 | $775 |
| **TOTAL ADMINISTRATION** | **$10,161** | **$10,443** | **$10,733** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$116,692** | **$120,170** | **$123,752** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($36,435) | ($37,499) | ($38,601) |
| Special Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($2,743) | ($2,825) | ($2,910) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($39,177)** | **($40,324)** | **($41,511)** |
| **Balance to Levy** | **$77,515** | **$79,846** | **$82,241** |
| **Total Revenue at Maximum Rate** | **$77,520** | **$79,846** | **$82,241** |
| Variance above/(below) Maximum Revenue | ($5) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 451 | 451 | 451 |
| Total Parcels Levied | 451 | 451 | 451 |
| Total EDUs | 489.16 | 489.16 | 489.16 |
| Total EDUs Levied | 489.16 | 489.16 | 489.16 |
| Proposed Levy per EDU | **$158.47** | $163.22 | $168.12 |
| Max Levy per EDU [4] | $158.48 | $163.23 | $168.13 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | ($8,062) | ($44,497) | ($81,996) |
| Reserve Fund Adjustment | ($36,435) | ($37,499) | ($38,601) |
| Interest (0.5%) | $0 | $0 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **($44,497)** | **($81,996)** | **($120,597)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 30**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2021-22 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $9,587 | $9,874 | $10,171 |
| Contracted Services - 5200 | $21,980 | $22,639 | $23,319 |
| Materials - 5300 | $2,105 | $2,168 | $2,233 |
| Capital Projects - 5600 | $763 | $785 | $809 |
| **TOTAL DIRECT** | **$34,434** | **$35,467** | **$36,531** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $1,658 | $1,708 | $1,759 |
| Internal Services - 5400 | $979 | $1,008 | $1,038 |
| County Collection Fee | $498 | $498 | $498 |
| **TOTAL ADMINISTRATION** | **$3,135** | **$3,214** | **$3,296** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$37,569** | **$38,681** | **$39,827** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $17,677 | $18,224 | $18,786 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($771) | ($794) | ($817) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$16,907** | **$17,431** | **$17,969** |
| **Balance to Levy** | **$54,476** | **$56,112** | **$57,795** |
| **Total Revenue at Maximum Rate** | **$54,478** | **$56,112** | **$57,795** |
| Variance above/(below) Maximum Revenue | ($2) | $0 | ($0) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 166 | 166 | 166 |
| Total Parcels Levied | 166 | 166 | 166 |
| Total EDUs | 166.00 | 166.00 | 166.00 |
| Total EDUs Levied | 166.00 | 166.00 | 166.00 |
| Proposed Levy per EDU | **$328.17** | $338.02 | $348.16 |
| Max Levy per EDU [4] | $328.18 | $338.02 | $348.16 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $197,969 | $216,636 | $235,944 |
| Reserve Fund Adjustment | $17,677 | $18,224 | $18,786 |
| Interest (0.5%) | $990 | $1,083 | $1,180 |
| **Projected Reserve Fund Balance at End of Year** | **$216,636** | **$235,944** | **$255,910** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 31**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $0 | $0 | $0 |
| Contracted Services - 5200 | $0 | $0 | $0 |
| Materials - 5300 | $0 | $0 | $0 |
| Capital Projects - 5600 | $0 | $0 | $0 |
| **TOTAL DIRECT** | **$0** | **$0** | **$0** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $0 | $0 | $0 |
| LMD Administration | $0 | $0 | $0 |
| Internal Services - 5400 | $0 | $0 | $0 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$0** | **$0** | **$0** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$0** | **$0** | **$0** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $0 | $0 | $0 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | $0 | $0 | $0 |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$0** | **$0** | **$0** |
| **Balance to Levy** | **$0** | **$0** | **$0** |
| **Total Revenue at Maximum Rate** | **$6,152** | **$6,336** | **$6,526** |
| Variance above/(below) Maximum Revenue | ($6,152) | ($6,336) | ($6,526) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1 | 1 | 1 |
| Total Parcels Levied | 1 | 1 | 1 |
| Total EDUs | 27.75 | 27.75 | 27.75 |
| Total EDUs Levied | 27.75 | 27.75 | 27.75 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $221.68 | $228.33 | $235.18 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $615 | $618 | $621 |
| Reserve Fund Adjustment | $0 | $0 | $0 |
| Interest (0.5%) | $3 | $3 | $3 |
| **Projected Reserve Fund Balance at End of Year** | **$618** | **$621** | **$624** |

## City of Tracy
## Consolidated Landscape Maintenance District
## Proposed Budget for Fiscal Year 2020-21

### Zone 32

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2021-22 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $0 | $0 | $0 |
| Contracted Services - 5200 | $0 | $0 | $0 |
| Materials - 5300 | $0 | $0 | $0 |
| Capital Projects - 5600 | $0 | $0 | $0 |
| **TOTAL DIRECT** | **$0** | **$0** | **$0** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $0 | $0 | $0 |
| Internal Services - 5400 | $0 | $0 | $0 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$0** | **$0** | **$0** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$0** | **$0** | **$0** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $0 | $0 | $0 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | $0 | $0 | $0 |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$0** | **$0** | **$0** |
| **Balance to Levy** | **$0** | **$0** | **$0** |
| **Total Revenue at Maximum Rate** | **$40,427** | **$41,640** | **$42,889** |
| Variance above/(below) Maximum Revenue | ($40,427) | ($41,640) | ($42,889) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 2 | 2 | 2 |
| Total Parcels Levied | 0 | 0 | 0 |
| Total EDUs | 222.68 | 222.68 | 222.68 |
| Total EDUs Levied | 0.00 | 0.00 | 0.00 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $181.55 | $186.99 | $192.60 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $0 | $0 | $0 |
| Reserve Fund Adjustment | $0 | $0 | $0 |
| Interest (0.5%) | $0 | $0 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **$0** | **$0** | **$0** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 33**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $6,550 | $6,747 | $6,949 |
| Contracted Services - 5200 | $12,929 | $13,317 | $13,717 |
| Materials - 5300 | $413 | $426 | $438 |
| Capital Projects - 5600 | $521 | $537 | $553 |
| **TOTAL DIRECT** | **$20,414** | **$21,026** | **$21,657** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $1,133 | $1,167 | $1,202 |
| Internal Services - 5400 | $669 | $689 | $709 |
| County Collection Fee | $90 | $90 | $90 |
| **TOTAL ADMINISTRATION** | **$1,892** | **$1,946** | **$2,002** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$22,306** | **$22,972** | **$23,659** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $78,237 | $77,570 | $76,900 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($526) | ($542) | ($559) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$77,711** | **$77,028** | **$76,341** |
| **Balance to Levy** | **$100,017** | **$100,000** | **$100,000** |
| **Total Revenue at Maximum Rate** | **$542,792** | **$559,076** | **$575,848** |
| Variance above/(below) Maximum Revenue | ($442,775) | ($459,076) | ($475,848) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 30 | 30 | 30 |
| Total Parcels Levied | 30 | 30 | 30 |
| Total EDUs | 2,461.04 | 2,461.04 | 2,461.04 |
| Total EDUs Levied | 2,461.04 | 2,461.04 | 2,461.04 |
| Proposed Levy per EDU | **$40.64** | $40.64 | $40.64 |
| Max Levy per EDU [4] | $220.55 | $227.17 | $233.99 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $270,570 | $350,160 | $429,480 |
| Reserve Fund Adjustment | $78,237 | $77,570 | $76,900 |
| Interest (0.5%) | $1,353 | $1,751 | $2,147 |
| **Projected Reserve Fund Balance at End of Year** | **$350,160** | **$429,480** | **$508,528** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 34**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $14,007 | $14,427 | $14,860 |
| Contracted Services - 5200 | $10,802 | $11,126 | $11,459 |
| Materials - 5300 | $883 | $910 | $937 |
| Capital Projects - 5600 | $1,114 | $1,148 | $1,182 |
| **TOTAL DIRECT** | **$26,806** | **$27,610** | **$28,439** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $2,423 | $2,496 | $2,570 |
| Internal Services - 5400 | $1,430 | $1,473 | $1,517 |
| County Collection Fee | $27 | $27 | $27 |
| **TOTAL ADMINISTRATION** | **$3,880** | **$3,995** | **$4,114** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$30,686** | **$31,606** | **$32,553** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($8,391) | ($8,641) | ($8,900) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,126) | ($1,160) | ($1,194) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($9,517)** | **($9,801)** | **($10,094)** |
| **Balance to Levy** | **$21,169** | **$21,805** | **$22,459** |
| **Total Revenue at Maximum Rate** | **$21,170** | **$21,805** | **$22,459** |
| Variance above/(below) Maximum Revenue | ($1) | ($0) | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 9 | 9 | 9 |
| Total Parcels Levied | 9 | 9 | 9 |
| Total EDUs | 84.10 | 84.10 | 84.10 |
| Total EDUs Levied | 84.10 | 84.10 | 84.10 |
| Proposed Levy per EDU | **$251.71** | $259.26 | $267.04 |
| Max Levy per EDU [4] | $251.72 | $259.27 | $267.05 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $13,545 | $5,221 | ($3,394) |
| Reserve Fund Adjustment | ($8,391) | ($8,641) | ($8,900) |
| Interest (0.5%) | $68 | $26 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **$5,221** | **($3,394)** | **($12,293)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 35**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $16,970 | $17,479 | $18,003 |
| Contracted Services - 5200 | $42,362 | $43,633 | $44,942 |
| Materials - 5300 | $1,070 | $1,102 | $1,136 |
| Capital Projects - 5600 | $1,350 | $1,390 | $1,432 |
| **TOTAL DIRECT** | **$61,752** | **$63,605** | **$65,513** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $2,935 | $3,023 | $3,114 |
| Internal Services - 5400 | $1,732 | $1,784 | $1,838 |
| County Collection Fee | $472 | $472 | $472 |
| **TOTAL ADMINISTRATION** | **$5,140** | **$5,280** | **$5,424** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$66,892** | **$68,884** | **$70,937** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($18,340) | ($18,876) | ($19,428) |
| Special Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($1,364) | ($1,405) | ($1,447) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($19,704)** | **($20,281)** | **($20,875)** |
| **Balance to Levy** | **$47,188** | **$48,604** | **$50,062** |
| **Total Revenue at Maximum Rate** | **$47,188** | **$48,604** | **$50,062** |
| Variance above/(below) Maximum Revenue | $0 | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 186 | 186 | 186 |
| Total Parcels Levied | 186 | 186 | 186 |
| Total EDUs | 186.00 | 186.00 | 186.00 |
| Total EDUs Levied | 186.00 | 186.00 | 186.00 |
| Proposed Levy per EDU | **$253.70** | $261.30 | $269.14 |
| Max Levy per EDU [4] | $253.70 | $261.31 | $269.15 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $764 | ($17,572) | ($36,447) |
| Reserve Fund Adjustment | ($18,340) | ($18,876) | ($19,428) |
| Interest (0.5%) | $4 | $0 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **($17,572)** | **($36,447)** | **($55,875)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 36**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2021-22 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $0 | $0 | $0 |
| Contracted Services - 5200 | $68 | $70 | $72 |
| Materials - 5300 | $0 | $0 | $0 |
| Capital Projects - 5600 | $0 | $0 | $0 |
| **TOTAL DIRECT** | **$68** | **$70** | **$72** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $0 | $0 | $0 |
| Internal Services - 5400 | $0 | $0 | $0 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$0** | **$0** | **$0** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$68** | **$70** | **$72** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($68) | $0 | $0 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | $0 | $0 | $0 |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($68)** | **$0** | **$0** |
| **Balance to Levy** | **$0** | **$70** | **$72** |
| **Total Revenue at Maximum Rate** | **$6,847** | **$7,053** | **$7,264** |
| Variance above/(below) Maximum Revenue | ($6,847) | ($6,983) | ($7,192) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1 | 1 | 1 |
| Total Parcels Levied | 1 | 1 | 1 |
| Total EDUs | 72.00 | 72.00 | 72.00 |
| Total EDUs Levied | 72.00 | 72.00 | 72.00 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $95.10 | $97.95 | $100.89 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $2,363 | $2,307 | $2,319 |
| Reserve Fund Adjustment | ($68) | $0 | $0 |
| Interest (0.5%) | $12 | $12 | $12 |
| **Projected Reserve Fund Balance at End of Year** | **$2,307** | **$2,319** | **$2,330** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 37**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $0 | $0 | $0 |
| Contracted Services - 5200 | $0 | $0 | $0 |
| Materials - 5300 | $0 | $0 | $0 |
| Capital Projects - 5600 | $0 | $0 | $0 |
| **TOTAL DIRECT** | **$0** | **$0** | **$0** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $0 | $0 | $0 |
| Internal Services - 5400 | $0 | $0 | $0 |
| County Collection Fee | $0 | $0 | $0 |
| **TOTAL ADMINISTRATION** | **$0** | **$0** | **$0** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$0** | **$0** | **$0** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $0 | $0 | $0 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | $0 | $0 | $0 |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$0** | **$0** | **$0** |
| **Balance to Levy** | **$0** | **$0** | **$0** |
| **Total Revenue at Maximum Rate** | **$7,228** | **$7,444** | **$7,668** |
| Variance above/(below) Maximum Revenue | ($7,228) | ($7,444) | ($7,668) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 10 | 10 | 10 |
| Total Parcels Levied | 10 | 10 | 10 |
| Total EDUs | 76.00 | 76.00 | 76.00 |
| Total EDUs Levied | 76.00 | 76.00 | 76.00 |
| Proposed Levy per EDU | **$0.00** | $0.00 | $0.00 |
| Max Levy per EDU [4] | $95.10 | $97.95 | $100.89 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $4,886 | $4,910 | $4,935 |
| Reserve Fund Adjustment | $0 | $0 | $0 |
| Interest (0.5%) | $24 | $25 | $25 |
| **Projected Reserve Fund Balance at End of Year** | **$4,910** | **$4,935** | **$4,960** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 40**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $2,828 | $2,913 | $3,001 |
| Contracted Services - 5200 | $2,886 | $2,973 | $3,062 |
| Materials - 5300 | $178 | $184 | $189 |
| Capital Projects - 5600 | $225 | $232 | $239 |
| **TOTAL DIRECT** | **$6,118** | **$6,302** | **$6,491** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $489 | $504 | $519 |
| Internal Services - 5400 | $289 | $297 | $306 |
| County Collection Fee | $3 | $3 | $3 |
| **TOTAL ADMINISTRATION** | **$781** | **$804** | **$828** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$6,899** | **$7,106** | **$7,319** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | ($2,303) | ($2,372) | ($2,443) |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($227) | ($234) | ($241) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **($2,530)** | **($2,606)** | **($2,684)** |
| **Balance to Levy** | **$4,369** | **$4,500** | **$4,635** |
| **Total Revenue at Maximum Rate** | **$4,369** | **$4,500** | **$4,635** |
| Variance above/(below) Maximum Revenue | ($0) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1 | 1 | 1 |
| Total Parcels Levied | 1 | 1 | 1 |
| Total EDUs | 9.00 | 9.00 | 9.00 |
| Total EDUs Levied | 9.00 | 9.00 | 9.00 |
| Proposed Levy per EDU | **$485.42** | $499.98 | $514.98 |
| Max Levy per EDU [4] | $485.43 | $499.99 | $514.99 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | ($1,711) | ($4,014) | ($6,386) |
| Reserve Fund Adjustment | ($2,303) | ($2,372) | ($2,443) |
| Interest (0.5%) | $0 | $0 | $0 |
| **Projected Reserve Fund Balance at End of Year** | **($4,014)** | **($6,386)** | **($8,829)** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 41**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $331 | $340 | $351 |
| Contracted Services - 5200 | $292 | $300 | $309 |
| Materials - 5300 | $21 | $21 | $22 |
| Capital Projects - 5600 | $26 | $27 | $28 |
| **TOTAL DIRECT** | **$669** | **$689** | **$710** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $57 | $59 | $61 |
| Internal Services - 5400 | $34 | $35 | $36 |
| County Collection Fee | $17 | $3 | $3 |
| **TOTAL ADMINISTRATION** | **$108** | **$97** | **$99** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$778** | **$786** | **$810** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $986 | $1,030 | $1,061 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($27) | ($27) | ($28) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$959** | **$1,003** | **$1,033** |
| **Balance to Levy** | **$1,737** | **$1,789** | **$1,843** |
| **Total Revenue at Maximum Rate** | **$1,737** | **$1,789** | **$1,843** |
| Variance above/(below) Maximum Revenue | ($0) | $0 | $0 |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 1 | 1 | 1 |
| Total Parcels Levied | 1 | 1 | 1 |
| Total EDUs | 4.15 | 4.15 | 4.15 |
| Total EDUs Levied | 4.15 | 4.15 | 4.15 |
| Proposed Levy per EDU | **$418.53** | $431.10 | $444.02 |
| Max Levy per EDU [4] | $418.54 | $431.10 | $444.03 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $9,446 | $10,479 | $11,562 |
| Reserve Fund Adjustment | $986 | $1,030 | $1,061 |
| Interest (0.5%) | $47 | $52 | $58 |
| **Projected Reserve Fund Balance at End of Year** | **$10,479** | **$11,562** | **$12,681** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 42**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $1,408 | $1,450 | $1,494 |
| Contracted Services - 5200 | $968 | $998 | $1,027 |
| Materials - 5300 | $89 | $91 | $94 |
| Capital Projects - 5600 | $112 | $115 | $119 |
| **TOTAL DIRECT** | **$2,577** | **$2,655** | **$2,734** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $244 | $251 | $258 |
| Internal Services - 5400 | $144 | $148 | $153 |
| County Collection Fee | $6 | $6 | $6 |
| **TOTAL ADMINISTRATION** | **$393** | **$405** | **$417** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$2,971** | **$3,060** | **$3,151** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $4,199 | $4,057 | $3,969 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($113) | ($117) | ($120) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$4,085** | **$3,940** | **$3,849** |
| **Balance to Levy** | **$7,056** | **$7,000** | **$7,000** |
| **Total Revenue at Maximum Rate** | **$28,199** | **$29,045** | **$29,916** |
| Variance above/(below) Maximum Revenue | ($21,143) | ($22,045) | ($22,916) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 2 | 2 | 2 |
| Total Parcels Levied | 2 | 2 | 2 |
| Total EDUs | 441.00 | 441.00 | 441.00 |
| Total EDUs Levied | 441.00 | 441.00 | 441.00 |
| Proposed Levy per EDU | **$16.00** | $16.48 | $16.97 |
| Max Levy per EDU [4] | $63.94 | $65.86 | $67.84 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $46,127 | $50,556 | $54,866 |
| Reserve Fund Adjustment | $4,199 | $4,057 | $3,969 |
| Interest (0.5%) | $231 | $253 | $274 |
| **Projected Reserve Fund Balance at End of Year** | **$50,556** | **$54,866** | **$59,109** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Zone 43**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $1,322 | $1,362 | $1,403 |
| Contracted Services - 5200 | $1,982 | $2,041 | $2,102 |
| Materials - 5300 | $83 | $86 | $88 |
| Capital Projects - 5600 | $105 | $108 | $112 |
| **TOTAL DIRECT** | **$3,493** | **$3,597** | **$3,705** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $229 | $236 | $243 |
| Internal Services - 5400 | $135 | $139 | $143 |
| County Collection Fee | $82 | $82 | $82 |
| **TOTAL ADMINISTRATION** | **$446** | **$457** | **$468** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$3,938** | **$4,054** | **$4,173** |
| Capital Improvement Projects | $0 | $0 | $0 |
| Zone Reserves Adjustment | $4,358 | $4,056 | $3,940 |
| Gas Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($106) | ($109) | ($113) |
| Storm Drain Fund - 101 | $0 | $0 | $0 |
| **TOTAL ADJUSTMENTS** | **$4,252** | **$3,946** | **$3,827** |
| **Balance to Levy** | **$8,190** | **$8,000** | **$8,000** |
| **Total Revenue at Maximum Rate** | **$22,356** | **$23,026** | **$23,717** |
| Variance above/(below) Maximum Revenue | ($14,166) | ($15,026) | ($15,717) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 105 | 105 | 105 |
| Total Parcels Levied | 105 | 105 | 105 |
| Total EDUs | 105.00 | 105.00 | 105.00 |
| Total EDUs Levied | 105.00 | 105.00 | 105.00 |
| Proposed Levy per EDU | **$78.00** | $80.34 | $82.75 |
| Max Levy per EDU [4] | $212.91 | $219.30 | $225.88 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $37,886 | $42,434 | $46,701 |
| Reserve Fund Adjustment | $4,358 | $4,056 | $3,940 |
| Interest (0.5%) | $189 | $212 | $234 |
| **Projected Reserve Fund Balance at End of Year** | **$42,434** | **$46,701** | **$50,875** |

**City of Tracy**
**Consolidated Landscape Maintenance District**
**Proposed Budget for Fiscal Year 2020-21**

**Consolidated Totals - 41 Zones**

| | Proposed Budget FY 2020-21 | Forecasted Budget FY 2021-22 | Forecasted Budget FY 2022-23 |
|---|---|---|---|
| **DIRECT COSTS** [1] | | | |
| Personnel - 5100 | $1,225,506 | $1,261,902 | $1,299,759 |
| Contracted Services - 5200 | $1,790,284 | $1,843,586 | $1,898,894 |
| Materials - 5300 | $161,997 | $166,714 | $171,715 |
| Capital Projects - 5600 | $1,375,993 | $1,417,243 | $1,459,760 |
| **TOTAL DIRECT** | **$4,553,779** | **$4,689,445** | **$4,830,128** |
| **ADMINISTRATION COSTS** [2] | | | |
| Overhead - 5900 | $241,874 | $249,066 | $256,538 |
| Internal Services - 5400 | $125,113 | $128,828 | $132,693 |
| County Collection Fee | $30,549 | $30,516 | $30,531 |
| **TOTAL ADMINISTRATION** | **$397,535** | **$408,410** | **$419,762** |
| **LEVY ADJUSTMENTS** [3] | | | |
| **TOTAL DIRECT AND ADMIN COSTS** | **$4,951,314** | **$5,097,855** | **$5,249,891** |
| Capital Improvement Projects | ($519,913) | $0 | $0 |
| Zone Reserves Adjustment | ($968,574) | ($1,458,852) | ($1,514,590) |
| Special Tax Support | $0 | $0 | $0 |
| General Fund - 101 | ($98,495) | ($101,420) | ($104,463) |
| Storm Drain Fund - 101 | ($20,000) | ($20,573) | ($21,191) |
| **TOTAL ADJUSTMENTS** | **($1,606,982)** | **($1,580,845)** | **($1,640,243)** |
| **Balance to Levy** | **$3,344,452** | **$3,517,010** | **$3,609,647** |
| **Total Revenue at Maximum Rate** | **$4,155,557** | **$4,279,031** | **$4,407,402** |
| Variance above/(below) Maximum Revenue | **($811,105)** | ($762,020) | ($797,754) |
| **DISTRICT STATISTICS** | | | |
| Total Parcels | 16,851 | 16,851 | 16,851 |
| Total Parcels Levied | 16,411 | 16,411 | 16,411 |
| Total EDUs | 25,582.88 | 25,582.88 | 25,582.88 |
| Total EDUs Levied | 24,922.35 | 24,922.35 | 24,922.35 |
| **FUND BALANCE INFORMATION** | | | |
| **Reserve Fund** | | | |
| Beginning Fund Balance | $6,063,981.14 | $5,121,614 | $3,690,490 |
| Reserve Fund Adjustment | ($966,919.47) | ($1,458,852) | ($1,514,590) |
| Interest (0.5%) | $31,205.59 | $27,728 | $20,425 |
| **Projected Reserve Fund Balance at End of Year** | **$5,128,267** | **$3,690,490** | **$2,196,325** |

# PART III – QUANTIFICATION OF BENEFIT

The Act allows cities to establish benefit zones for the purpose of providing certain public improvements which provide a special benefit to the parcels. This includes the construction, maintenance, and servicing of street lights, traffic signals, and landscaping facilities. Section 22573 of the Act requires that maintenance assessments be levied according to benefit rather than according to the assessed value of property. This section states:

> **"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements.**
>
> — Streets and Highways Code Section 22573

Section 22574 of the Act permits the designation of zones of benefit within any individual assessment district if "by reason of variations in the nature, location, and extent of the improvements, the various areas will receive different degrees of benefit from the improvements."

In addition, Proposition 218, the "Right to Vote on Taxes Act," which was approved on the November 1996 Statewide ballot and added Article XIIID to the California Constitution, requires that a parcel's assessment not exceed the reasonable cost of the proportional special benefit conferred on that parcel. Proposition 218 provides that only special benefits are assessable and the City must separate the general benefits from the special benefits. In addition, Proposition 218 also requires that publicly owned property which benefits from the improvements be assessed, unless there is clear and definite evidence that those properties receive no special benefit. Exempted from the assessment would be the areas of public streets, public avenues, public lanes, public roads, public drives, public courts, public alleys, public easements and rights-of-ways, public greenbelts and public parkways.

The amount to be assessed may be apportioned by any formula or method which fairly distributes the amount among all assessable lots or parcels. Additionally, it's required that the City separate the general benefits from the special benefits, because only special benefits may be assessed. The quantification and separation of general benefit from special benefits follows for each of the Zones and associated benefit areas.

# PART IV – METHOD OF ASSESSMENT

## General

The Method of Assessment outlines the formula by which property that receives special benefit from the improvements and services provided will be assessed annually. The Method of Assessment for the District follows:

Each parcel within the District is deemed to receive special benefit from the landscaping improvements. Each parcel that has a special benefit conferred upon it as a result of the maintenance and operation of the improvements is identified and the proportionate special benefit derived by each identified parcel is determined in relationship to the entirety of the costs of the maintenance, operation, and servicing of the improvements.

Each parcel is assigned a weighting factor known as an Equivalent Dwelling Unit (EDU) to identify the parcel's proportionate special benefit from the improvements. Each parcel's EDU is calculated based on the parcel's land use, development status and/or size as compared to other parcels that are associated with the improvements. All single- family residential properties are assigned an EDU of 1.00, and all other property types are assigned an EDU proportionate to the special benefits they receive as compared to this single-family residential property. The total EDU's in a Zone is divided into the total amount to be assessed (Balance to Levy) to establish the Levy per EDU (Rate). This Rate is then multiplied by the parcel's individual EDU to establish the parcel's levy amount.

The following formulas are used to calculate each property's assessment:

*Total Balance to Levy ÷ Total EDUs = Levy per EDU*

*Levy per EDU x Parcel EDU = Parcel Levy Amount*

The formula used for each Zone reflects the composition of the parcels and properties, and the services provided, to accurately proportion the costs based on estimated special benefit to each parcel. The total Levy per EDU will vary between Zones due to the different costs to maintain the improvements within each Zone and the number of EDU within the Zone.

## Land Use Classifications

Every parcel within the District is assigned a land use classification based on available parcel information obtained from the County Assessor's Office and City records. To assess benefits equitably, it is necessary to relate the different type of parcel improvements to each other. The Equivalent Dwelling Unit method of assessment apportionment uses the single-family home site as the basic unit of assessment. A single-family home site equals one Equivalent Dwelling Unit (EDU). Every other land use is converted to EDU's based on an assessment formula that equates the property's specific development status, type of development (land use), and size of the property, as compared to a single-family home site.

The EDU method of apportioning benefit is typically seen as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act, as the benefit to each parcel from the improvements are apportioned as a function of land use type, size and development.

**Single-Family Residential Subdivided Lot.** This land use is defined as a fully subdivided residential home site with or without a structure. This land use is assessed 1.00 EDU per lot or parcel. This is the base value that all other land use types are compared and weighted against.

**Planned-Residential Subdivision.** This land use is defined as any property not fully subdivided, but has a specific number of proposed residential lots to be developed on the parcel (approved tract map). This land use type is assessed at 1.00 EDU per planned (proposed) residential lot.

**Vacant, Undeveloped Private Property.** This land use is defined as vacant property (undeveloped) that is not a fully subdivided residential lot or planned residential subdivision. This land use is assessed at 4.00 EDU per acre. Parcels less than 0.25 acres are assigned a minimum of 1.00 EDU. In Zones 10, 11, 36 and 37 this land use is assessed at 5.0 EDU per acre. Parcels less than 0.20 acres are assigned a minimum of 1.00 EDU.

**Developed Non-Residential.** This land use is defined as property developed for non-residential use, including, but not limited to, commercial and industrial properties, offices, churches and not-for-profit institutions and private schools. This land use type is assessed at 5.00 EDU per gross acre. Parcels less than 0.20 acres are assigned a minimum of 1.00 EDU.

**Developed Multiple Residential Units.** This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property. This land use is assessed 1.00 EDU per unit for properties that the number of units can be identified. For properties that the number of units cannot be identified the property is assessed as Developed Commercial/Industrial property at 5.00 EDU per gross acre, but a minimum of 1.00 EDU.

**Undeveloped, Public Property.** This land use identifies properties that are exempt and are assigned 0.00 EDU. This land use classification may include, but is not limited to lots or parcels identified as:

- Public streets and other roadways (typically not assigned an APN by the County);
- Dedicated public easements such as utility right-of-ways, detention basins, channel ways, greenbelts, parkways, parks and open space areas;
- Privately owned property that cannot be developed or is associated with another property such as common areas, sliver parcels and bifurcated lots or properties that have little or no land value;

These types of parcels are considered to receive little or no benefit from the improvements and are therefore exempted from assessment. Government-owned properties commonly identified as non-taxable properties by the County Assessor's Office are not exempt from District assessments unless:

- The property has restricted development or limited land use potential and the improvements clearly provide no benefit to the property; or
- The property provides additional or substantially similar improvements being provided by the

District (such is the case with parks, open space areas and common areas).

**Developed Public Property.** This land use is defined as developed property owned by a public agency such as City buildings or facilities owned by the utility companies. This land use type is assessed at 0.30 EDU per gross acre.

**Developed Regional Commercial.** This land use is defined as property that has been designated for regional commercial development (i.e. Shopping mall). This land use type is assessed at 0.36 EDU per gross acre.

**Restricted/Special Land Use.** This land use classification identifies properties that benefit from the improvements, but cannot be fairly categorized by one of the other land use designations. This land use classification may include, but is not limited to:

- Developed Commercial/Industrial properties that only a small portion of the parcel has been developed;
- Properties identified as planned residential subdivisions, but currently have development restrictions; or
- Vacant properties with development limitations or development plans that identify large portions of the property as open space areas, parklands or similar exempt land uses.

The following table shows the EDU factors assigned to each property type in the District:

| **Property Type** | **Factor** | **Basis** |
|---|---|---|
| Single Family Residential – Subdivided Lot | 1.00 | Parcel |
| Planned Residential Subdivision | 1.00 | Planned Lot |
| Vacant, Undeveloped Private Property [(1)] | 4.00 | Acre |
| Vacant, Undeveloped Private Property (Zones 10, 11, 36 & 37)[(1)] | 5.00 | Acre |
| Developed, Non-Residential Property | 5.00 | Acre |
| Developed, Multi-Family Residential | 1.00 | Unit |
| Undeveloped, Public Property [(2)] | 0.00 | Acre |
| Developed, Public Property [(3)] | 0.30 | Acre |
| Developed, Regional Commercial [(4)] | 0.36 | Acre |

Notes

1. The Undeveloped Private property factor for Zones, 10, 11, 36 and 37 (5.00 EDU/Acre) reflects the more intense use of property within these Zones when the properties are developed as compared to property development in other Zones of the District, which are assigned a weighting factor of 4.00 EDU/Acre. It is important to note that the factors shown above are used to apportion the assessment within each specific Zone, not across the entire District and therefore this distinction is an appropriate reflection of these parcels' benefit compared to other property types within the respective Zones.

2. It has been determined that undeveloped public properties generally do not benefit from the improvements and services provided by the District and are not assessed. These types of properties generally include easements, detention basins, parks or properties that have little or no development potential and therefore receive no special benefits from the District improvements.

3. Developed Public properties typically receive comparatively less benefit from the improvements and services provided by the District, since the use and enhancement of these properties has little direct benefit from aesthetics of the local environment. The factor shown was originally established based on typical proportionate cost of service and hours of use for this land use type.

4. Regional Commercial properties have been assigned a reduced benefit because of their size and their more distant proximity to the District improvements. Additionally, due to the nature and hours of use, the benefit received by such properties from the improvements and services is substantially less than other developed properties. The factor shown was originally established based on a calculation of the proportionate cost of service, average floor area ratios, and hours of use.

## Assessment Range Formula

The annual landscaping assessment shall be calculated for each parcel annually by multiplying each parcel's number of EDU's by the actual assessment rate for the specific fiscal year. The actual annual assessment rate levied in any fiscal year for the District may not exceed the maximum annual assessment rate for such fiscal year without receiving property owner approval for the increase. The actual assessment rate shall be as approved by the City Council, not to exceed the maximum annual assessment rate for such fiscal year, after a noticed public hearing has been conducted, as required by law.

In each year, starting in the first year after the consolidation of the District (2003-04), the maximum annual assessment rate for each Zone shall be increased in an amount equal to the lesser of: (1) three percent (3.0%), or (2) the annual percentage increase of the Local Consumer Price Index ("CPI") for All Urban Consumers, for the San Francisco-Oakland-San Jose Area.

Each fiscal year, the City shall identify the percentage difference between the CPI for June and the CPI for the previous June (or similar time period). This percentage difference shall then establish the range of increased assessments allowed based on CPI. Should the Bureau of Labor Statistics revise such index or discontinue the preparation of such index, the City shall use the revised index or comparable system as approved by the City Council for determining fluctuations in the cost of living.

The actual annual assessment rate and actual assessments levied in any fiscal year will be as approved by the City Council and may not exceed the maximum annual assessment rate for that fiscal year without property owner approval via a Proposition 218 compliant increase procedure.

The percentage difference for the CPI for the San Francisco-Oakland-Hayward Area June 2018 to June 2019 was 3.2%. The maximum assessment rates allowed for Fiscal Year 2020-21 therefore, have been adjusted by 3.00% over the prior year's maximum assessment rates.

# PART V – ASSESSMENT DIAGRAM

The assessment diagrams for each Zone in the District are on file with the City's Office of the City Clerk and available for public inspection.

The lines and dimensions of each lot or parcel within each Zone are those lines and dimensions shown on the maps of the Assessor of the County of San Joaquin for the fiscal year to which this Report applies. The Assessor's maps and records are incorporated by reference herein and made part of this Report.

An overview map of the District showing the locations of each Zone is included herein as Appendix B.

# PART VI – ASSESSMENT ROLL

The assessment set forth for each parcel is shown on the Assessment Roll for the District, submitted separately, as "Assessment Roll for the City of Tracy, Consolidated Landscape Maintenance District, Fiscal Year 2020-21", which exhibit is incorporated by reference herein as Appendix C under separate cover, and is on file in the Office of the City Clerk.

The Assessment Roll lists all parcels within the boundaries of the District as shown on the Assessment Diagram, Part D herein, and on the last equalized roll of the Assessor of the County of San Joaquin, which is by reference made part of this report.

A list of names and addresses of the owners of all parcels within this District is shown on the last equalized Property Tax Roll of the Assessor of the County of San Joaquin, which by reference is hereby made a part of this report. This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll on file in the office of the City Clerk of the City of Tracy.

# APPENDIX A – IMPROVEMENT AREAS BY ZONE

**Zone 1 Sycamore subdivision on east side of Tracy Boulevard**

***Arterial Street Landscaping***

Tracy Boulevard – Southeast corner of Tracy Boulevard and Central Avenue, north to 1688 S. Tracy Boulevard

**Zone 2 Fairhaven subdivision on west side of Tracy Boulevard**

***Arterial Street Landscaping***

S. Tracy Boulevard – West side, approximately 1,000 feet south of Valpico to Sycamore Parkway (Fairhaven subdivision)

Rockport Way – Median strip and side strips

**Zone 3 Northwest section of Tracy, bordered by I-205 to the north, Byron Road to the south and O'Hare Drive to the east**

***Arterial Street Landscaping***

Grant Line Road – North side from Corral Hollow Road to O'Hare Drive; south side from 1820 W. Grant Line Road, east to Lincoln Road; median island from Lincoln Road, west to Orchard Parkway; south side from Corral Hollow Road, west to Henley Parkway

Corral Hollow Road – West side from Grant Line Road, south to Byron Road; east side from Byron Road to approximately 150 feet north of Alegre; median island from Byron Road, north to Grant Line Road; east side from Grant Line Road, north to beginning of the channel way; median island on Corral Hollow Road, north of Grant Line Road to the Mall entrance

Kavanagh Avenue – South side from Corral Hollow Road, east to Golden Springs Drive

Lowell Avenue – Corral Hollow, west to Regency (both sides), north side from Henley Parkway heading west to the end of the sound wall; south side from Henley Parkway, west to Blandford Lane; median island from Corral Hollow Road, east to Lincoln Boulevard; south side from Corral

Hollow Road, east to Promenade Circle; north side between the sound wall and curb, from Bridle Creek to Joe Pombo

Parkway; south side from east end of subdivision to the end of the soundwall/Joe Pombo Parkway; south side from Joe Pombo Parkway to Blandford Lane; south side from Promenade Circle, east to the end of the sound wall; northside from Henley Parkway, west to the end of the sound wall

Orchard Parkway – East side from Lowell Avenue to Grant Line Road; median island from Hillcrest, north to Joseph Damon Drive; west side from Lowell Avenue, north to approximately 500 feet north of Hillcrest, and from Joseph Damon Drive to Grant Line Road (to be weed free between curb and fence line); west side between curb and fence line, approximately 500 feet south of Joseph Damon Drive

Henley Parkway – East side between sound wall and curb, from Lowell Avenue to Bridle Creek Drive; west side from Lowell Avenue, north to the end of the sound wall (north of Giovanni)

Blandford Lane – East side from Lowell Avenue heading south to the end of the sound wall, including traffic circle at Lowell Avenue and Blandford Lane

***Subdivision Landscaping***

Arnaudo Village – Entryways at Lincoln Boulevard and Grant Line Road

Blossom Valley – Entryways at Travao Lane and Grant Line Road, including median-island

Foothill Ranch Estates – Entryway at Foothill Ranch Drive and Corral Hollow Road, including median-island

Woodfield Estates – Entryway at Fieldview, including north and south side sound wall and median strip along Fieldview; entryway at Promenade Circle, including west side of sound wall and median island

Sterling Estates – Alegre – north side and median-island

Pheasant Run – Entryways at Corral Hollow Road and Fieldview, including median-island; Annie Court adjacent to Fieldview, including south side of sound wall

Bridle Creek – Entryway at Lowell Avenue and Bridle Creek Circle, including median island on Bridle Creek Circle; entryway at Bridle Creek Circle and Joe Pombo Parkway

Entryways at Lowell Avenue and Oxford Way, including median-island on Oxford Way; entryway at Hampshire Lane, including median strip

Laurelbrook – Entryway at Laurelbrook Drive and Southbrook Lane, including median strip

Foothill Vista – Entryway at Hillcrest Drive between Orchard Parkway and Isabel Virginia

Countryside – Giovanni Lane, both sides, including median-island, from Henley Parkway, west to Rochester Street

***Park Maintenance***

Arnaudo Village – Slater Park on Suellen Drive

Buena Vista Estates – Kelly Park on Tammi Court

Foothill Ranch Estates – New Harmon Park on Hillcrest Drive

Laurelbrook – Dr. Ralph Allen Park at Veranda Court and Dorset Lane

Sterling Estates – Pombo Family Park on Joseph Damon Drive and Mary Alice Court

Park Atherton – Eagan Park on Oxford Lane and Lowell Avenue; Thrasher Park on Lowell Avenue and Joseph Menusa Drive; McCray Park on Fieldview Drive and Vivian Lane

***Weed Abatement***

Corral Hollow – Byron Road, north to Grant Line Road

Grant Line – North side from Corral Hollow Road heading west 500 feet from curb to 10 feet behind curb

Orchard Parkway – East side from Lowell Avenue to Hillcrest Drive curb to sidewalk; Orchard Parkway median island from Lowell Avenue to Grant Line Road

Pombo Parkway – East side from existing landscape, north to the end of the sound wall

**Zone 4** **Located in front of the Summergate Apartments on Grant Line Road**

***Weed Abatement***

Grant Line Road – In front of apartment complex

**Zone 5** **Located south of East Grant Line Road and east of Esther Drive.** No maintenance activity currently being performed

**Zone 6** **Located on the southwest corner of Clover Drive and North Tracy Boulevard.** No maintenance activity currently being performed

**Zone 7** **Located within the boundaries of 11th Street to the south, Corral Hollow Road, the SPRR tracks to the south and Hickory Avenue on the east**

***Arterial Street Landscaping***

Lauriana Lane – West side of Cypress Drive, south to Schulte Drive

Cypress Drive – North side from approximately 100 feet west of Hickory Avenue, west to Lauriana Lane; south side and median island from Lauriana Lane to Corral Hollow Road

Corral Hollow Road – East side approximately 300 feet north of Tennis Lane, south to the railroad tracks; east side, south from 11th Street to Cypress Drive (Safeway frontage only to include from face of curb to face of sidewalk); median strip from 11th Street, south to railroad tracks, south of Schulte Road; west side from Krohn Road, south to Cypress curb, to bike path

Schulte Road – From Corral Hollow Road heading east. The south side ends 1,000 feet before the railroad tracks. The north side ends at the railroad tracks and includes the median island

***Subdivision Landscaping***

Fox Hollow – Entryways at Tennis Lane and Lauriana Lane; entryways at Cypress Drive and Fox Hollow; entryways at Cypress Drive and Hunter's Trail; entryways at Tennis Lane and Corral Hollow Road, including median strip and two cul-de-sacs at Pheasant Run Court and Thomas Dehaven Court

Harvest Country West – Entryways at Raywood Lane, including median strip

Quail Meadows – Entryway at Golden Leaf Lane, including median strip; entryway at Quail Meadows, including median strip

Candlewood Estates – Entryway at Alden Glen Drive and Cypress Drive, including median strip

Corral Hollow Estates – Entryway at Lauriana Lane, both side, including median strip from Schulte Road, south approximately 92 feet

***Park Maintenance***

Fox Hollow – Kit Fox Park at Foxwood Court and Fox Hollow Way; Rippin Park at Tennis Lane and Firefly

Harvest Country West – Harvest Park at Birchwood Court and Fireside Lane

Candlewood Estates – Patzer Park at Alden Glen Drive and Meadowlark

Quail Meadows – Bailor-Hennan Park on Golden Leaf Lane

***Weed Abatement***

11th Street – Church frontage west of Alden Glen Drive, from face of curb to chain link fence

Schulte Road – from railroad tracks east of Lauriana Lane, heading west 1,000 feet to start of landscaping, 10 feet from the curb

**Zone 8 Located within the boundaries of Corral Hollow Road on the west and 11th Street on the south**

***Arterial Street Landscaping***

Belconte Drive – From 11th Street to Byron Road, east and west sides, including median-island

Redington Drive – Median-island, east and west of Belconte Drive

Byron Road – From Corral Hollow Road, west approximately 2,280 feet to the end of the subdivision sound wall

Corral Hollow Road – West side from Byron Road to 11th Street

***Park Maintenance***

Fabian – Fabian Park on Redington Drive

**Zone 9 Located west of Tracy Boulevard from the UPRR spur line to Corral Hollow Road on the west, and to the south, Edgewood and Brookview West subdivisions**

***Arterial Street Landscaping***

Tracy Boulevard – Circle B Ranch – west side from 245 feet north of Mt. Diablo Avenue, heading south past Schulte Road, approximately 650 feet to the end of the shopping center

Heritage subdivision – West side starting from approximately 200 feet north of Menay Drive, heading south to West Central Avenue

West side from Central Avenue heading south approximately 970 feet south of Valpico Road, next to the baseball field

West side from Sycamore Parkway heading south approximately 570 feet, to the end of the sound wall

Corral Hollow Road – From the railroad tracks south to Parkside drive, approximately 600 feet

Sycamore Parkway – West side and medians from Amberwood Lane south to Dove Lane; south of Central Avenue to Tracy Boulevard; west side, from Schulte Road, south to Amberwood Lane

Schulte Road – Median strip from Tracy Boulevard to railroad tracks; north side from Tracy Boulevard to Sycamore Parkway; south side from Tracy Boulevard to west end of shopping center; south side, from Sycamore Parkway, west to the end of the sound wall; south side from Sycamore Parkway, east to the shopping center

Valpico Road – Tracy Boulevard, both side, west to the City limits; median islands from Tracy Boulevard, west to the City limits

West Central Avenue – Median from Tracy Boulevard to Sycamore Parkway; north side from Tracy Boulevard, west to the end of Cedrus Drive

***Subdivision Landscaping***

Circle B Ranch – Entryways at Morris Phelps and Schulte Road; entryways at Mt. Diablo Avenue and Tracy Boulevard

Hearthstone – Entryways at Menay Drive and Tracy Boulevard; entryways at Amberwood Ln. and Sycamore Parkway cul-de-sac at Yorkshire Loop and Hampton Ct.

Regency Square – Entryways at Monument Drive, Tracy Boulevard and Sycamore Parkway; Monument Drive (north and south sides), including

Median islands at Monterey and Vintage Courts; cul-de-sac at southeast corner of Tahoe Court and northwest corner; cul-de-sacs at northeast and southwest corners of Tahoe Circle; court adjacent to Mt. Oso Mini Park on Henderson Court; court adjacent to Mt. Diablo Mini Park on Alpine Court

Muirfield – Entryway at Steinbeck; entryway at Petrig; cul-de-sac at Whitman Court; cul-de-sac at Longfellow Court; entryway at Dove Lane; median island on Chaplin, east and west of Sycamore Parkway; entry at Cagney; cul-de-sac at Shaw Creek; cul-de-sac at Williams Court; cul-de-sac at Bogart Court; cul-de-sac at Mansfield Court; cul-de-sac at Hepburn Court; entryway at Allegheny

Glen Creek – Entryway at Glen Creek Way

Greystone Station – Median-island at Windham; median-island at Sudley Drive

Harvest Glen – Entryway at Ray Harvey Drive; entryway at Meadow Lane; cul-de-sac at Cornucopia

Ironwood – Entryway at Monument Drive; walking path from Whitehaven Court, heading west to Mountain View Road; cul-de-sac at Newcastle Court; cul-de-sac at Clairmont Court; cul-de-sac at Hampton Court

***Park Maintenance***

Hearthstone – Valley Oak Park at Larkspur and Honeysuckle Court; Evelyn Costa Park at Claremont Drive and Whitehaven Court

Parkside Estates – Evans Park on Parkside Drive

Harvest Glen – Fitzpatrick Park on Savanna Drive; Albert Emhoff Park on Jonathon Place and Moonlight Way

Regency Square – Mt. Oso Park at Henderson Court; Mt. Diablo Park at Alpine Court

Muirfield – Golden Spike Park on Christy Court; Fred Icardi Park on Russell Street at Steinbeck Way; Westside Pioneer Park at Cagney Drive and Hepburn Street

Circle B – Sister Cities Park at Morris Phelps Drive and Saddleback Court

Greystone Station – John Kimball Park at Tom Fowler Drive and Sudley

Sienna Park – Tracy Press Park at Schulte Road and Weeping Willow Lane

**Zone 10 Includes the MacArthur Drive area, bounded by I-205 to the north and 11th Street to the south**

***Arterial Street Landscaping***

MacArthur Drive – East side, from Pescadero Avenue south to 2020 MacArthur Drive (curb to sidewalk); west side from Grant Line Road to 11th Street, approximately 35 feet from curb; median strip from I-205 to 11th Street; west side from Pescadero Avenue, south to end of the California Esprit subdivision; east side from Pescadero Avenue, north 165 feet; west side from Pescadero to a private canal; North side of 11th Street at channelway

Pescadero Avenue – North side, from MacArthur Drive, east to the end of the Outlet Center, curb to sidewalk and median strip; adjacent to Yellow Freight, from redwood header to sidewalk; south side adjacent to Market Wholesale, from face of curb approximately 30 feet; south side adjacent to the California Esprit subdivision, from MacArthur Drive west to the end of the sound wall; south side from MacArthur Drive, east to McLane Food Services; north side starting at 3403 Bungalows Drive to MacArthur Drive

Grant Line Road – North side, MacArthur Drive, east to the City limits, including median strip; south side, east of channelway to Skylark (ground cover only)

**Zone 11** **Located southwest at the corner of W. Eleventh Street and N. MacArthur Drive.** In front of storage facility

**Zone 12** **Located northwest of I-205 including the existing arterial landscaping along the right-of-way on Naglee Road and Grant Line Road**

***Arterial Street Landscaping***

Naglee Road – From Grant Line Road to Auto Plaza Drive, median and 5 foot strip between curb and sidewalk on the east side; west side from Pavilion Parkway to Robertson Drive, turf and curb strip only; Grant Line Road to Auto Plaza drive sidewalk on west side

Auto Plaza Drive – South side curb face to sidewalk, from Naglee Road, east to dead end

Robertson Drive – Both sides of the street curb face to sidewalk, from Naglee Road, west to Pavilion Parkway

Grant Line Road – South side from 2850 W. Grant Line Road, west to 3292 W. Grant Line Road; north side from west driveway of Chevron at 2615 W. Grant Line Road, west to the western edge of the property at 2785 W. Grant Line Road

Pavilion Parkway – Both sides of the street curb face to sidewalk, from Naglee Road to Power Road; median from Naglee Road, west to Power Road

Corral Hollow – Median from I-205 to Mall entrance; east side from I-205 to Mall entrance

**Zone 13** **Located southwest of I-205 with 11$^{th}$ Street bordering on the south, Lammers Road on the west and Byron Road on the north**

***Arterial Street Landscaping***

Fabian Road – North side from the edge of the sound wall, east to Montgomery Lane, west to Lammers Road; both sides and median on Montgomery Lane from King Loop to Fabian Rd

Lammers Road – East side from Fabian Road, north to Feteira Way

***Subdivision Landscaping***

Westgate – Entryway at Westgate Drive, both sides, east to Antonio Loop; entryway from Feteira Way to Glazzy Lane, both sides, from Lammers Road, east to Glazzy Lane; median on Souza Way, from Thelma Loop to Antonio Loop

***Park Maintenance***

Souza Park South – On Antonio Loop between Souza Way and Ann Marie Way

Souza Park North – On Thelma Loop between Milton Jenson Court and Michael Drive

**Zone 14 Bounded on the west by Lammers Road, on the east by Corral Hollow Road and on the south by Schulte Road and the railroad tracks**

***Arterial Street Landscaping***

Corral Hollow Road – West side, 234 feet north of Tracey Jean Way, including the walking path between Corral Hollow Road and Tracey Jean Court

***Subdivision Landscaping***

Gabriel Estates – Entryway at Tracey Jean Way, including median strip

***Park Maintenance***

Joan Sparks Park – On Carol Ann Drive

Chandeayne Kingsley Park – On Robert Gabriel Drive

**Zone 15 Located in the southwest section of the City, bordered by Tracy Boulevard, Linne Road and Corral Hollow Road**

***Arterial Street Landscaping***

Tracy Boulevard – West side, from approximately 700 feet north of Whispering Wind, south to the end of the sound wall

Whispering Wind – Both sides, including medians from Tracy Boulevard, west to English Oaks Lane

Applebrook Lane – Both sides, including median from Whispering Wind, south to approximately 75 feet

English Oak Lane – East side from Whispering Wind, north to approximately 80 feet

Windsong Drive – Both sides, including median from Tracy Boulevard, west to approximately 370 feet

Corral Hollow Road – East side from 75 feet north of Peony Drive, heading south to railroad tracks

***Subdivision Landscaping***

Edgewood VI – Entryway at Peony Drive, both sides, including median strip from Corral Hollow Road, east to Maison Court; entryway at Middlefield Drive, both sides, including median strip from Corral Hollow Road, east to Whispering Wind Drive

***Park Maintenance***

William Adams Park – On Edgewood Terrace Drive

Don Cose Park – On Whirlway Lane

Bill Schwartz Park – On Peony Drive

**Zone 16 Bordered on the north by Byron Road, 11th Street on the south, Palomar Drive on the west and Mamie Anderson on the east**

***Subdivision Landscaping***

Crossroads Drive – Crossroads Drive, east and west from 11th Street to Solomon Drive; Crossroads Dr from Solomon Dr to fence line of 2506 Spencer Lane

***Park Maintenance***

Dan Busch Park – On the northeast corner of Crossroads Drive and Tolbert Drive

**Zone 17** **Includes all areas east of Tracy Boulevard between the SPRR tracks on the north and 100 feet north of Deerwood Lane on the south**

***Arterial Street Landscaping***

Tracy Boulevard – East side from Valpico Road, north to the end of the shopping center (on-site landscape contractor maintains the 5,150 sq. ft. of shrubs and 800 sq. ft. of turf); east side from Valpico Road, south to the end of the shopping center

Central Avenue – West side from Schulte Road, south to Ferdinand Street and the east side from Schulte Road, south to Deerwood Lane; west side from Schulte Road, north to Country Court, including ground cover in front of fence on Mt. Oso

Schulte Road – North side from Tracy Boulevard , east to the cemetery; medians from east of Tract Boulevard to Gianelli; south side from Central Avenue to 300 feet east of Independence Drive

MacArthur Boulevard – West side from Krider Court, south to the north edge of the cemetery

Third Street – North side from Jaeger to Tudor

Leamon Street – South side of California Cameo Parkway from MacArthur Boulevard, west to Third Street and Jaeger Street

Mt. Diablo Avenue – South side (est. 1,000 sq. ft.) and median-island from MacArthur, west to Third Street

Valpico Boulevard – South side from Tracy Boulevard, east to end of landscaping; north side from Tracy Boulevard, east to end of landscaping (on-site landscape contractor maintains the 4,906 sq. ft. of shrubs)

***Subdivision Landscaping***

Meadow Glen – Entryways at Edenvale and Schulte Road; parkway from Cedar Mountain Drive to San Simeon Way

Victoria Park I – Entryways at Gianelli, including median, south side of Schulte Road; cul-de-sacs at Elizabeth Court, Henry Court and Edward Court

Victoria Park II (American Classics) – Cul-de-sacs at James Court and Mary Court

Victoria Park II (Traditions) – Cul-de-sacs at Elysan, Lavender and Primrose Courts, and entrance at Junior Harrington, north side to 100 feet east

California Collections – Entryways at MacArthur Drive and Wagtail Drive; cul-de-sac at Krider Court

California Renaissance – Entryway median at Third Street; entryway and median at Hotchkiss Street; cul-de-sac at Sir Lancelot

California Cameo – Entryway median at Leamon Street; cul-de-sac at Versailles Court; cul-de-sac at Czerny Street

***Park Maintenance***

Meadow Glen – Florence Stevens Park at Tassajero Court

Victoria Park – Sullivan Park on Victoria Street

California Collections – Huck Park on Wagtail Drive

**Zone 18 Bounded on the north by Valpico Road, on the east by MacArthur Drive and on the south by Linne Road**

***Arterial Street Landscaping***

Valpico Road (Glenbriar Estates) – South side from MacArthur Drive, west to the end of the sound wall; south side from Pebblebrook Drive, west to the end of the sound wall, approximately 600 feet (Pebblebrook Estates)

MacArthur Drive (Glenbriar Estates) – West side from Valpico Road, south to the end of the landscaping, approximately 290 south of Fair Oaks Road; west side from Glenbrook Drive, south 237 feet to end of landscape; north 220 feet to the end of the landscaping

***Subdivision Landscaping***

Glenbriar Estates – Glenbriar Drive from Valpico Road, south to Glenbriar Circle, both sides and median

Pebblebrook Estates – Entryway at Pebblebrook Drive, including median; cul-de-sac at Pebblebrook Court

**Zone 19** **Located north of the UPRR tracks, south of Valpico Road, east of Tracy Boulevard and west of Glenbriar Estates**

***Arterial Street Landscaping***

Tracy Boulevard – East side including median from Valpico Road, south to UPRR tracks, Whispering Winds, Regency and Brookview,

***Park Maintenance***

William Kendal Lowes Park

***Subdivision Landscaping***

Regis Drive – West side from Whispering Wind Drive, south to Dietrick Avenue; from Regis Drive, east to 418 feet east of Reids Way; from Whispering Wind Drive, north to Arezzo Way, then east on Arezzo Way to Escatta Avenue

Brookview Drive – From Perennial Place, east to Glenhaven Drive, north side; from Regis Drive, east to Glenhaven Drive, south side

**Zone 20** **(Larkspur Estates) located generally south of Montclair Lane, west of MacArthur Drive, and north of Valpico Road**

***Arterial Street Landscaping***

MacArthur Boulevard – West side from DeBord Drive, north 415 feet to the end of the sound wall, and south from DeBord Drive 213 feet to the end of the sound wall; median on DeBord Drive

***Park Maintenance***

Stalsberg Drive – Clyde Abbot Park located on the south dead end of Stalsberg Drive

**Zone 21** **(Huntington Park) located generally between Byron Road, south to Fabian Road and Gentry Lane, east to Jones Lane**

***Subdivision Landscaping***

Huntington Park – Entryway on Montgomery Lane, both sides from Fabian Road, north to King Loop, including median; entryway on

Lankershire Drive, both sides from Byron Road, south to Kensington Court, including median; cul-de-sac on Kensington Court; Byron Road south side from Lankershire Drive, west 243 feet to the end of the sound wall, and east from Lankershire Drive 554 feet to the end of the sound wall; entryway at Byron Road, 100 feet to Ogden Sannazor, east and west side of the pathway

***Mini-Park Maintenance***

*Richard Hastie Park* – located on Huntington Park Drive

**Zone 22 Generally located between Corral Hollow Road, east to Egret Drive, and from Persimmon Way, south to Starflower Drive on the western half and Dove Drive on the eastern half**

***Arterial Street Landscaping***

Corral Hollow Road – East side from Starflower Drive, north to the end of the sound wall of the sound wall

***Subdivision Landscaping***

Parkview (Muirfield 7) – North side of Persimmon Way along the sound wall from Geranium, west to Corral Hollow Road; west side of Lotus Way, along sound wall from Starflower Drive, north to Petunia; north side of Starflower along sound wall from Corral Hollow Road, east to Lotus Way, including median

**Zone 23 Starflower Drive south to canal between Corral Hollow Road, Monroe Street and Gretchen Talley Park**

***Arterial Street Landscaping***

Corral Hollow Road – From Starflower Drive, south to Kagehiro Dr.; east side of Corral Hollow, Kagehiro Dr. to Lotus Way

Starflower Drive – From Corral Hollow Rd south side to Lotus way

Kagehiro Drive – From Corral Hollow Road, east to Lotus Way

**Zone 24** **(Eastlake) - Located south of 26102 S. MacArthur Drive, north of Valpico Road and east of MacArthur Drive**

***Park Maintenance Only***

Tiago Park – Located on Eastlake Circle between Crater Place and McKenna Court

**Zone 25** **Located north of Brichetto Road and Schulte Road, east of Zone 32.** No maintenance activity currently being performed

**Zone 26** **Located generally west of Corral Hollow Road, east of Lammers Road, north of Zone 14 and south of W. 11th Street**

***Arterial Street Landscaping***

Corral Hollow Road – 60 feet north of Cypress Drive to the end of the sound wall, south approximately 240 feet; north side, 31 feet north of Cypress Drive

Sterling Park II – From San Marcos subdivision at Tennis Lane, 290 feet north to the Sterling Park subdivision; Tennis Lane, west of Corral Hollow Road center median and south side

Krohn Road – South side from Corral Hollow Road, west to end of landscaping

***Subdivision Landscaping***

Sterling Park – Cypress Drive, north and south side, including median; Banff, east and west side, including median

San Marcos – Schulte, north and south side, including median; Babcock entryway and median; Cabana entryway and median; Schulte Road, north 922 feet to Tennis Lane; Schulte Road, south to Golden Leaf Lane; Nabor Ct

***Park Maintenance***

Verner Harrison – Located at Jill Drive and Brittany

Marlow Brothers – Located at Adaire Lane and Golden Leaf Lane

John Erb Park – located Barcelona Drive and Cypress Drive

**Zone 27** **Located generally west of Zone 26, south of Zone 28, north of Zones 25 and 14, approximately one mile east of Lammers Road**

***Arterial Street Landscaping***

South Gate – Schulte Road, east from Mabel Josephine to the end of the landscaping

South Gate – Mabel Josephine, south from Schulte Road to Patrick McCaffrey Drive

South Gate – Schulte Road median, east from Mabel Josephine to Barcelona

**Zone 28** **Located generally south of W. 11th Street, west of Zone 26, north of Zone 27 and east of Lammers Road**

***Subdivision Landscaping***

Crossroads Drive – From 11th Street, heading south on west side of the dead end of Crossroads Drive, curb to sound wall (curb to mow strip in front of Sports Complex); from 11th Street, heading south on the east side of the dead end of Crossroads Drive; median from 11th Street, heading south to the end of Crossroads Drive; Cranston Court; Wyman Court; Bennet Court; Marshall Court

Jefferson Parkway – 11th Street, heading south to Safford Lane; median from 11th Street, heading south to Safford Lane; east side from 11th Street to end of Sports Complex

**Zone 29** **Located generally south of Schulte Road, north of Valpico Road, west of Chrisman Road and east of Zone 24**

***Arterial Street Landscaping***

Valpico Road – North side of Valpico Road from Chrisman Road, heading west 1,018 feet to the end of the sound wall; north side from Elissagaray Drive, heading west 145 feet; north side starting 440 feet west of Elissagaray Drive at sound wall, heading 238 feet west to the end of the sound wall

Chrisman Road – West side of Valpico Road, heading north 960 feet past Elissagaray Drive

***Subdivision Landscaping***

Elissagaray Drive – East side from Valpico Road to Rodger Drive; east side from Rodger Drive, heading northeast to Chrisman Road, including Amatchi Drive entrances, east and west; west side from Rodger Drive, heading north to Dominique Drive; north side from Aldacourrou Street, heading east to Chrisman Road

Dominique Drive – South side from Elissagaray Drive, heading west 525 feet past Basque Drive

Mount Pellier Street – West side from 125 feet south of Montauban Street, heading south 225 feet to the end of the fence at 2203 Mt. Pellier Street

***Subdivision Court Landscaping***

Baigorry Court – East side from 130 feet south of Rodger Drive, starting at the sound wall 210 feet to the end of the sound wall

***Park Maintenance***

Robert Kellogg Park – Located on Elissagaray Street

**Zone 30 Yosemite Vista Housing Development located on S. MacArthur Drive**

***Arterial Street Landscaping***

S. MacArthur Drive – From Yosemite Drive, heading north to the end of the sound wall; from Yosemite Drive, heading south to Jesse J. Martinez Drive; from Jesse J. Martinez Drive, heading south to the end of the landscaping

Yosemite Drive – Median-island from S. MacArthur Drive, east approximately 100 feet

***Park Maintenance***

Sentinel Drive – Jim Raymond Park

**Zone 31 Tracy Mini Storage**

***Arterial Street Landscaping***

Tracy Boulevard – East of Tracy Boulevard, west of Zone 28 and south of Valpico Road

**Zone 32** Located north of Schulte Road, east of Lammers Road**.** No maintenance activity currently being performed

**Zone 33 Generally located south of I-205, north of the SPRR tracks and east of Chrisman Road**

***Arterial Street Landscaping***

Grant Line Road – From Best Buy warehouse, east to Skylark Way

**Zone 34 The triangle area located south of the SPRR tacks, north of W. 11th Street and east of Corral Hollow Road**

***Arterial Street Landscaping***

Corral Hollow Road – East side from 11th Street, north to railroad tracks at Byron Road

11th Street – From railroad tracks east of Alden Glen, heading west to Corral Hollow Road, north side from sidewalk to mow strip

**Zone 35 East side of Tracy Boulevard between Centre Court and Tennis Lane**

***Arterial Street Landscaping***

Tracy Boulevard – East side from BSC, heading south 375 feet past Tennis Lane

11th Street – From railroad tracks east of Alden Glen, heading west to Corral Hollow Road, north side from sidewalk to mow strip

***Subdivision Landscaping***

Ryland Junction – Entryway at Tracy Boulevard and Tennis Lane, including median; entryway at Tracy Boulevard and Centre Court, including median; Rockingham Court cul-de-sacs

***Park Maintenance***

Fisher Park – Located on Tracy Boulevard between Tennis Lane and Centre Court

**Zone 36 El Pescadero at Grant Line Road**

***Arterial Street Landscaping***

El Pescadero Park – South of El Pescadero Park, north of Grant Line Road and east of Buthmann

**Zone 37 Forrest Greens**

***Arterial Street Landscaping***

Acacia Street – North side of Acacia Street between East Street and MacArthur Drive

**Zone 38 This Zone is split into four different areas within the District (Funded by City's General Fund, and not assessment revenue)**

**Zone A**

***Arterial Street Landscaping***

11th Street – North side of 11th Street from Belconte Drive, west to Lammers Road; north side of 11th Street from Corral Hollow Road, west to Belconte Drive, from curb to sidewalk; north side of 11th Street from rail road tracks east of Alden Glen Drive, west to Corral Hollow Road, from curb to sidewalk; south side of 11th Street from Corral Hollow Road, west to the end of the landscaping west of Jefferson Drove, curb to sidewalk; south side of 11th Street from railroad tracks east of Alden Glen Drive, west to Corral Hollow Road, curb to sidewalk; median on 11th Street from rail road tracks east of Alden Glen Drive, heading west to Lammers Road; Lammers Rd – westside, median and eastside from 11th Street to end of Kimball High School; on eastside from curb to fence.

Grant Line Road – South side of Grant Line Road from 1820 W. Grant Line Road, east to Lincoln Boulevard; Corral Hollow Road, west side from Grant Line Road, north to I-205

Tracy Transit Station – Plaza area in the middle of 6th Street from Central Avenue to D Street; traffic circle at the intersection of 6th Street and

Central Avenue; traffic circle at the intersection of 6th Street and D Street; all on-site landscaping around the transit building and parking lot

**Zone B**

Valpico Town Center – North side of Valipco Rd. from Glebriar Drive heading east to MacArthur Dr.

**Zone 40 Located at the northwest corner of Valpico Road and MacArthur**

***Arterial Street Landscaping***

*Rite-Aid* – North side of Valpico Road from MacArthur Drive, heading west 370 feet to second driveway; west side of MacArthur Drive from Valpico Road, heading north 135 feet

**Zone 41 Located at east side of Corral Hollow Road, north of Tennis Lane and south of Cypress Drive**

***Arterial Street Landscaping***

*Corral Hollow Road* – east side of Corral Hollow Road fronting 350 N. Corral Hollow Road, starting from 285 feet north of Cypress Drive, heading north 375 feet to the end of the landscaping

**Zone 42 Located at south side of W. Grant Line Road, north of Byron Road and west of S. Lammers Road**

***Arterial Street Landscaping***

Grant Line – Center median and south side from east to west of complex

**Zone 43 Located east of MacArthur Drive and north of Valpico Road**

***Arterial Street Landscaping***

Tract 3290 (Ventana) – Ongoing maintenance, servicing and operation of the landscaping improvements within the public right-of-ways, to be installed in connection with this development

***Channel Way with Arterial Landscaping***

***Located in Zone 1***

Central Avenue – From Silkwood Lane, west to Tracy Boulevard (channel way in front of the Sycamore Village apartments); Central Avenue channel along the eastern side of the Sycamore Village apartments

Transit Corridor – Bike path to face of curb**;** from Silkwood lane west to Tracy Blvd in front of the Sycamore Apartments

***Located in Zone 3***

Grant Line Road – East side from Grant Line Road to the I-205 freeway right-of-way, approximately 1,600 linear feet; east side from Grant Line Road, north to I-205 (no mow), weed down as needed

Orchard Parkway – West side of Orchard Parkway from Lowell Avenue to Grant Line Road

Vivian Lane/Rita Way – From south end of Vivian Lane, heading north past Rita Way to Lowell Avenue

Lowell Avenue – North side of Lowell Avenue to Orchard Parkway

Transit Corridor (bike path to face of curb) – East side of Corral Hollow Road from Grant Line Road to I-205; Orchard Parkway shrubs; Orchard Parkway, west side from Lowell Avenue to Grant Line Road; Vivian Lane/Rita Way from rail road tracks, south of Vivian Lane, north to Lowell Avenue; north side of Lowell Avenue, west to Orchard Parkway

***Located in Zone 7***

From edge of property to bike path – North side of Cypress Drive from Corral Hollow Road to Lauriana lane; east side of Lauriana Lane from Cypress Drive to Schulte Road; north side of Schulte Road from Lauriana Lane, east to the rail road tracks

Transit Corridor (bike path to face of curb) – Starting at the rail road tracks on Schulte Road west of Sycamore Parkway, heading west to Lauriana Lane, then on Lauriana, then west on Cypress Drive to Corral Hollow Road

***Located in Zone 9***

From edge of property to bike path – North side of Schulte Road channel way from railroad tracks to Sycamore Parkway; east side of Sycamore

Parkway from Schulte Road, south to Windham Drive; south side of Central Avenue from Tracy Boulevard to Sycamore Parkway; east side of Windham Drive, south from Sycamore Parkway to Cherry Blossom

Transit Corridor (bike path to face of curb) – From Cherry Blossom, north to Sycamore Parkway on the east side, north to Schulte Road then west to rail road tracks; Central Avenue from Tracy Boulevard, west to Sycamore Parkway; north side of Schulte Road from Sycamore Parkway, west to Lauriana Lane

***Located in Zone 10***

MacArthur Drive – Landscaped channel way, east side from 11th Street overpass, north to driveway at 2020 MacArthur Drive-edge of property to bike path; non-landscaped channel area, east side from driveway at 2020 MacArthur Drive to Grant Line Road, north to Pescadero Road; I-205, west to rail road tracks west of MacArthur

Pescadero Avenue – Starting from the east driveway of the Outlet Mall, heading east 835 feet to the curve, then heading north 975 feet to the curve, then west 2,080 feet, ending at MacArthur Drive; starting from the south side of Pescadero Avenue from the east driveway of the Outlet Mall, heading south 2,550 feet to Grant Line Road; starting on the eastern edge of the property at 800 Grant Line Road, heading south 485 feet, then picking back up on the south side of the rail road tracks and heading south 950 feet to MacArthur Drive (Channel way is approximately 50 feet wide)

Transit Corridor (bike path to face of curb) – East side of MacArthur Drive from the 11th Street overpass, north to 1820 MacArthur Drive

***Located in Zone 12***

Naglee Detention Basin – Around fence line to bottom of the berm; entrance on Naglee Road, northwest side of Auto Plaza Drive

Park and Ride Lot – Transit corridor Park & Ride

***Located in Zone 26***

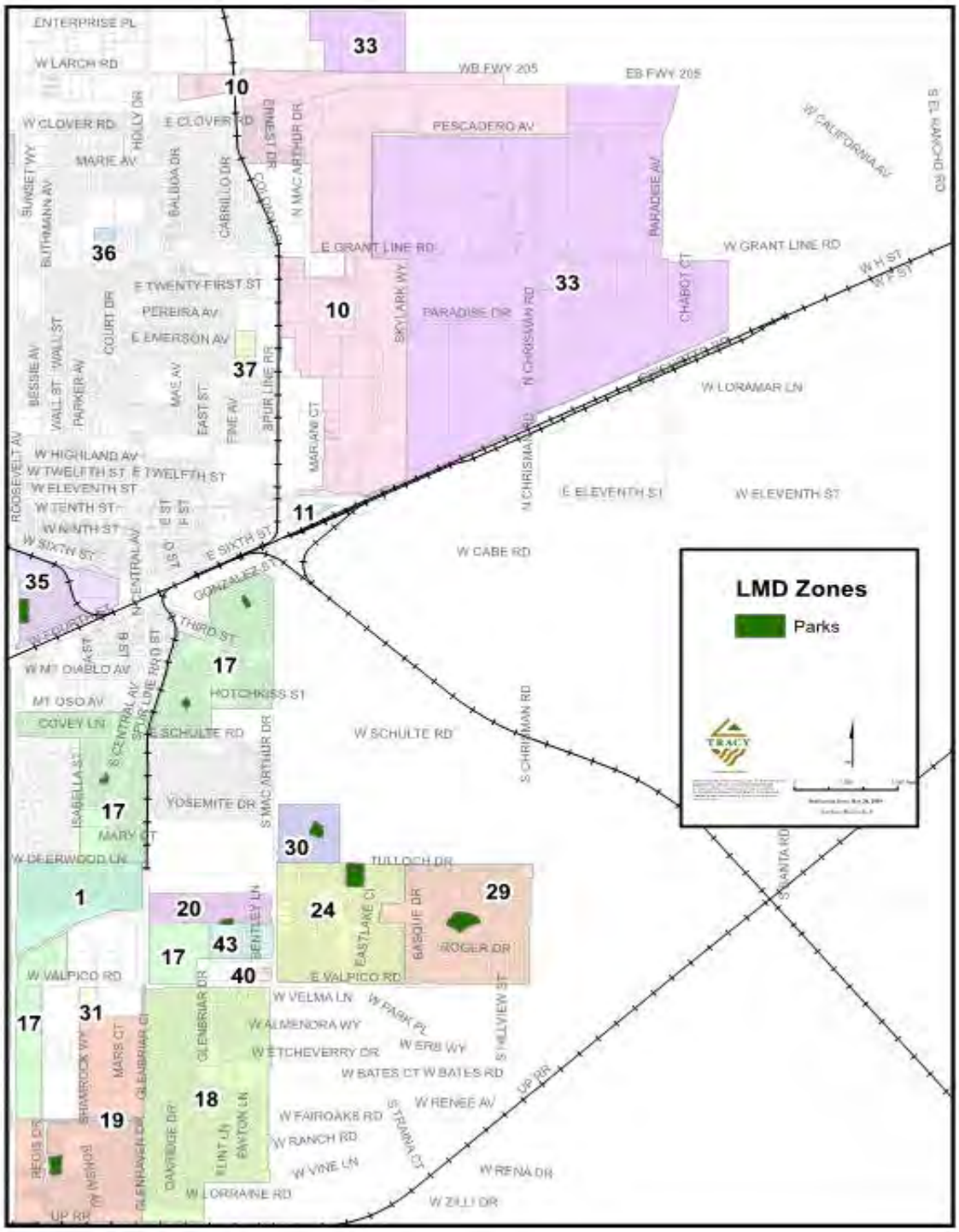
From edge of property to bike path – West side of Corral Hollow Road from Cypress Drive, north to Krohn Road; end of channel way from Krohn Road, 300 feet west to DB-V Detention Basin;

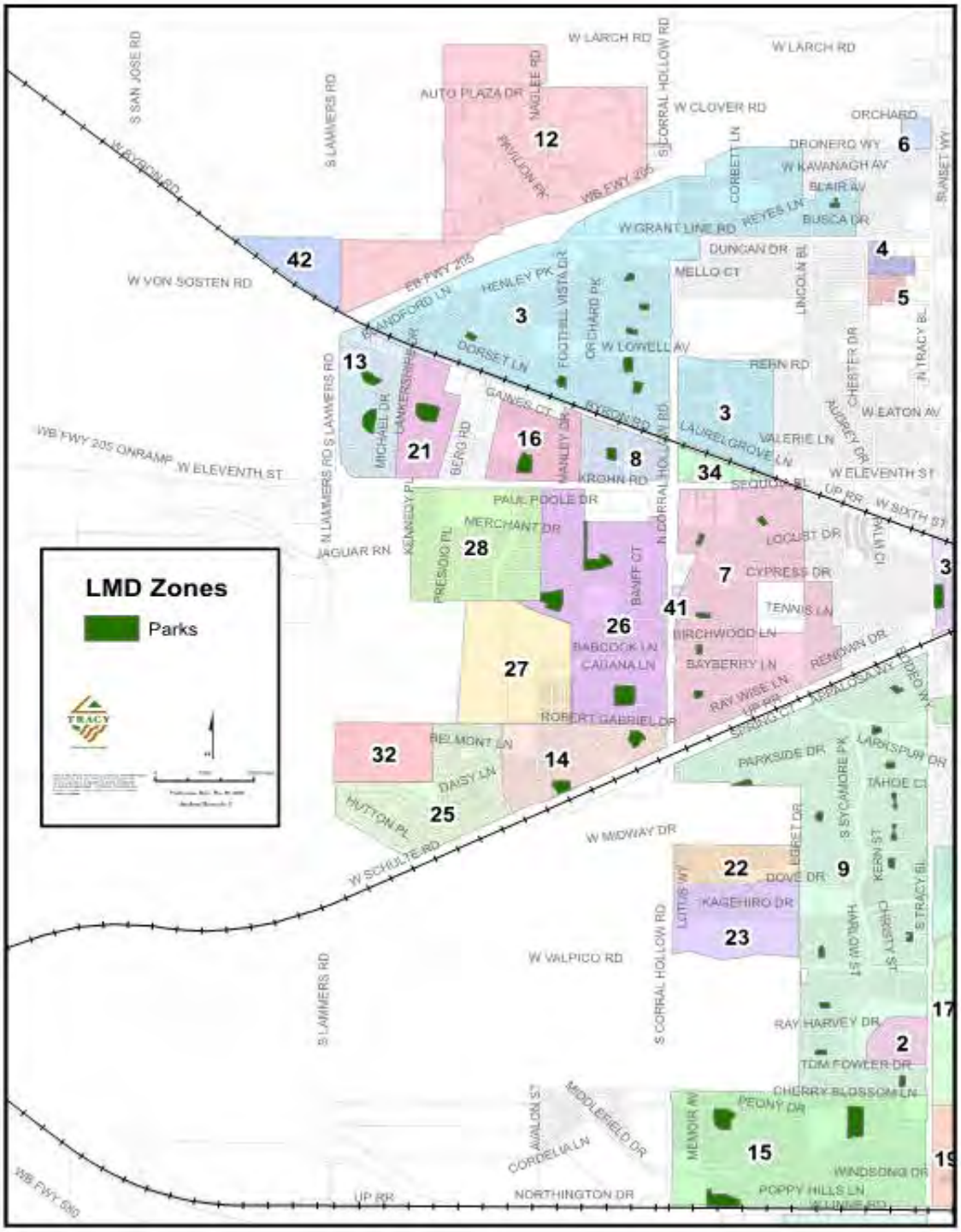
Placentia Fields Channel Way (General Fund Channel Way) – North of Cypress Drive towards 11th Street, then east to the end of the channel way

Transit Corridor (bike path to face of curb) – West side of Corral Hollow Road from Cypress Drive, north to Krohn Road

# APPENDIX B – CONSOLIDATED LANDSCAPE MAINTENANCE MAP

A Diagram showing the District and Zone boundaries is on the following page.




LMD Zones
Parks
W LARCH RD
S SAN JOSE RD
S LAMMERS RD
AUTO PLAZA DR
NAGLEE RD
PAVILION PK
WB FWY 205
S CORRAL HOLLOW RD
W CLOVER RD
ORCHARD
DRONERO WY
W KAVANAGH AV
BLAIR AV
COREETT LN
REYES LN
BUSCA DR
SUNSET WY
W GRANT LINE RD
DUNCAN DR
MELLO CT
LINCOLN BL
CHESTER DR
N TRACY BL
W VON SOSTEN RD
EB FWY 205
BRANDFORD LN
HENLEY PK
FOOTHILL VISTA DR
ORCHARD PK
W LOWELL AV
DORSET LN
GAINES CT
BYRON RD
RERN RD
AUBREY DR
W EATON AV
LAUREL GROVE LN
VALERIE LN
WB FWY 205 ONRAMP
W ELEVENTH ST
MICHAEL DR
LAMKERSHIRE DR
BERG RD
MANLEY DR
KRONN RD
SEQUOIA BL
UP RR
W SIXTH ST
JAGUAR RN
KENNEDY PL
PRESIDIO PL
PAUL POOLE DR
MERCHANT DR
BAMFF CT
LOCUST DR
CYPRESS DR
TENNIS LN
BIRCHWOOD LN
BAYBERRY LN
RENOWN DR
RAY WISE LN
ARROYOSA WY
BABCOCK LN
CABANA LN
ROBERT GABRIEL DR
PARKSIDE DR
LARKSPUR DR
TAHOE CT
S SYCAMORE PK
REDMONT LN
DAISY LN
HUTTON PL
W SCHULTE RD
W MIDWAY DR
LOBBET DR
DOVE DR
KAGEHIRO DR
LOTUS WY
KERN ST
S TRACY BL
HARLOW ST
CHERRY ST
W VALPICO RD
S LAMMERS RD
S CORRAL HOLLOW RD
RAY HARVEY DR
TOM FOWLER DR
CHERRY BLOSSOM LN
PEONY DR
MEMOR AV
AVALON ST
MIDDLEFIELD DR
CORDELIA LN
WINDSONG DR
POPPY HILLS LN
NORTHINGTON DR
WB FWY 580
42
12
6
4
5
3
13
21
16
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3
41
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# APPENDIX C – ASSESSMENT ROLL

The assessment set forth for each parcel is shown on the Assessment Roll for the District, submitted separately, as "Assessment Roll for the City of Tracy, Consolidated Landscape Maintenance District, Fiscal Year 2020-21", which exhibit is incorporated by reference herein as Appendix C under separate cover, and is on file in the Office of the City Clerk.

The Assessment Roll lists all parcels within the boundaries of the District as shown on the Assessment Diagram, Part D herein, and on the last equalized roll of the Assessor of the County of San Joaquin, which is by reference made part of this report.

A list of names and addresses of the owners of all parcels within this District is shown on the last equalized Property Tax Roll of the Assessor of the County of San Joaquin, which by reference is hereby made a part of this report. This list is keyed to the Assessor's Parcel Numbers as shown on the Assessment Roll on file in the office of the City Clerk of the City of Tracy.

RESOLUTION _____

APPROVING THE ENGINEER'S REPORT REGARDING THE PROPOSED LEVY AND COLLECTION OF ASSESSMENTS FOR THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT, PURSUANT TO THE PROVISIONS OF THE LANDSCAPING AND LIGHTING ACT OF 1972 FOR FISCAL YEAR 2020/2021

WHEREAS, The City Council pursuant to provisions of the *Landscaping and Lighting Act of 1972 (commencing with Section 22500) Part 2, Division 15 of the California Streets and Highways Code* (hereinafter referred to as the "Act") did by previous Resolution, order the preparation of the Fiscal Year 2020/2021 Engineer's Report for the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "District"), and

WHEREAS, Said Engineer's Report was filed with the City Clerk of the City of Tracy and upon review of the Report, the City Council had, by resolution, declared its intention to levy and collect assessments within the District for Fiscal Year 2020/2021 and fixed July 21, 2020 as the public hearing date to accept public comment and testimony regarding the District and proposed assessments in accordance with *Section 22624 of Chapter 3 of Part 2 of Division 15 of the California Streets and Highways Code,* and

WHEREAS, This City Council has examined and reviewed the Report as presented, and is satisfied with the description of the District, the Zones and improvements identified therein, each of the budget items and documents as set forth, and is satisfied that the proposed assessments have been spread proportionately in accordance with the special benefit each property receives from the improvements, operation, maintenance and services to be performed, as set forth in the Report or as modified by Council action and incorporated herein, and

WHEREAS, The Engineer's Report was completed and finalized after adoption of the City's Fiscal Year 2020/2021 Budget and minor adjustments are required to reconcile the Budget and Engineer's Report;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby resolves, orders and determines as follows:

1. The above recitals are true and correct.

2. The Engineer's Report as previously presented or as modified by direction of the City Council shall consist of the following:

   a) A sufficient description of the territory and properties within the District, the Zones therein and the improvements and services to be provided.

   b) The Annual Budgets associated with the various improvements and services provided by the District (An estimate of the costs and expenses required for the operation and maintenance of the improvements within the various Zones of the District).

   c) An Assessment Rate per benefit unit and description of the Method of Apportionment sufficient to calculate the proportional special benefit assessment to be applied to each

parcel for Fiscal Year 2020/2021 and identification of the maximum assessment rates that may be applied to properties within each Zone of the District and Assessment Roll identifying the special benefit assessment proposed for each assessed parcel within the District.

3. The Report as presented or as modified by City Council action is hereby approved. Said Report as presented or as modified is ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

4. The Budget Officer is authorized to make necessary adjustments to the City's Budget to reconcile the Budget with the Engineer's Report.

5. The City Clerk shall certify to the passage and adoption of this Resolution and the minutes of this meeting shall so reflect the presentation and final approval of the Report.

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

The foregoing Resolution _____was adopted by the City Council of the City of Tracy on the 21st day of July, 2020, by the following vote:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

_____
MAYOR

ATTEST:

_____
CITY CLERK

RESOLUTION _____

ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2020/2021

WHEREAS, The City Council pursuant to provisions of the *Landscaping and Lighting Act of 1972 (commencing with Section 22500) Part 2, Division 15 of the California Streets and Highways Code* (hereinafter referred to as the "Act"), did by previous Resolution, initiate proceedings for the levy and collection of assessments against lots and parcels within the Tracy Consolidated Landscape Maintenance District (hereinafter referred to as the "District") for Fiscal Year 2020/2021, and

WHEREAS, Harris & Associates (the Assessment Engineer for the District) has prepared and filed the District Engineer's Report for Fiscal Year 2020/2021 with the City Clerk pursuant to *Section 22623* of the Act, and said report has been presented to the City Council, and is incorporated herein by reference, and

WHEREAS, The City Council desires to levy and collect assessments against parcels of land within the District for the fiscal year commencing July 1, 2020 and ending June 30, 2021, to pay the costs and expenses of operating, maintaining and servicing landscaping and appurtenant facilities located within the District;

NOW, THEREFORE, BE IT RESOLVED, That the City Council hereby resolves, orders determines and certifies as follows:

1. The above recitals are true and correct.

2. Following notice duly given, the City Council has held a full and fair Public Hearing regarding a Resolution approving or amending the Report prepared in connection herewith; the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons.

3. Based upon its review (and amendments, as applicable) of the Report, a copy of which has been presented to the City Council and which has been filed with the City Clerk, the City Council hereby finds, determines, and certifies that:

    a) The land within the District will receive special benefit by the operation, maintenance and servicing of landscaping and appurtenant facilities within the boundaries of the District.

    b) The District includes all of the land receiving such benefit.

    c) The net amount to be assessed upon the lands within the District has been apportioned by a formula and method which fairly distributes the net amount among the eligible parcels in proportion to the special benefit to be received by each parcel from the improvements and services for the fiscal year commencing July 1, 2020 and ending June 30, 2021.

    d) The proposed special benefit assessments calculated and apportioned for Fiscal Year 2020/2021 are consistent with the previously adopted Rate and Method approved by the property owners within the District in accordance with the provisions of the California Constitution Articles XIIIC and XIIID; and meet the requirements of Proposition 218.

e) The assessments are in accordance with *Article 4 of Chapter 1 of Part 2 of Division 15 of the California Streets and Highways Code, commencing with Section 22565*, in connection with the proposed levy and collection of assessments related thereto.

f) The assessments to be levied are without regard to property valuation.

4. The Report and assessments as presented to the City Council and on file with the City Clerk are hereby confirmed as filed.

5. The City Council hereby orders the proposed improvements to be made, which improvements are briefly described as the maintenance, operation, administration and servicing of the improvements including turf, ground cover, shrubs and trees, irrigation systems, water features, channel way landscape, and all appurtenant facilities related thereto or that may be authorized pursuant to the provisions of the Act.

6. The County Auditor of San Joaquin County shall enter on the County Assessment Roll opposite each parcel of land the amount of levy, and such levies shall be collected at the same time and in the same manner as the County taxes are collected. After collection by the County, the net amount of the levy shall be paid to the City Treasurer.

7. The City Treasurer shall deposit all money representing assessments collected by the County for the District to the credit of a fund for the Tracy Consolidated Landscape Maintenance District, and such money shall be expended only for the maintenance, operation and servicing of the landscaping, parks and appurtenant facilities as described in the Report.

8. The adoption of this resolution constitutes the District levy for the Fiscal Year commencing July 1, 2020 and ending June 30, 2021.

9. The City Clerk or their designee is hereby authorized and directed to file the levy with the County Auditor upon adoption of this resolution.

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

The foregoing Resolution _____ was adopted by the City Council of the City of Tracy on the 21st day of July, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 3.E

REQUEST

**PUBLIC HEARING TO CONSIDER INTRODUCING AN ORDINANCE AMENDING THE TRACY HILLS SPECIFIC PLAN REGARDING SINGLE-FAMILY DWELLINGS WITH THREE-CAR GARAGES**

EXECUTIVE SUMMARY

This agenda item is a public hearing to consider introducing an ordinance amending the Tracy Hills Specific Plan regarding single-family dwellings with three-car garages.

DISCUSSION

On April 5, 2016, City Council certified an Environmental Impact Report and approved a comprehensive update to the Tracy Hills Specific Plan. The Tracy Hills Specific Plan consists of approximately 2,732 acres located in the vicinity of the existing Corral Hollow Road interchange and the proposed Lammers Road interchange on Interstate 580.

This agenda item involves consideration of a proposed amendment to the Tracy Hills Specific Plan regarding single-family dwellings with three-car garages. On a citywide basis, the City's Design Goals and Standards do not allow three-car garages to face the street. This restriction is intended to avoid or reduce the potential monotony and dominance of garage doors facing the street and allow for the more interesting features of the residential architecture to be on greater display and create more variety and interest in the streetscape. Three-car garages may be permitted if one of the garage bays is a side swing garage.

Prior to adoption of the City's Design Goals and Standards, which were approved in 2001, many past residential subdivisions were built with single-family dwellings having three-car garages facing the street. Concerns regarding the aesthetic nature of these designs and the potential negative impacts to the streetscape resulted in the current citywide standards.

The Tracy Hills Specific Plan is consistent with the citywide standards regarding three-car garages and does not allow a single-family dwelling to have a three-car garage fronting to the street. However, deviation from citywide standards is permissible if approved as part of a Specific Plan.

The proposed amendment to the Tracy Hills Specific Plan would allow a single-family dwelling with a front elevation width of 60 feet or greater to have a three-car garage fronting to the street (Attachment A – Proposed Tracy Hills Specific Plan Amendment regarding three-car garages). A single-family dwelling with a front elevation width of 60 feet or greater could only occur on a lot width of 70 feet or greater because of the five-foot minimum side setbacks. Such lot widths of 70 feet or greater are uncommon in Tracy Hills and also uncommon citywide. Typical lot widths in Tracy Hills and citywide primarily range from 50 to 60 feet. Houses on such lots typically range from 40 to 50 feet in width.

A two-car garage is approximately 20 feet wide and will typically amount to approximately 40 to 50% of the front elevation width of a house, which is similar in scale to a three-car garage proposed on a 60-foot wide house. A three-car garage is approximately 30 feet wide, which would be 50% or less of a house with a front elevation width of 60 feet or greater. Staff considers this front elevation width to be sufficient for including a three-car garage fronting to the street, while not having the architecture become overly garage-dominant. Examples of 60-foot wide houses with a three-car garage are shown in Attachment B.

The proposed Specific Plan Amendment would allow the maximum width of a driveway to be 30 feet for a three-car garage, while maintaining the maximum driveway width of 18 feet for a two-car garage.

In general, amendments to Specific Plans are common as development occurs and implementation details become clearer. In the case of Tracy Hills, a series of additional Specific Plan Amendments will likely be submitted within the coming months as development plans for future phases are proposed.

### Planning Commission Discussion

The Planning Commission held a public hearing to consider this matter on June 10, 2020 and recommended that the City Council approve the proposed amendment to the Tracy Hills Specific Plan regarding single-family dwellings with three-car garages.

### Environmental Document

The proposed amendment to the Tracy Hills Specific Plan is exempt from review under California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)(3)). Therefore, no further environmental assessment is required.

## STRATEGIC PLAN

This agenda item is not related to the City Council's Strategic Plans.

## FISCAL IMPACT

The City's costs for processing this development application were funded by the applicant's payment of the City's established fees.

## RECOMMENDATION

Staff and the Planning Commission recommend that the City Council introduce an ordinance amending the Tracy Hills Specific Plan regarding single-family dwellings with three-car garages.

Prepared by: Scott Claar, Senior Planner

Reviewed by: Bill Dean, Assistant Development Services Director

Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENTS

Attachment A – Proposed Tracy Hills Specific Plan Amendment regarding three-car garages
Attachment B – Examples of 60-foot wide front elevations with three-car garage

TRACY



Attachment A



# Tracy Hills Specific Plan

RECEIVED
June 03, 2020
City of Tracy
Development Services

Approved April 5, 2016 (Tracy Resolution 2016-063)
Amended June 18, 2019, incorporated herein (Tracy Ordinance 1270)
Draft Amendment May 28, 2020





*Garages are setback and designed to complement overall design.*



*Variation in garage locations provides interest in the streetscape.*

**2. Garages**

- Within a neighborhood (defined as up to 200 dwelling units) there shall be a minimum of three garage door designs provided to avoid monotony along the streetscape. Each garage door design shall be used in at least 25% of the neighborhood.
- To minimize building bulk and the focus on vehicular elements, a maximum of two car garage bays shall front to the street on single-family dwellings that have a front elevation width of less than 60 feet. For single-family dwellings that have a front elevation width of 60 feet or greater, a maximum of three car garage bays shall front to the street.
- Garages shall be designed so they are not the primary focus in the streetscape and will be complementary to the rest of the home.
- Driveways shall have a maximum width of 18' for two car garages and 30' for three car garages (measured at property line) so that it will not negatively impact the streetscape and walkability of the neighborhood.
- Driveway approaches shall have a maximum width of 18' for two car garages and 30' for three car garages.

### 3.2.5 Residential Design Guidelines Checklist

This checklist is intended to be used as quick reference of the Residential Design Guidelines for designers, developers, builders, and City Staff.

| | |
|---|---|
| **SCALE** | |
| Massing and Building Form | • No building wall shall extend more than 25' vertically or horizontally without a visual break created by a 2' minimum offset or architectural detail.<br>• At least 25% of buildings within a subdivision shall have a building mass which combines single and two story forms. |
| Roof Forms, Materials, and Colors | • Create a diversity of roof forms for an articulated streetscape by providing at a minimum three different roof plans per building plan.<br>• Flat roofs are not allowed.<br>• Roof materials can include concrete or clay tile or architectural grade composition shingle. |
| **ARCHITECTURAL STREETSCAPE** | |
| Windows | • All windows shall have trim surrounds, headers, or sills.<br>• Buildings with the same window locations, regardless of different elevation style, shall not be located next to each other. |
| Garages | • Within a neighborhood there shall be a minimum of three garage door designs provided to avoid monotony along the streetscape. Each garage door design shall be used in at least 25% of the neighborhood.<br>• A maximum of two car garage bays shall front to the street on single-family dwellings that have a front elevation width of less than 60 feet. For single-family dwellings that have a front elevation width of 60 feet or greater, a maximum of three car garage bays shall front to the street.<br>• Driveways shall have a maximum width of 18' for two car garages and 30' for three car garages.<br>• Driveway approaches shall have a maximum width of 18' for two car garages and 30' for three car garages. |
| Building Materials and Colors | • Materials and colors palette shall be comprised of three or more complementary options that cover a base color, trim color, and accent color.<br>• Material and color blocking shall not terminate at outside corners of buildings and shall wrap to appropriate transition points. |
| Details | • Building details shall be consistent with the architectural style and overall building design. |



Elevation A
Early California/Spanish



Elevation B
Mediterranean Revival



Elevation C
Craftsman

# PLAN 1 - FRONT ELEVATIONS

04/07/2020

0' 4' 8'
SCALE: 1/4" = 1'-0"

## VILLAGE 6A | ELAN AT TRACY HILLS
### TRACY, CALIFORNIA

NOTE: SQUARE FOOTAGE MAY VARY BASED ON CALCULATION METHODS

Note: Artist's conception; colors, materials and application may vary.

THESE DRAWINGS ARE INTENDED FOR DESIGN DEVELOPMENT AND PRELIMINARY STUDIES ONLY AND ARE NOT TO BE USED FOR ANY OTHER PURPOSE SUCH AS FINAL PLOTTING OR FINAL ENGINEERING. COPYRIGHT SHEA HOMES. THESE DRAWINGS MAY NOT BE USED OR DUPLICATED WITHOUT THE EXPRESS WRITTEN PERMISSION OF SHEA HOMES.



**Elevation A**
Early California/Spanish



**Elevation B**
Mediterranean Revival



**Elevation C**
Craftsman

# PLAN 3 - FRONT ELEVATIONS

04/07/2020

## VILLAGE 6A | ELAN AT TRACY HILLS

### TRACY, CALIFORNIA

0' 4' 8'
SCALE: 1/4" = 1'-0"

NOTE: SQUARE FOOTAGE MAY VARY BASED ON CALCULATION METHODS.

Note: Artist's conception; colors, materials and application may vary.

THESE DRAWINGS ARE INTENDED FOR DESIGN DEVELOPMENT AND PRELIMINARY STUDIES ONLY AND ARE NOT TO BE USED FOR ANY OTHER PURPOSE SUCH AS FINAL PLOTTING OR FINAL ENGINEERING. COPYRIGHT SHEA HOMES. THESE DRAWINGS MAY NOT BE USED OR DUPLICATED WITHOUT THE EXPRESS WRITTEN PERMISSION OF SHEA HOMES.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY APPROVING AN AMENDMENT TO THE TRACY HILLS SPECIFIC PLAN REGARDING SINGLE-FAMILY DWELLINGS WITH THREE-CAR GARAGES
APPLICATION NUMBER SPA20-0002

WHEREAS, On April 5, 2016, City Council certified an Environmental Impact Report and approved a comprehensive update to the Tracy Hills Specific Plan, and

WHEREAS, The Tracy Hills Specific Plan consists of approximately 2,732 acres located in the vicinity of the existing Corral Hollow Road interchange and the proposed Lammers Road interchange on Interstate 580, and

WHEREAS, The Tracy Hills Specific Plan states that a single-family dwelling shall have a maximum of two car garage bays fronting to the street, and

WHEREAS, On April 22, 2020, an application was submitted to amend the Tracy Hills Specific Plan regarding single-family dwellings with three-car garages, Application Number SPA20-0002, and

WHEREAS, The proposed amendment to the Tracy Hills Specific Plan would allow a single-family dwelling with a front elevation width of 60 feet or greater to have a three-car garage fronting to the street, and

WHEREAS, The proposed Specific Plan Amendment would allow the maximum width of a driveway to be 30 feet for a three-car garage, and

WHEREAS, The proposed amendment to the Tracy Hills Specific Plan is not a project within the meaning of the California Environmental Quality Act because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)) and therefore, no further environmental assessment is required, and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on June 10, 2020 and recommended that the City Council approve the proposed amendment to the Tracy Hills Specific Plan regarding single-family dwellings with three-car garages, Application Number SPA20-0002, and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on July 21, 2020;

The City Council of the City of Tracy does ordain as follows:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein as findings.

SECTION 2. The City Council hereby approves the Tracy Hills Specific Plan Amendment regarding single-family dwellings with three-car garages, Application Number SPA20-0002, as attached to the July 21, 2020 City Council staff report as Attachment “A”.

SECTION 3. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 4. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

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

This Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 21st day of July 2020, and finally adopted on the _____ day of August 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 3.F

REQUEST

**APPROVE AMENDMENTS TO THE CITY'S CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES**

EXECUTIVE SUMMARY

This agenda item allows for the discussion and approval of amendments to the Procedures and Guidelines (Guidelines) for Cannabis Business Permit applications. Staff anticipates receiving applications for Cannabis Business Permits beginning in September 2020, and the amendments to the Guidelines (Attachment A) provide prospective applicants with the guidance necessary to file an application and obtain a permit.

On May 19, 2020, City Council approved the Guidelines subject to staff returning with several amendments before the application filing is opened. Those amendments were discussed on July 7, 2020 with City Council, and additional, clarifying changes were requested.

The amendments for City Council approval include the following: 1) clarifying that the applicant can include detail explaining how the community benefit proposal would be implemented (as opposed to a mandated verification process); 2) allowing applicants who score greater than 85% in the Local Preference Plan to benefit from a waiver/deferral to submit a notarized property owner's statement of consent form until later in the permitting process; 3) changing the font size in the applications to 12-point font; 4) modifying the Social Equity Plan criteria to enable applicants to describe efforts currently used or planned to implement any of the criteria and to be consistent with state law; 5) clarifying in the Local Preference Plan criteria that the City desires to see an attempt or plan on behalf of businesses to purchase goods/products/material locally but that it isn't a requirement, acknowledging that the markets for such local products are still emerging; 6) removing Mountain House Zip Code from the list of Tracy Zip Codes.

This agenda item follows City Council meetings on January 21, 2020, April 21, 2020, May 19, 2020, and July 7, 2020 where the Guidelines were discussed and modified.

DISCUSSION

This discussion follows staff reports and discussion with the City Council on January 21, 2020, April 21, 2020, May 19, 2020, and July 7, 2020 where the City Council evaluated and approved Guidelines and directed staff to make changes prior to opening the application process.

The amendments to the Guidelines include the following changes per Council direction on July 7, 2020:

1) Community Benefit: The Community Benefit Criteria has been clarified to enable applicants to explain their plan on how the proposal would be implemented. A public

comment received during the July 7th City Council meeting suggested that the City have formal verification requirement as a means to ensure realistic proposals. While not specifically discussed on July 7, 2020 by City Council, staff recommends including clarifying language that asks applicants to explain how the proposed community benefit would be fulfilled, which would be considered as part the score for this criteria.

2) Local Preference Plan:

    a. Per the City Council's direction on July 7th, applicants who score 85% or higher in the Local Preference Plan, which will be evaluated in Phase 2, will also receive the benefit of a waiver/deferral from the Notarized Property Owner Consent Form (Form) until later in the permitting process;

    b. The Criteria have been amended to ask applicants to demonstrate how they plan to incorporate locally sourced materials/products when and if they become available. Such a consideration could potentially further the objective of developing a stronger local market overall, and thus applicants are asked to show the degree to which this could become a part of their business plan, without it being required. The City recognizes that the markets locally are still in development and may not be available now, or in the immediate future;

    c. ZIP Codes: The Mountain House ZIP Code has been removed from the list of Tracy ZIP Codes. For informational purposes, the City's Sphere of Influence Map as well as a ZIP Code map are attached to the staff report (Attachments B and C). Using the Sphere of Influence map may leave commonly referred to Tracy addresses ineligible. The comment made during the July 7th meeting appeared to suggest solely that Mountain House should be removed.

3) Social Equity Plan: The criteria in the Social Equity Plan have been modified to allow applicants more flexibility in demonstrating either how their business plan includes the criteria provided or show the business plan to include the criteria in the future. This modification addresses the City Council's desire to allow businesses to demonstrate how the business could implement the various categories discussed by Council as well as have the flexibility to demonstrate their intended plan on addressing other, creative means of incorporating the criteria. Further, these modifications are consistent with state law.

In addition, the Guidelines have been modified to clarify that the waiver/deferral of the requirement to submit a notarized statement of property owner consent form (Form) would allow high scoring applicants in either the Local Preference Plan or Social Equity Plan to submit the Form ninety (90) days after conditional award of a Cannabis Business Permit, in order for the permit to be valid.

Application Font Size: While not specifically addressed by City Council on July 7th, a public comment was made that the font size of the application materials be increased to 12-point font in order to ease its review. Staff recommends incorporating this suggestion. There will be no page limit to the application.

## STRATEGIC PRIORITY

This agenda item relates to City Council's Economic Development Strategic Priority Goal #2: Develop and Implement Cannabis Regulations, (1) Establish application and permit processes.

## FISCAL IMPACT

The City Council has directed staff to place cannabis general tax measure on a future ballot. The application processing by staff would be funded by the Cannabis Business Permit Application Processing Fee adopted by City Council on July 7, 2020.

## RECOMMENDATION

City staff recommends that City Council adopt, by resolution, the amended Cannabis Business Permit Procedures and Guidelines.

Next steps:

- September 1, 2020 – September 30, 2020 Application filing period open.
- October-December, 2020 City to issue Cannabis Business Permits (if any).
- Permitted applicants and City draft Community Benefit Agreement (or other agreement as necessary) to ensure community benefits.
- Permitted applicants begin application process to obtain Conditional Use Permits, consistent with TMC Title 10.
- Permitted applicants obtain building permits for tenant improvements, as necessary.

Prepared by: Bill Dean, Assistant Development Services Director

Reviewed by: Alex Neicu, Police Captain
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## ATTACHMENTS

Attachment A – Resolution Approving Amended Cannabis Business Permit Application Procedures and Guidelines and Merit Based Evaluation Criteria
Attachment B – Sphere of Influence map
Attachment C – ZIP Code Map

RESOLUTION 2020-_____

APPROVING AMENDMENTS TO THE CANNABIS BUSINESS PERMIT APPLICATION PROCEDURES AND GUIDELINES AND REPEALING RESOLUTION NO. 2020-077

WHEREAS, In November 1996, California voters approved the Compassionate Use Act of 1996 ("CUA") which authorized a limited defense to criminal charges for the use, possession or cultivation of marijuana (cannabis) for medical purposes when a qualified patient has a doctor's recommendation for the use of cannabis, and

WHEREAS, In November of 2016, California voters approved Proposition 64, the Adult Use of Marijuana Act ("AUMA"), which legalized the use of non-medicinal (recreational) cannabis by adults and the cultivation of up to six cannabis plants for personal use; and the AUMA also created a statewide regulatory framework for the cultivation, production, and sale of non-medical cannabis for adult use, and

WHEREAS, In June, 2017, the State legislature adopted Senate Bill 94 creating a new statewide comprehensive regulatory system for medical and adult use commercial cannabis activity titled Medicinal and Adult Use Cannabis Regulation and Safety Act ("MAUCRSA"), and

WHEREAS, CUA, AUMA, and MAUCRSA do not prohibit cities from enacting regulations regarding commercial cannabis activities and uses, and

WHEREAS, The City seeks to establish regulations for commercial cannabis activity in the City of Tracy to ensure such activities are conducted in a manner that mitigates negative impacts, protects the public health, safety, and welfare of residents, and supports economic development, and

WHEREAS, On December 3, 2020, the Tracy City Council adopted Ordinance 1277, establishing local regulations for commercial cannabis activity in Tracy and requiring a Cannabis Business Permit to engage in commercial cannabis activity within the City of Tracy, and

WHEREAS, Ordinance 1277 establishes that the City Council shall adopt, by resolution, the procedures to govern the application process, and the manner in which the decision to issue a cannabis business permit(s) is made (the "Application Procedures and Guidelines"), and

WHEREAS, The Application Procedures and Guidelines have been developed to include detailed objective review criteria to evaluate applicants and determine their eligibility for Cannabis Business Permits, and

WHEREAS, The City Council desires to promote equitable business ownership and opportunities in the cannabis industry by providing assistance in the application process to applicants who demonstrate efforts to facilitate opportunities to individuals who may face barriers to entering the cannabis industry due to factors including, but not limited to, the criminalization of cannabis, disproportionate enforcement of cannabis, economic disparities, or lack of access to resources (e.g., capital, networks), and

WHEREAS, The proposed Application Procedures and Guidelines is exempt from the California Environmental Quality ACT (CEQA) pursuant to Business and Professions Code Section 26055(h) which provides that CEQA does not apply to the adoption of an ordinance, rule,

or regulation that requires discretionary review and approval of permits or other authorizations to engage in commercial cannabis activity, and

WHEREAS, This Project is further exempt from CEQA pursuant to CEQA Guidelines Section 15061(b)(3) which provides that CEQA only applies to projects that have the potential for causing a significant effect on the environment. As this is only application processing guidelines, it can be seen with certainty that there is no possibility that the resolution approving the Application Procedures and Guidelines will have a significant effect on the environment, and

WHEREAS, On January 21, 2020, and April 21, 2020, the City Council conducted public hearings to consider the Application Procedures and Guidelines, and

WHEREAS, On May 19, 2020 the City Council adopted the Application Procedures and Guidelines, and directed additional amendments be made, and

WHEREAS, On July 7, 2020 and July 21, 2020, the City Council conducted a public hearing to consider the amendments to the Application Procedures and Guidelines, and

WHEREAS, the Application Procedures and Guidelines may be revised at the direction of the City Council;

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

1) Resolution No. 2020-077 is hereby repealed, and

2) The City Council of the City of Tracy hereby adopts the amended Application Procedures and Guidelines for commercial cannabis businesses as set forth in Exhibit 1, attached hereto.

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

The foregoing Resolution 2020-_____ was adopted by the City Council on the 21st day of July 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

City of Tracy

Development Services Department
333 Civic Center Drive
Tracy, CA 95376
P: 209.831.6400

# APPLICATION PROCEDURES & GUIDELINES FOR A CITY OF TRACY CANNABIS BUSINESS PERMIT

**OPENS – September 1, 2020**
**CLOSES – September 30, 2020 @ 3:00 PM**

---

The City of Tracy may issue Cannabis Business Permits to individuals interested in operating a cannabis cultivation, distribution, manufacturing, testing laboratory, retail (storefront and non-storefront), or microbusiness in accordance with Chapter 6.36 of the Tracy Municipal Code (TMC). The application process to obtain a permit to operate a Cannabis Business in Tracy will open on September 1, 2020. Applications will be available from the Development Services Department located in City Hall or online on the City's website, www.cityoftracy.org.

The City's Cannabis Business Permit application process consists of three phases. Phase 1 is a merit-based evaluation/eligibility screening during which applications will be reviewed for completeness and compliance with these guidelines and applicable provisions of the TMC and California state cannabis laws and regulations, as well as evaluated against the selection criteria contained herein by the City's review committee. It is important to note that applications will be evaluated against one-another and provided an eligibility score. The applications will be reviewed and evaluated for clarity and responsiveness to the criteria in Appendix A, and the City will select the applications that best meet the City's criteria.

Phase 2 is a review of the application materials to determine if any waivers to the application requirements or procedures apply. This review is intended to address the City's interest in providing modified submittal requirements for applicants that demonstrate higher points in the review categories related to the Local Preference Plan or the Social Equity Plan. High scoring applicants (as described in Appendix A) in the Local Preference Plan or the Social Equity Plan will qualify for a waiver of the requirement to submit a form with a property owner acknowledgement that the applicant intends to use the property for cannabis related business and activities, if the applicant has been conditionally awarded a Cannabis Business Permit. High scoring applicants in the Local Preference Plan or the Social Equity Plan may have a different point system and thus may have different point totals used to determine their score.

Phase 3 is the final evaluation and final scoring by the City which precedes the award by the Chief of Police of the Cannabis Business Permits, if any. Applicants for all cannabis business types receiving a minimum score of 80% will be permitted to advance to Phase 3 during which applicants must submit to the City the extent of the proposed Community Benefit for final scoring

of the applications.

Also, at this stage, applicants must submit a form with a property owner acknowledgement that the applicant intends to use the property for cannabis related business and activities, unless this requirement is waived to a later time due to the City determining in Phase 2 that the applicant has scored high in the Local Preference Plan or the Social Equity Plan. However, in any instance, applicants do not need to have secured a physical location in order to submit an application for a Cannabis Business Permit.

**Pursuant to TMC Section 6.36.040(a)(vi), the City will only issue up to a maximum of 4 Retail-Storefront (Dispensary) permits**.

Multiple Applications – Applicants applying for more than one business type that are anticipated to be located at the same location may consolidate their application submittal package. For example, an applicant submitting for an indoor Cultivation permit and a Distribution permit may submit one application, however, the application materials must demonstrate that both businesses/permit types would be operated at the same facility.

If an applicant is applying for multiple Cannabis Business Permit types, and it is not anticipated that the permits will be located at the same location, then the applicant must submit a separate application package for each business.

For questions regarding the application process, please review the information on the City's website: www.cityoftracy.org, which outlines the application process, forms and other, required materials, FAQs, and other information relevant to engaging in commercial cannabis activity in Tracy. Additional information relevant to the application process can be found in California state cannabis laws, regulations and resources, and TMC Chapter 6.36 and Section 10.08.3196.

To be considered for a Cannabis Business Permit, applications **must be** submitted by September 30, 2020 to the City Development Services Department located at 333 Civic Center Plaza, Tracy, CA, 95376 by 3:00 PM. This application process is established pursuant to Section 6.36.050(a) of the TMC.

*Applicants should monitor the City's website for any additional information, FAQs or updates. It is the responsibility of the applicant to stay informed of any changes or new information during the application and selection process.*

## CITY'S RESERVATION OF RIGHTS

The City reserves the right to reject any and/or all applications, with or without any cause or reason. The City may modify, postpone, or cancel the application submittal date for a Cannabis Business Permit application without liability, obligation, or commitment to any party, firm, or organization. Persons submitting applications assume the risk that all or any part of the program, or any particular category or permit potentially authorized under TMC Chapter 6.36, may be cancelled at any time prior to Cannabis Business Permit issuance. In addition, the City reserves the right to request and obtain additional information from any applicant submitting an application. Late applications WILL BE REJECTED. Furthermore, an application RISKS BEING REJECTED for the following reasons:

1. The Cannabis Business Permit Application is incomplete, non-responsive, or inconsistent with the application form and/or these Application Procedures & Guidelines, or the

provisions of TMC Section 6.36.070.

Furthermore, the City will be placing a Cannabis Tax Measure on the November 2020 ballot for the voters to consider which would tax the sale of cannabis. Therefore, every applicant should be mindful that this should be a component of their business plan and failure to acknowledge or comply with this requirement may disqualify them from eligibility for a Cannabis Business Permit.

**COMMUNITY BENEFIT REQUIREMENT**

Applicants acknowledge by signing the application form that a requirement of the Cannabis Business Permit award process includes providing community benefits. Those applicants obtaining a screening score of 80% will be eligible to compete for a final score. The final score is determined after evaluating the community benefit. These procedures are further described below.

**AMENDMENTS TO APPLICATIONS**

Applicants will not be permitted to make amendments to their application or to supplement their application, except as otherwise specifically permitted in these procedures, as may be amended from time to time. At the conclusion of Phase 1, all applicants will be notified as to the status of their application and eligibility to proceed to Phases 2 and 3. Those applicants proceeding to Phase 3 will be eligible to submit information pertaining to the proposed community benefit. Information regarding the applicant's proposed community benefit must be submitted to the City no later than 15 City business days from notification of eligibility to proceed to Phase 3.

**Public Records Requests and Proprietary Data**

All applications will become property of the City when received. Information received in the applications may become subject to disclosure under the California Public Records Act. Any sections or pages the applicant considers proprietary should be clearly marked within the application, although such marking in not determinative of whether it is proprietary under state law. The City retains the right to disclose and/or withhold any information contained therein in accordance with the law.

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# APPLICATION PROCESS

## INSTRUCTIONS TO THE APPLICANT:

The information you provide in your application will be used to evaluate your application for a Cannabis Business Permit. Any interested applicants are advised to review the information regarding the application process and list of required documents. Review your application in its entirety to ensure that it is complete and accurate. Review the information regarding the Cannabis Business Permit application on the City website www.cityoftracy.org. The following procedures outline the application evaluation and selection process, required materials, and other information necessary to apply for a Cannabis Business Permit to operate in Tracy.

The City's application process to obtain a Cannabis Business Permit involves the following:

1) Application submittal to the City

2) Phase 1 Eligibility Review: City review of the applications for completeness and evaluation against the selection criteria. During Phase 1, all applications scoring a minimum of 80% will be deemed eligible to proceed to Phases 2 and 3. The results of Phase 1 shall be communicated in writing to each applicant and the Chief of Police.

3) Phase 2: Application of Waivers/City Determination of High Scoring Applicants in the Local Preference Plan or Social Equity Plan: Applications will be evaluated to determine if the Local Preference Plan or Social Equity Plan has attained 85% of the points in that category. Applications that have received 85% point totals in that category will be deemed by the City to qualify for the waiver(s) from further application requirements, as follows:
   A) Notarized Owner's Statement of Consent form - This form would be required for submittal, only if the applicant is conditionally awarded a permit.

   For the purposes of establishing what constitutes a Tracy address, the following ZIP codes shall be used, whether or not such address is located within the City limits or not:
   95304, 95376, and 95377

4) Phase 3 Final Scoring and Permit Award: Applicants for all types receiving a minimum score of 80% will be permitted to advance to Phase 3 during which applicants must submit to the City the extent of the proposed Community Benefit for final scoring of the applications.

   At this stage, applicants must submit the Notarized Owner's Statement of Consent Form, unless this requirement is waived to a later time due to the City determining in Phase 2 that the applicant has attained 85% of the points in either the Local Preference Plan or Social Equity Plan, as provided, above, in 3).

   During this Phase, the Chief of Police awards Cannabis Business Permits, if any, to applicants identified as receiving the highest applicable cumulative score. **Pursuant to TMC Section 6.36,040(a)(vi) the City will only issue up to a maximum of four (4) Retail-Storefront (Dispensary) permits**.

5) In the event of a tie in final (Phase 3) scores for retail-storefront (dispensary) applicants, such that there are more than four applications in the top four scoring slots, the City, at a noticed public hearing, will conduct a random drawing or multiple random drawings, if

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necessary, between the applicants in those top slots in order to issue a maximum of four permits for this business type. The random drawing would be conducted only when necessary to break a tie.

Prior to commencing cannabis business operations, Cannabis Business Permittees must obtain additional permits, including a Conditional Use Permit, Cannabis Employee Permits, and a City Business License. Information on those permits and processes can be found on page four (4) of these Procedures and Guidelines.

**Background Check**

As part of the application submittal requirements, each owner must undergo a criminal background check demonstrating they do not provide "good cause" for denial per TMC Section 6.36.060 and 6.36.070 and pay applicable fees and charges. The Background Check Authorization Form will be available on the City website or in the Police Department located at 1000 Civic Center Drive, Tracy, CA 95376 (adjacent to City Hall). Owners must submit the Background Check Authorization Form to the Police Department. After the Background Check Authorization Form has been processed, owners will receive a Request for Live Scan services, State of California Form BCIA 8016 from the Police Department. At that time, the owners may conduct the Live Scan at the Police Department or visit other Live Scan background service providers. Visit the California Department of Justice website https://oag.ca.gov/fingerprints/locations?county=San%20Joaquin for a list of Live Scan service providers in San Joaquin County. Documentation demonstrating that owners background checks have been completed or are in process is required on or before 3:00 pm on September 30, 2020 in order for your application to proceed. Owners who do not meet criminal history eligibility requirements will be disqualified and their application will be deemed disqualified.

## APPPLICATION SUBMITTAL REQUIREMENTS

Applicants must hand-deliver five hard copy of all materials, and a complete electronic copy (PDF format) of all materials on a USB thumb drive (i.e. flashdrive), at the time of application submittal. All applicants must submit, with the exception of site or building plans, all hard copy materials single sided in a simple 3-ring binder of 8.5 x 11 inch sized paper, one-sided pages, in size 12 font. No applications in a "Spiral" or "Comb" type of binding, or stapled documents will be accepted. For larger size hard copy materials such as site or building plans, submit sheets no greater than 30x42 inches, folded, collated, unstapled, and secured together with rubber bands.

A complete application will consist of the following:

1. Application Forms:

    a) City of Tracy Cannabis Business Permit Application Form with signatures
    b) Applicant Indemnification Form with signatures - Applicant will execute a waiver and release of liability and an agreement indemnifying the City from any liability
    c) Proof of Insurance for cannabis business, if operational
    d) Notarized Owner's Statement of Consent from property owner acknowledging that the applicant intends to use the property for cannabis related business and activities.

        Note: Applicants will be required to be submit the Owner's Statement of

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Consent at Phase 3 to the City AFTER Phase 1 eligibility review, and AFTER Phase 2 of the City's application of waivers process. For high scoring applicants in the Local Preference Plan or the Social Equity Plan, as determined by the City in Phase 2, those applicants will be required to submit the Owner's Statement of Consent to the City within ninety (90) business days upon notification from the City of conditional award, in order for the permit to become valid.

2. Background Check Authorization Form and Proof of Live Scan payment for each owner

3. The following information, which is further described in Appendix A:

    a) Copies of State licenses relating to cannabis activities that the applicant holds, if any
    b) Tax Compliance documentation including copy of state tax seller's permit, and applicant's recent year's financial statement and tax returns
    c) Business and Operations Plan
    d) Community Relations Plan
    e) Safety and Security Plan
    f) Local Preference Plan
    g) Social Equity Plan
    h) Community Benefit proposal required for all permit types during Phase 3, described below.

4. Cannabis Business Application Fee (see below)

**FEES**

All applicants will be required to pay a fee of $10,800 for costs associated with City staff and consultant(s) time for reviewing applications and administrating the application process. Applicants are advised that they may be required to pay additional amounts as required for the sole purpose of the City's completion of the application review and evaluation process. Payment of the $10,800 fee must be made by a certified check, cashier's check or money order made payable to the City of Tracy. Please note the City will not accept cash or credit cards and application fees are non-refundable.

## APPLICATION EVALUATION PROCESS

**THE CITY HAS A THREE PHASE APPLICATION REVIEW/EVALUATION AND SELECTION PROCESS**

### PHASE 1 – APPLICATION COMPLETENESS / EVALUATION AND ELIGIBILITY REVIEW

Applications received will be logged into the City's permit system, provided a permit number and will be evaluated by the City based on these Application Procedures and Guidelines, and Tracy Municipal Code Chapter 6.36. See APPENDIX A for additional descriptions of the evaluation criteria and scoring. Questions about the application process from applicants after application submittal should be made in writing and the City will share questions and responses with applicants on the City's website, under

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FAQs.

For all Cannabis Business Permits, the City's Review Committee will assign points corresponding to conformance with the TMC requirements and these Application Procedures and Guidelines, as may be amended from time to time by Council resolution. It is anticipated that the City's process to review all of the applications could take 90 City business days.

For all business types, an 80% score will enable the application to proceed to Phases 2 and 3.

**PHASE 2 - Application of Waivers/City Determination of High Scoring Applicants in the Local Preference Plan or Social Equity Plan**

After Phase 1 eligibility review, in this Phase 2, the City will determine whether or not one or more filed applications are eligible for waivers from certain application/processing requirements because the applications score 85% in the Local Preference Plan or the Social Equity Plan. It is not a requirement that any application scores 85% or higher in this category; rather, applications that score 85% or higher (of the point total for the Local Preference Plan or Social Equity Plan category) shall be entitled to waivers from certain application/processing requirements until after Phase 3. Such waiver(s) include the following:

A) Notarized Owner's Statement of Consent

If an applicant has been deemed by the City to score 85% or higher in the Local Preference Plan or the Social Equity Plan, the Notarized Owner's Statement of Consent form (form) shall only be required in order for a City- issued Cannabis Business Permit to take effect. In order for a permit to take effect for a Social Equity Applicant, the form shall be submitted within ninety (90) business days from the date the conditional permit issuance is granted by the Chief of Police in Phase 3.

**PHASE 3 - CANNABIS BUSINESS PERMIT ISSUANCE**

Applications receiving the minimum points as described in Phase 1 and 2 will be eligible to submit for evaluation the proposed community benefit. The City will assign a final score based on the community benefit.

At this stage, applicants must submit the Notarized Owner's Statement of Consent form, unless this requirement is waived to a later time due to the City determining in Phase 2 that the applicant has scored 85% or higher in the Local Preference Plan or the Social Equity Plan, as provided above, in Phase 2.

The Chief of Police will award Cannabis Business Permits, if any, to applicant identified as receiving the highest applicable cumulative score from all phases in accordance with TMC Section 6.36.060 for all Cannabis Business Permit types. **Pursuant to TMC Section 6.36,040(a)(vi) the City will only issue up to a maximum of four (4) Retail-Storefront (Dispensary) permits**.

In the event of a tie in final (Phase 3) scores, such that there are more than four applications in the top four scoring slots for the Retail-Storefront (Dispensary) permit type,

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the City, at a noticed public hearing, will conduct a random drawing or multiple random drawings, if necessary, between the applicants in those top slots in order to issue a maximum of four permits. The random drawing would be conducted only when necessary to break a tie.

Furthermore, the City reserves the right to award a lesser number of Cannabis Business Permits than may be deemed eligible for Phase 3, or to award no permits at all.

After the Chief of Police makes the final decision to issue a Cannabis Business Permit, any applicant wishing to appeal the Chief of Police's final decision may appeal that decision to the City Manager within ten (10) City business days from the issuance of the permit. Such appeals shall comply with the requirements of TMC Chapter 1.12.

Written notice of the results of Phase 3 shall be provided within five City business days to all applications/applicants.

Please note that being awarded a Cannabis Business Permit does not constitute a land use entitlement and does not waive or remove the requirements of applying for and receiving permits for all construction including: electrical, plumbing, fire, planning permits or reviews, and any other permits, licenses, or reviews as may be necessary by the relevant departments or governmental entities in charge of said permits. Nor does it guarantee that the plans submitted via the application process meet the standards or requirements in Chapter 6.36, Section 10.08.3196 or any other permit requirements from other City departments or agencies.

## ADDITIONAL CITY APPROVALS REQUIRED PRIOR TO OPERATING A CANNABIS BUSINESS IN TRACY

### Conditional Use Permit & Building Permit

Upon receiving a Cannabis Business Permit, applicants are then required to submit for a Conditional Use Permit (CUP), which will be reviewed by the Planning Commission and may require review pursuant to the California Environmental Quality Act (CEQA). After a CUP is obtained, applicants may then submit applications for building permits for any necessary renovation or construction. Information and application forms and requirements for a CUP can be found here and information and application forms for Building Permits can be found here.

Please note that the CUP and the Building Permit require the payment of separate processing fees for each of those permits, in addition to the fee required for the Cannabis Business Permit.

### City Business License

Prior to commencing any cannabis business operation, a City business license must be obtained. Information on obtaining a City business license may be found here.

### Cannabis Employee Permit

Pursuant to TMC Section 6.36.150, any person who is an employee or who otherwise works within a cannabis business must obtain a cannabis employee permit from the City prior to performing any work at any cannabis business. Information on obtaining a City of Tracy cannabis employee permit may be found here.

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**Community Benefit Agreement or Development Agreement**

Prior to commencing any cannabis business operation, a Community Benefit Agreement or a Development Agreement must be executed between the permit holder and the City to ensure completion of the community benefit.

**CONTACT INFORMATION**

If you have any questions or would like an update on the status of your application, please call the Development Services Department at 209.831.6400 or by email at des@cityoftracy.org.

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## APPENDIX A: DESCRIPTION OF APPLICATION AND EVALUATION CRITERIA

### SECTION 1: Application format and completion of required forms

This section relates to the form of the application and the thoroughness with which the application forms have been completed. Please note that if any of the required forms are not submitted, the application will be disqualified.

1. Are all of required forms included with signatures?
   Commercial Cannabis Application Form
   Applicant Indemnification Forms
   Notarized Owner's Statement of Consent Form (when and if applicable, see Phase 2 information)
2. Has the application followed the required format?
3. Is there a flash drive?
4. Have the requisite number of copies been submitted?

### SECTION 2: Background Check Authorization Form and Proof of Live Scan Payment

This section relates to the completion of a background check. If this process has not been initiated and documentation of proof of payment has not been completed, the application will be disqualified.

1. Has proof of the Live Scan payment been submitted?

### SECTION 3: Information Pertaining to the Cannabis Business

This section relates to the Merit Based Selection Criteria (attached) for Commercial Cannabis Businesses. The detail and quality of responses will be used in scoring applications; applications will be reviewed against the criteria, the TMC, and each other. The City will review applications for clarity, responsiveness, and which applications best meet and are most responsive the City's criteria. The attached criteria establish the potential points per category, and also identifies required application components.

### SECTION 4: Information Pertaining to the Community Benefit:

The community benefit should be quantified and described. The community benefit will be scored by the City. Examples of community benefit include those items identified in the merit based selection criteria.

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**CITY OF TRACY - MERIT BASED SELECTION CRITERIA FOR COMMERCIAL CANNABIS BUSINESS PERMIT APPLICATION/ELIGIBILITY SCREENING** **Revised July 21, 2020**

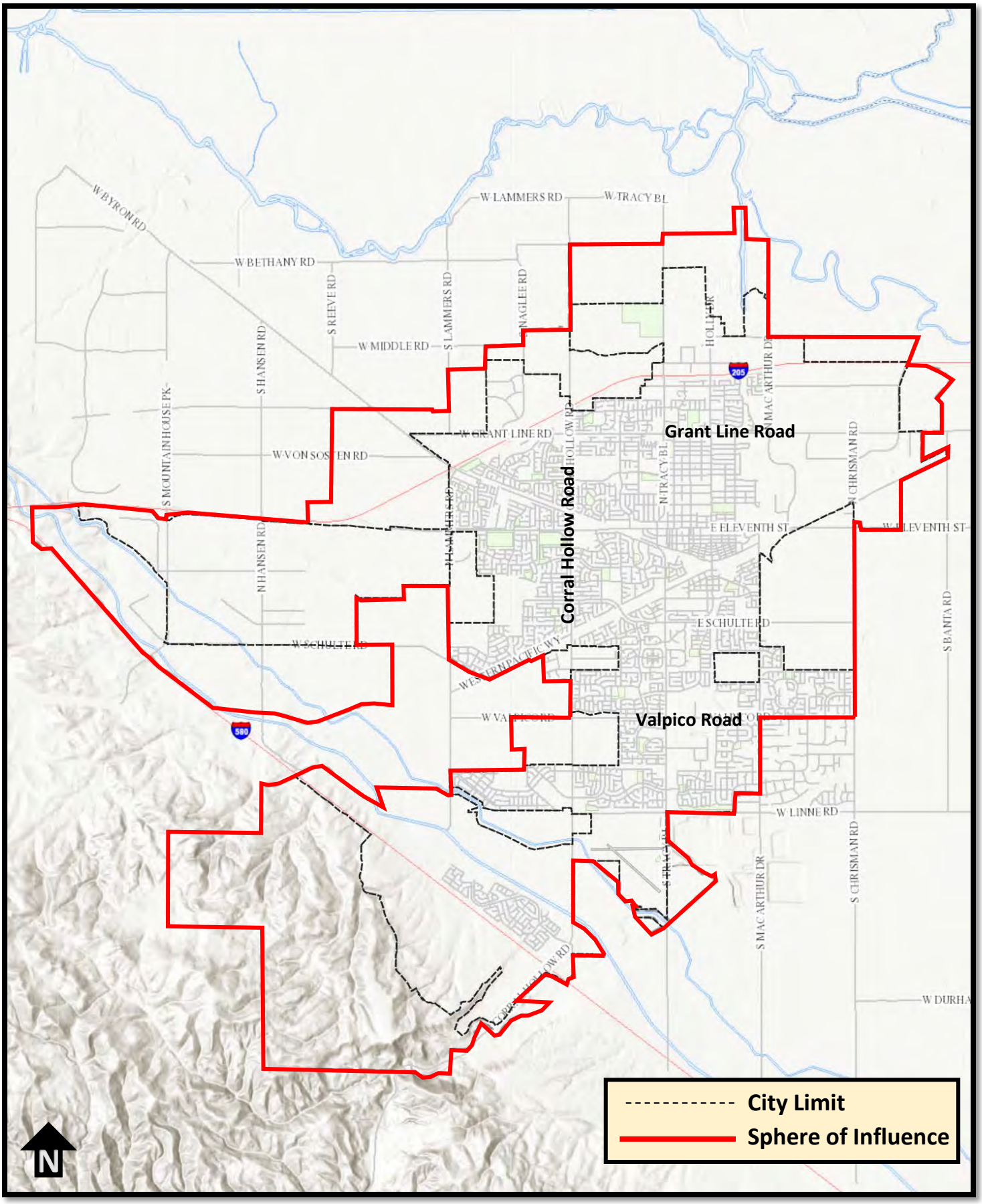
| DESCRIPTION OF CRITERIA | All Cannabis Business Types | Points Awarded |
|---|---|---|
| The detail and quality of responses will be used in scoring applications against one another. All criteria are required meaning that if an application fails to address a criterion, or if the application lacks sufficient detail to demonstrate how the criterion will be met, the application will be deemed ineligible to receive a permit. | 86-point system: Eligibility, then Final Score | |
| **SECTION 1: BUSINESS AND OPERATIONS PLAN (18 possible points)** | | |
| a) Finances and Budget - Describe the budget for the construction, operation, maintenance, compensation of employees, equipment, property lease, security equipment and staff, City fees, state fees, utility costs, product purchases and other anticipated contingency costs. The budget must demonstrate sufficient capital in place to pay start-up costs and at least three months of operating costs, as well as a description of the sources and uses of funds. | 0-3 | |
| b) Daily Operations - With as much detail as necessary, the Business and Operations Plan should describe the day-to-day operations that meet the industry best practices for the type of business permit sought, and how such practices have been included into the business Standard Operating Procedures (SOPs). | 0-3 | |
| c) Conformance with Local and State Laws - Describe how the Cannabis Business will conform to local and state laws. | 0-3 | |
| d) Professional Qualifications – Do the owners demonstrate bona fide business experience? List and describe special business or professional qualifications or licenses of owners that would add to the number or quality of services that the Cannabis Business would provide, especially in areas related to medicinal cannabis, such as scientific or health care fields. | 0-3 | |
| e) Cannabis Business Experience - Describe any and all commercial cannabis activity engaged in as an owner, manager, lender, employee, volunteer, or agent by the Applicant and all owners of the Commercial Cannabis Business, officers and managers including but not limited to the location of such activity and a copy of any permits, licenses, or other written forms of permission for such activity by a local or state government entity. | 0-3 | |
| f) Conformance with State Testing – Describe the SOPs for how all cannabis products on the premises have met the testing requirements as defined by the State. | 0-3 | |

| DESCRIPTION OF CRITERIA | All Cannabis Business Types | Points Awarded |
|---|---|---|
| **SECTION 2: COMMUNITY RELATIONS PLAN (9 possible points)** | | |
| a) Customer Education - Describe the proposed process to educate customers regarding cannabis products, including the potency and effects of products, as well as variety. Describe the SOP for 24-hour minimum response time to issue cannabis recall notifications. | 0-3 | |
| b) Good Neighborliness - Describe how the Cannabis Business will proactively manage its private, semi-private, and surrounding public areas to avoid becoming a nuisance or having negative impacts on neighbors and surrounding community. | 0-3 | |
| c) Odor Control – Describe methods and plan for odor control and compliance with TMC Section 6.36.020 (d) | 0-3 | |
| **SECTION 3: SAFETY AND SECURITY PLAN (18 possible points)** | | |
| a) Safety/Security Experience – Describe the security experience of the individual/firm designing the security plan. Does the firm have licensed professionals in areas of fire prevention and suppression? | 0-3 | |
| b) Employee Safety Education – Describe the employee safety education plan, including training regarding product handling, security and burglary/robbery protocols, and other potential hazards of the cannabis business. | 0-3 | |
| c) Security Guards – Describe the anticipated security guard plan for the business, including number of guards and hours. | 0-3 | |
| d) Video Camera Surveillance – Describe video camera surveillance and how they meet or exceed state requirements. Include detail on the number of cameras and resolution of cameras. | 0-3 | |
| e) Inventory Control/Visitor Access Control – Describe the visitor access control measures, and operational security related to inventory control. | 0-3 | |
| f) Alarm System – Describe the plan for alarm systems and how they are professionally monitored and how all alarms are responded to by a private security company. | 0-3 | |
| **SECTION 4: LOCAL PREFERENCE PLAN (13 possible points)** | | |
| a) 51% Local Ownership – State the extent to which the Cannabis Business will be a locally managed enterprise whose owners (at least 51%) reside within Tracy, as defined by the following ZIP codes: 95304, 95376, and 95377. Applicants must show proof that at least 51% of the owners have been residents of Tracy for at least 2 years prior to June 6, 2020. Such proof shall consist of a utility bill with owners name(s), a lease, a deed, or other similar documentation. | 0-5 | |

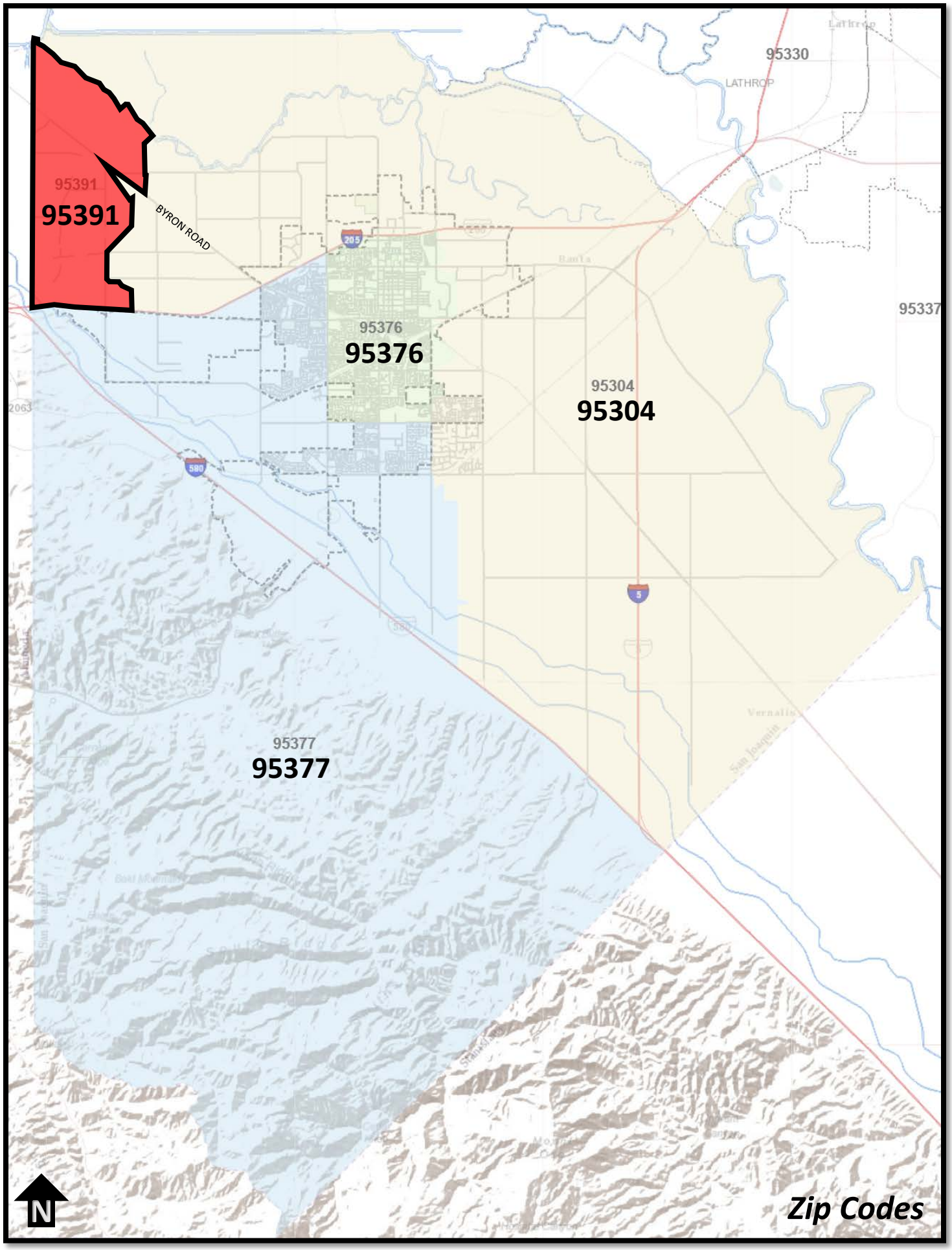
| DESCRIPTION OF CRITERIA | All Cannabis Business Types | Points Awarded |
|---|---|---|
| b) Number of years of residency in Tracy of owners beyond 2 years | 0-5 | |
| c) Economic Inclusion (Production) – Describe future plans for how the Cannabis Business could incorporate products from cultivators or manufacturers located in San Joaquin County. | 0-3 | |
| **SECTION 5: SOCIAL EQUITY PLAN (13 possible points)** | | |
| Describe, in detail, the extent to which the Cannabis Business would implement any of the following:<br>a) Business practices or characteristics that emphasize women in leadership roles.<br>b) Opportunities for seniors and individuals from underrepresented groups in the Cannabis Business ownership.<br>c) Competitive compensation package to be offered to employees, including salary (above State minimum wage), health insurance, other insurance, retirement plan, and paid leave.<br>d) A Cannabis Business ownership that includes either (i) individuals who, at the time of application, have annual family incomes below 80% of the Area Median Income (AMI) in San Joaquin County; or (ii) individuals who are residents or former residents of San Joaquin County that have lived in a low income household (below 80% of AMI in San Joaquin County).<br>e) A Cannabis Business ownership that includes individuals that (i) have been arrested for or convicted of the sale, possession, use, manufacture, or cultivation of cannabis, excluding those offenses, which would be disqualifying for cannabis licensure under current State law; or (ii) have a parent, guardian, child, or sibling convicted of a crime relating to the sale, possession, use, or cultivation of cannabis, excluding those offenses, which would be disqualifying for cannabis licensure under current State law. | 0-13 | |
| **SECTION 6: COMMUNITY BENEFITS PROPOSAL (15 points)** | 0-15 | |
| a) City Council Strategic Priorities – Describe and quantify the community benefit and how it facilitates or better furthers one or more of the City Council's adopted Strategic Priorities, for example, by:<br>Total Financial Contribution – Quantify the extent of the financial contribution as a component of the community benefit. The higher the contribution, the higher the points awarded; and/or by:<br>Total Hours of Commitment – Quantify the extent of the involvement in volunteer hours that will be dedicated to furthering one or more of the City Council's Strategic Priorities. The higher the contribution, the higher the points awarded | | |

| DESCRIPTION OF CRITERIA | All Cannabis Business Types | Points Awarded |
|---|---|---|
| b) Describe how the Cannabis Business would implement the proposed community benefit. | | |
| Phase 1 Point Total: Points from Eligibility Screening (passing eligibility score for in all business types is 57= 80% of 71 points) | | |
| Phase 2 Point Total: Points from Local Preference Plan or Social Equity Plan (Score required is 85% of 13 points from the Local Preference Plan or Social Equity Plan categories. 85% of 13 = 11 points required. Such a point total of 11 points in this category enables applicant to be eligible for waiver(s) from certain application / processing requirements as established in the Guidelines. | | |
| Points from Community Benefit (total of 15 points) | | |
| **Total Cumulative Points from Eligibility Screening and Community Benefit Proposal Combined (71 possible points from eligibility screening + 15 possible points from community benefit = 86 total possible points)** | | |

ATTACHMENT B



ATTACHMENT C



July 21, 2020

AGENDA ITEM 3.G

REQUEST

**ALLOCATE $4,000,000 FROM THE LOW AND MODERATE INCOME HOUSING ASSET FUND TO THE HOUSING AUTHORITY OF THE COUNTY OF SAN JOAQUIN TO SUPPORT THE DEVELOPMENT OF AFFORDABLE RENTAL HOUSING AND AUTHORIZE THE CITY MANAGER TO NEGOTIATE THE LOAN AGREEMENT AND ANCILLARY DOCUMENTS**

EXECUTIVE SUMMARY

This agenda item requests authorization by City Council to allocate $4,000,000 from the Low and Moderate Income Housing Asset Fund to support predevelopment, acquisition and construction, or rehabilitation of affordable rental housing by the Housing Authority of the County of San Joaquin (HACSJ) and negotiate the loan agreement and ancillary documents for the expenditure of funds.

This item requests that Council find that it is in the best interest of the City to approve the expenditure of up to $4,000,000 for the purpose of funding affordable multifamily rental housing.

DISCUSSION

Under AB 1x 26 and AB 1484 (collectively, the “Redevelopment Dissolution Statutes”), upon the dissolution of the Tracy Community Development Agency (the "Former RDA") on February 1, 2012, all rights, powers, duties, obligations, and “housing assets” (as defined in Section 34176(e)) of the Former RDA transferred to the City of Tracy (the "City") (as the entity that retained the housing assets and function previously performed by the Former RDA under Health and Safety Code Section 34176(a)(1)).

As required under Health and Safety Code Section 34176(d), the City maintains a separate Low and Moderate Income Housing Asset Fund (the "Housing Asset Fund"). All deposits in the Housing Asset Fund must be used consistent with the affordable housing requirements in the Community Redevelopment Law (Part 1 (commencing with Section 33000)). Under Health and Safety Code Section 34176.1, allowable expenditures include the development of affordable housing, monitoring and preservation of housing subject to affordability restrictions and covenants, and homeless prevention and rapid rehousing services for homeless individuals.

Housing Authority of the County of San Joaquin (the "Authority") was formed to provide decent, safe and sanitary housing in the County of San Joaquin. The Authority owns specified real property in the City of Tracy (the "Property"). The Authority desires to redevelop the existing public housing units on the Property and to construct a multi-family rental housing development to include 79-units to low-income families, with below 60% Area Median Income (AMI) levels.

On June 6, 2019, the City released a Request for Proposals (RFP) for Affordable Housing Funds (Attachment A) for Rental Housing Development. On July 22, 2019, staff

received two proposals in response to the RFP. Staff review found that the response submitted by the HACSJ (Attachment B) met the requirements of the RFP.

The Authority desires to borrow from the City and the City desires to extend to the Authority a Housing Asset Fund loan in the amount of $4,000,000. The Housing Asset Fund loan funds are to be used by the Authority to fund construction costs of the Development and will be used to provide housing opportunities for extremely low-income households in accordance with Health and Safety Code Section 34176.1.

If approved, the funds would be made available as a loan under the following proposed terms:

- Interest Rate: 3% simple interest
- Term of Affordability: 57 years from construction closing.
- Term of the Loan: 57 years from construction closing.
- Repayment: Annual payments based on 50% of residual receipts as defined in the loan agreement. If other public funding is involved, the City will negotiate the payment of residual receipts.
- Collateral/Security: Deed of Trust that may be subordinated upon satisfaction of specified conditions, and Regulatory Agreement, with no subordination of the City Regulatory Agreement.
- Non-recourse: The loan will be a non-recourse loan.
- Income Targeting: The proceeds of the Housing Asset Fund Loan will be used to assist Extremely Low Income Households in accordance with Health and Safety Code Section 34176.1.

Staff recommends that City Council allocate $4,000,000 in Housing Asset Fund program income deposits.

## STRATEGIC PLAN

This agenda item supports Goal 4, Objective 1 of the Quality of Life Strategic Priority:

| | |
|---|---|
| Goal 4: | Engage in Efforts to Increase Inventory of Affordable and Workforce Housing in Tracy |
| Objective 1: | Award existing RDA Funding to Approved applicants in response to the City's Affordable Rental Housing RFP for the purpose of developing/redeveloping extremely-low and low-income affordable housing units in Tracy. |

## FISCAL IMPACT

The action will have no General Fund impact. This capital outlay will be funded with property tax increment funds on deposit in the Housing Asset Fund, which are restricted funds that must be used consistent with the affordable housing requirements in the Community Redevelopment Law.

## RECOMMENDATION

Staff recommends that the City Council find it is in the best interest of the City to allocate $4,000,000 from the Housing Asset Fund to support predevelopment, acquisition and construction, or rehabilitation of affordable rental housing by the Authority (or an affiliated special purpose entity) in the City and authorize the City Manager to negotiate the loan agreement and ancillary documents consistent with the terms generally outlined herein.

Prepared by: Barbara Harb, Economic Development Management Analyst

Reviewed by: Michael Nimon, Economic Development Manager
Karin Schnaider, Finance Director
Andrew Malik, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

## ATTACHMENTS

Attachment A – Affordable Housing RFP

Attachment B - HACSJ Proposal Narrative, HACSJ Eastern Tracy Concepts, HACSJ 4th and West Aerial, and Proforma
*(Full proposal available online at https://www.cityoftracy.org/?navid=10009)*

Attachment A

# CITY OF TRACY

# REQUEST FOR PROPOSALS (RFP) FOR AFFORDABLE HOUSING FUNDS FOR RENTAL HOUSING DEVELOPMENT

**Proposal Due:**
**Monday, July 22, 2019 by 2:00 P.M.**

**Contact for Questions:**

**Barbara Harb, barbara.harb@cityoftracy.org; (209) 831-6491**

All inquiries and/or questions shall be submitted in writing no later than Friday, June 28, 2019.

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# CITY OF TRACY
# REQUEST FOR PROPOSALS (RFP) FOR
# AFFORDABLE HOUSING FUNDS

**Proposal Deadline: Monday, July 22, 2019 by 2:00 P.M.**

## I. INTRODUCTION

The City of Tracy (City) is announcing a Request for Proposals (RFP) for affordable housing funds for the creation of affordable rental housing in Tracy. Up to a maximum of $4 million in funding is available to support predevelopment, acquisition and construction, or rehabilitation of affordable rental housing. The funding is intended to fill the financing gap between a project's total development cost and other available financing sources. The funding available through this RFP is for capital costs only; no financing is available to fund operating subsidies or supportive services. If additional funds are available and the City Council approves, the amount awarded through this RFP may also increase.

Qualified developers/project sponsors ("Applicants") that meet the RFP requirements and demonstrate their ability to finance, design, build/rehabilitate, and manage affordable rental housing are encouraged to submit proposals. All proposals must be received **by 2 P.M. on Monday, July 22, 2019**. Applications submitted after the deadline will not be accepted. Funding will be awarded by the City on a competitive basis to the project or projects that meet the project selection criteria and adequately address the City's affordable housing needs. The City reserves the right to request that Applicants submit additional information as may be requested by staff to clarify submitted information. Also, the City reserves the right to suspend, amend, or modify the provisions of this RFP, to reject all proposals, to negotiate modifications of proposals, or to award less than the $4 million of funding made available.

### Funding Sources

Funding for this RFP will be provided from one or more of the following sources:

- Low and Moderate Income Housing Fund program income collected by the City as the Housing Successor Agency to the former Tracy Community Development Agency which shall be subject to the requirements of Health and Safety Code Section 34176.1;
- Fees paid to the City by developers to comply with the City's Affordable Housing Ordinance; and
- General Fund monies appropriated for affordable housing purposes by the City Council.

### Eligible Applicants

Eligible applicants include nonprofit and for-profit housing developers. Applicants must have demonstrated experience and capacity in the development of residential and/or commercial projects. Applicants should have experience completing residential and/or commercial projects of similar size and complexity as the proposed project, and preference will be given to those with demonstrated knowledge and experience in San Joaquin County. No applicants will be considered if they have a record of defaults, maintenance problems, housing or building code violations, or substantiated fair housing complaints at properties the Applicant owns or operates.

**Eligible Projects**

Each Applicant is permitted to submit only one project application for this RFP. Eligible projects must be new construction rental developments, or substantial rehabilitation of existing residential developments for the purpose of creating new affordable rental housing for extremely low, very low, low, and moderate-income households of no more than 120% area median income (AMI). Mixed-use projects (containing both residential and nonresidential space) are also eligible. All Projects must be located within the Tracy City limits.

**Sites Available for the Development of Affordable Housing**

Tracy recognizes that higher density residential, planned districts, and mixed-use districts provide the potential for lower construction costs because of the economies of scale created and are therefore typically most suitable for development of housing affordable to extremely low- and low-income households. The City's General Plan, adopted by the City Council in December 2011, contains the City's planning goals and objectives that support residential development that maximizes the use of existing public services and infrastructure (LU-1.4) and encourages development near transit stations (LU-1.5).

The City's adopted 2015-2023 Housing Element is a valuable resource for identifying possible affordable housing sites.

Sites listed in the Housing Element are provided for information only. Zoning and general plan designations are subject to change at any time at the discretion of the City Council.

**Project Threshold Criteria**

- Applicants must have site control as defined in Section IV, G, Site Control below;
- Affordable housing units must remain affordable for at least 55 years from the date of completion of the units;
- Construction of the affordable units must commence within two (2) years of execution of funding agreement, subject to extension at the City's sole and absolute discretion;
- Projects must have reasonable acquisition and construction costs;
- Projects must be soundly underwritten and able to leverage other financing sources and compete well in securing other/competitive funding sources, including, but not limited to: county, state and federal sources, Low-Income Housing Tax Credits (LIHTC), and private equity and will require the City's approval of a financing plan;
- Projects must incorporate high quality design and amenities and be consistent with the City's Design Goals and Standards and will need to take into account accessibility requirements.
- Projects must be designed to be compatible and properly integrate with neighborhood scale, massing and setting;
- Applicant must have demonstrated experience with successful residential/commercial projects, and the ability to timely secure funding sources that minimizes the City's contribution of local funds;
- Projects shall be consistent with the goals and objectives of the Section B of Chapter 1 of the Housing Element; and

- Projects should target extremely low-income households of 30% or less of AMI, very low-income households of 50% or less of AMI, low-income households of 80% or less of AMI. Projects may also be able to target moderate-income households not exceeding 120% AMI, subject to City funding restrictions.

The ability to satisfy these criteria is in no manner whatsoever a guarantee of project funding, and the City reserves the right in its sole and absolute discretion to modify or waive any of these threshold requirements without further notice to proposers or potential proposers.

**Review of Proposals & Project Selection Process**

City staff and technical consultants will review all proposals submitted that meet the RFP requirements. Proposals that are deemed to be substantially incomplete by staff may be rejected. Proposals will be evaluated based on the Applicant and Project Selection Criteria under Section II below. Proposals that receive favorable staff review will be presented to the City Council, with staff's funding recommendation, for further consideration and for a final funding decision. Once the City Council has made a final decision, staff will begin negotiation of the necessary documents with the selected Applicant(s).

**City Financial Participation**

The terms of the City's financial participation are not guaranteed and will be determined based on an affordability gap analysis conducted by the City. Depending upon the financial need of the Project, the City may generally provide a capital contribution in the form of a 55-year loan (City Loan) with an interest rate of 3% simple interest, payable from Project residual receipts. The City Loan may include up to $750,000 (Predevelopment Component) to fund specified City approved predevelopment costs (see definition below). The selected Applicant must provide adequate security for the predevelopment component of the City Loan, including but not limited to assignment of the purchase agreement, an assignment of plans and specifications or other collateral documents. The City Loan will be secured by a promissory note and recorded trust deed (Deed of Trust) and will be conditioned upon additional security in the form of a recorded rent regulatory agreement and a notice of affordability restrictions. The City Loan may not be used to fund operating subsidies or supportive services.

The Deed of Trust for the City Loan will initially be recorded in second lien position junior to any private lender acquisition/construction trust deed, and further may be subordinated to other state or federal public agency financing if required by law. Please note that the City's recorded regulatory restriction is required to be senior to all financing, without exception. The selected developer will be required to start construction within two years from the date the Loan Agreement is executed or risk losing the City's funding commitment.

Predevelopment Loan: As security for a Predevelopment Loan, selected Applicants are required to assign to the City its rights and obligations with respect to certain agreements (including purchase agreement), plans and specifications, collateral documents and approvals. If the project is proceeding and subsequent financing is approved, the Predevelopment Loan is rolled into the subsequent loan. If the project proves infeasible, the predevelopment loan may be forgiven in certain circumstances pursuant to the terms of the Predevelopment Loan Agreement.

*Predevelopment costs: Predevelopment costs are upfront project costs necessary to determine project*

*feasibility and include costs of an initial feasibility study: consulting fees, legal fees, architectural and engineering fees, soil and environmental review services, and other upfront expenses incurred during the preconstruction phase. Predevelopment costs do not include option deposits to acquire site control.*

**Compliance Monitoring Fee**

The City charges an upfront Compliance Monitoring Fee to cover the cost of monitoring the developer's compliance with the City Loan Agreement for the term (55 years) of the City Loan. The fee is $5,000 per year, for 55 years, discounted to the net present value using the City's current investment rate as the discount rate.

**Legal Fees**

The Applicant will be required to enter into a Cost Recovery Agreement (CRA), which would cover charges incurred by the City's outside counsel during the negotiation and execution of loan documents, including both the predevelopment loan and the construction loan.

The chosen Applicant will also be responsible for all fees and costs associated with the development review process.

**Environmental Review and Assessment**

Projects must comply with the requirements of the California Environmental Quality Act.

**Insurance Requirements**

The selected Applicant will be required to comply with the City's insurance requirements, summarized as follows:

a. Commercial General Liability insurance (with coverage at least as broad as ISO form CG 00 01 01 96) "per occurrence" coverage shall be maintained in an amount not less than $4,000,000 general aggregate and $2,000,000 per occurrence for general liability, bodily injury, personal injury, and property damage.

b. Automobile Liability insurance (with coverage at least as broad as ISO form CA 00 01 07 97, for "any auto") "claims made" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

c. Workers' Compensation insurance coverage shall be maintained as required by the State of California.

d. Professional liability insurance "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Contractor in an amount not less than $1,000,000 per claim.

e. Property insurance, including during the course of construction builder's risk insurance, covering the development, covering all risks of loss, excluding earthquake, for one hundred percent (100%) of the replacement value.

f. Commercial Crime Insurance covering all officers and employees, for loss of City Loan proceeds caused by dishonesty, in an amount not less than the amount of the City Loan naming the City as a Loss Payee, as its interests may appear.

g. The general contractor, subcontractor, or agent working on the development must maintain

insurance of the types and in at least the minimum amounts described in items a, b, and c above, except that the limit of liability for commercial general liability insurance for sub-contractors is $1 million.

h. All policies, both during construction and after completion, must name the City as an additional insured and provide appropriate endorsements.

The above summary covers general requirements and does not include comprehensive detail about the City's insurance requirements. For specific questions and exact insurance requirements, the Applicant should contact the City's Risk Management Office at HR@CityofTracy.org: or phone: (209) 831-6150.

## II. EVALUATION AND SELECTION

### Applicant and Project Selection Criteria

Applicants who submit proposals that meet the requirements of this RFP will be evaluated according to the criteria below.

### 1. Applicant Qualifications, Experience and Management of Rental Housing:

a. Qualifications of the Applicant and development team;

b. Experience completing residential/commercial rental housing projects of similar size and complexity as the proposed project, and preference will be given to those with demonstrated knowledge and experience in San Joaquin County;

c. Applicant's track record of successfully developing similar projects on time and within budget;

d. Positive track record for collaborative negotiations with public agencies (as demonstrated by references);

e. Experience operating residential/commercial rental housing projects of similar size and complexity as the proposed project, and proven track record of positive cash flow and compliance with regulatory agreements, property reserves and property management standards for existing projects; and

f. Quality and track record of on-site management of rental properties, including ongoing upkeep and maintenance of the property, availability of conflict resolution programs, and highly trained on-site managers that maintain a crime-free, healthy and safe environment; and

g. No record of defaults, maintenance problems, housing or building code violations, or substantiated fair housing complaints at properties owned or operated by the Applicant.

### 2. Applicant Financial Capability and Economic Feasibility of Project:

a. Applicant financial strength and track record in securing the proposed financing;

b. Source and amount of equity contributions and other sources of funding;

c. Degree of leveraging of affordable housing funds to secure full funding for the project;

d. Per unit subsidy of affordable housing funding request.

**3. Public Benefit and Response to City's Housing Priorities:**

a. Project has housing units affordable to extremely low (highly desirable), very-low, low, and moderate income households;

b. Applicant has proven success at gaining community support for affordable housing projects and remaining sensitive to community and neighborhood concerns throughout operations; and

c. Quality of the proposed structures. Attention to detail with a focus on enhancing the quality of life for the future occupants and design compatibility with surrounding neighborhood;

d. Project results in units that can be counted towards the regional housing allocation totals of the City, pursuant to definitions in California law ;

e. Project incorporates City's Design Goals and Standards into some or all affordable units.

**4. Site Appropriateness**:

a. Preference may be given to Project sites located within ½ mile of a transit station or a transit corridor.

b. Project site has easy access to relevant local services and amenities, such as parks, medical services, fresh foods, schools, etc.

c. Proposed project is consistent with the proposed site's General Plan land use designation and zoning. In cases where the land use designation and/or zoning would require an amendment, applicant can demonstrate that the proposed project warrants an amendment to land use and zoning designations and is compatible with surrounding land uses.

The site's appropriateness should be described in detail in a prepared narrative (see subsection E of Section IV, Submittal Requirements). It should be noted that projects are not required to meet every criterion listed.

**5. Completeness, Accuracy, and Quality of Proposal**

This includes an overall evaluation of the proposal itself, as evidence of the Applicant's understanding of the project's purpose and objectives, knowledge of the field, and ability to prepare concise reports. It also includes the completeness, accuracy and quality of an applicant's response to questions regarding the proposal.

**6. Quality and Completeness of Proposed Budget**

The accuracy of the budget reflects both the Applicant's understanding of the budget needed to deliver the proposed project and its ability to prepare accurate fiscal reports.

## III. PROPOSAL PROCESS

**Proposal Submission Format and Submittal**

Applicants must submit material in the following format. See Section IV below, Submittal Requirements, for specific material to be included in proposal application:

- Hard Copies: One (1) original and four (4) copies of complete proposal
- Electronic Copies: All proposal material must also be submitted electronically. The sources and uses proforma, operating proforma and any other budget spreadsheet must be submitted in Excel format.
- **Proposals must be received by 2:00 P.M., Monday, July 22, 2019.**

**Deliver to:**
City of Tracy
Economic Development
333 Civic Center Plaza, Tracy, CA 95376
econdev@cityoftracy.org

**Proposals Become Public Records**

Under the California Public Records Act (PRA), ***ALL DOCUMENTS SUBMITTED IN RESPONSE TO THE RFP ARE CONSIDERED PUBLIC RECORDS AND WILL BE MADE AVAILABLE TO THE PUBLIC UPON REQUEST***, unless withheld from disclosure for the City's sole and exclusive benefit pursuant to an exception to disclosure under the PRA or other applicable law. Please do not include confidential information or information that may violate the privacy or intellectual property rights of a third party.

**Pre-Proposal Meeting**

Applicants are encouraged to attend a Pre-proposal Information Meeting on this RFP:

Pre-Proposal Information Meeting:
Date – Wednesday, June 5, 2019
Time – 1:00 p.m. -3:00 p.m.
City of Tracy – City Hall
Conference Room 203
333 Civic Center Plaza, 2nd floor, Tracy, CA 95376

**Proposal Process Timeline**

The tentative timeline for evaluating and selecting proposals is presented below:

| RFP SCHEDULE | |
|---|---|
| **EVENT** | **DATE** |
| RFP released | Monday, June 10, 2019 |
| Pre-Proposal information meeting | Wednesday, June 26, 2019 |
| **Proposals due** | **By 2 P.M., Monday, July 22, 2019** |
| Initial review of proposals completed | August 2019 |
| Applicant interviews **(Specific date TBD)** | August/September 2019 |
| City awards funding | September/October 2019 |
| Loan, Regulatory Agreements Negotiation | September/October 2019 |
| City approve Loan and Regulatory Agreements | October/November 2019 |

**Right to Reject Proposals**

The City reserves the right to reject any and all proposals for any reason, and at its sole discretion. The City reserves the right to alter the guidelines in the RFP at any time, at its discretion. Interested Applicants are therefore encouraged to submit all inquiries or questions to Barbara Harb at barbara.harb@cityoftracy.org before preparing a proposal in response to this RFP. All inquiries and/or questions shall be submitted no later than Friday, June 28, 2019.

## IV. SUBMITTAL REQUIREMENTS

### A. Cover Letter

Provide a brief summary of the proposed Project and discuss your firm's qualifications, why you are uniquely qualified to merit the City's investment, and why your proposal should be selected for funding.

### B. Development Entity

- Identify the entity with the legal authority to contract directly with the City, including all joint ventures/limited partners and their percentage ownership interest (if applicable).

- Include resumes of key individuals and their roles.

- Identify person who has the legal authority to enter into a contractual agreement with the City on behalf of the Applicant.

**C. Financial Statements**

In order to assess the financial soundness of the Applicant's proposed development entity, the submittal shall include a copy of the most recent and prior years audited financial statements of the Applicant and each proposed development entity/joint venture partner, if applicable.

**D. Experience**

- Provide evidence of past project experience, particularly with developing residential/commercial projects. For not less than three (3) projects include: a brief narrative description of the project, the Applicant's role, the cost of the project, amounts and sources of funds used to finance the project, the date the project was completed, audited financial statements for the three most recent years of each projects operations, and indicate if the project was completed on time and within budget.

- For each of the projects identified above for past project experience, provide a reference with the applicable city or redevelopment agency/redevelopment successor agency including name, email address, and phone number.

**E. Description of Proposed Project Concept**

- Provide a written description of the proposed Project, scale of development (stories, type of construction, size, use of proposed tenants of commercial component (if applicable), occupancy restrictions, number and size of units, number of parking spaces, and type of amenities).
- Provide basic site information such as property address, APN square footage, existing uses, current General Plan land use designation and zoning; indicate if the proposed Project is consistent with the existing zoning, or if rezoning is required.
- Describe the property location, neighborhood, transportations options, local services and amenities (full-service grocery store, neighborhood park, pharmacy, medical facility, schools, etc.) within close proximity to the site (include distance, e.g., ¼ mile, ½ mile).
- Provide a graphic depiction of the proposed Project consisting of a preliminary site plan and elevation. Overly detailed architectural renderings or glossy materials are discouraged in response to this RFP.
- Describe how the Project will be managed. Also, provide a list of rental projects that are currently under the company’s management, if applicable. Include each property’s location, number of units and number of affordable units.

**F. Financing Plan and Proforma**

Provide a narrative description of the proposed method of financing the proposed Project including all sources of debt and equity. In the case of a proposed tax credit project, identify the assumed tax credit pricing/cents on the dollar projected in the proposed project’s Sources and Uses. Given the competitive nature of many of the available county, state and federal funding programs, the narrative should describe the Applicant's approach to alternative financing scenarios as a contingency to the preferred plan.

The proposal should also include a complete preliminary financing proforma of the proposed Project including:

- Total development cost budget, itemized for each component of the Project, identifying predevelopment costs, estimates of land acquisition and site preparation costs (if applicable), direct construction costs (for each component) and all indirect and financing costs, including the developer fee, construction escalation, design contingency, and construction contingency of no less than 10%.
- For mixed-use projects, a development budget with the costs attributable to the commercial/retails component clearly delineated from those for the residential component.
- A complete sources and uses of funds table for both construction and permanent financing for each component of the Project. The table should clearly indicate the amount of requested Affordable Housing financial assistance and the proposed repayment terms of such assistance.
- An estimate of Project income and Project operating expenses, including rents for each unit type, vacancy rate, operating expenses, debt service, and all distributions of remaining cash flow. The table should clearly detail assumptions on rents for all unit types including utility allowance factors and other sources of income. Also, include a 55- year operating projection with assumptions for out-year escalations.
- Details of incoming targeting, expected rents and a detailed affordability gap analysis.

**G. Evidence of Site Control**

At the time of proposal submission, the Applicant must have site control of the property for the proposed Project for which funding is requested. The Applicant must show that if the proposal is selected, site control can be maintained until the property can be acquired. As evidence of site control, one of the following documents must be submitted with the application:

- Purchase agreement, including evidence that the agreement is for a term that is sufficient to hold the property until the anticipated date of purchase;
- Option to purchase or lease, binding on seller or landlord, including evidence that options are renewable until the anticipated date of purchase;
- A long-term lease agreement with a term of not less than 75 years;
- Executed land sales contract or other enforceable agreement for acquisition; or
- Other evidence that Applicant has site control acceptable by the City.

**H. Appraisal**

A fair market value appraisal of the property is required that has been completed within six months of the application deadline. The appraisal must conform to the requirements of the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute, which includes the Uniform Standards of Professional Appraisal Practice. All appraisers must be California State licensed/certified.

**I. Preliminary Title Report**

A preliminary title report dated within 30 days of the application deadline.

**J. Phase I Environmental Assessment**

Applicants must provide a copy of the completed Phase I Environment Assessment prepared by a qualified environmental firm, along with all other available environmental due diligence materials.

**K. Relocation Plan**

If the Project involves temporary or permanent relocation of residential or commercial tenants, please provide a narrative Relocation Plan and Relocation Budget. The Relocation Plan should include:

- A description of the applicable relocation requirements and relocation benefits to be provided;
- A cost estimate of relocation expenses;
- Identification of the number of households or businesses to be displaced;
- The current rent roll; and
- A description of the proposed advisory services that will be provided to the displaced households/businesses.

All relocation plans must comply with applicable federal and state regulations.

**L. Community Outreach Plan**

Provide a plan for conducting community outreach to neighbors of the proposed Project and community groups. The outreach plan should describe how the Applicant intends to build support for the Project and address community concerns. The outreach plan should also discuss any anticipated community concerns and how they would be handled.

**M. Residential Services Plan**

If applicable, provide a residential services plan that describes services to be provided to tenants (childcare, computer training, etc.) and demonstrates how supportive services for the tenant population will be provided and funded. The plan should also show funding commitments for services.

**N. Project Schedule**

Provide a preliminary Project schedule identifying the estimated date of achieving key milestones including: securing of all financing commitments, acquisition of the site, start of construction, completion of construction, and lease-up and stabilization of residential and commercial operations (if applicable). Project schedule should start within 30 days of date the Applicant’s project is selected.

HACSJ
HOUSING AUTHORITY
COUNTY OF SAN JOAQUIN

**Narrative – Tracy Homes**

In July 2019, HACSJ responded to the City's Affordable Housing Development RFP with a proposal to redevelop its 60 units of 77-year-old Tracy Homes. Since the submittal of the proposal and after further discussion with the City, HACSJ has revised its development plan to best accommodate the obsolescence of the current units and serving the City's growing need for affordable units across all demographics. The modern, energy-efficient design contemplates better land use allowing for future flexibility.

Collaboratively, the HACSJ is committed to helping the City of Tracy meet its affordable housing needs. To facilitate a competitive application for Low Income Housing Tax Credits, HACSJ will be contributing $1.5 million into this development as well as public housing, project-based voucher subsidies, and HACSJ owned land.

The original proposal submitted to the City of Tracy in July 2019 contemplated 80 to 100 multi-family units. The modified proposal consists of 60 units on a portion of the 6.74 parcel and 20 units of scattered housing for larger 3 and 4 bedroom family units is on existing HACSJ property adjacent to the site. The modified proposal would leave available land for shared amenities, such as a shared/communal space for recreation, as well as the addition of a senior-only development on the southern end of the property. Creative land use and design will allow for serving more low and moderate income families and seniors.

Tracy Homes development currently consists of 60 on-site and 17 scattered-site, obsolete public housing units constructed in the 1950s and 1970s. Redevelopment of this property will increase the surrounding property value by replacing the aging and outdated units with new, modern, and energy-efficient units. The project will provide 79 units to low-income families, with below 60% AMI levels. Its unit mix will consist of 10 one-bedroom units, 26 two-bedroom units, 29 three-bedroom units, and 14 four-bedroom units, and one three-bedroom manager's unit. The development of these units will address the rent cost burden facing renters in the City of Tracy. In San Joaquin County, 76% of Extremely Low-Income households are paying more than half of their income on housing costs compared to 3% of moderate-income households. San Joaquin county currently needs 25,489 more affordable rental homes to meet the current demand.

The financial model for this project currently has a $1,106,386 gap in funding $40,793,800. HACSJ would like to discuss options with the City of Tracy for best practices in developing the most competitive application for complementary funding.

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# HACSJ Eastern Tracy - single, duplex & quadplex concepts

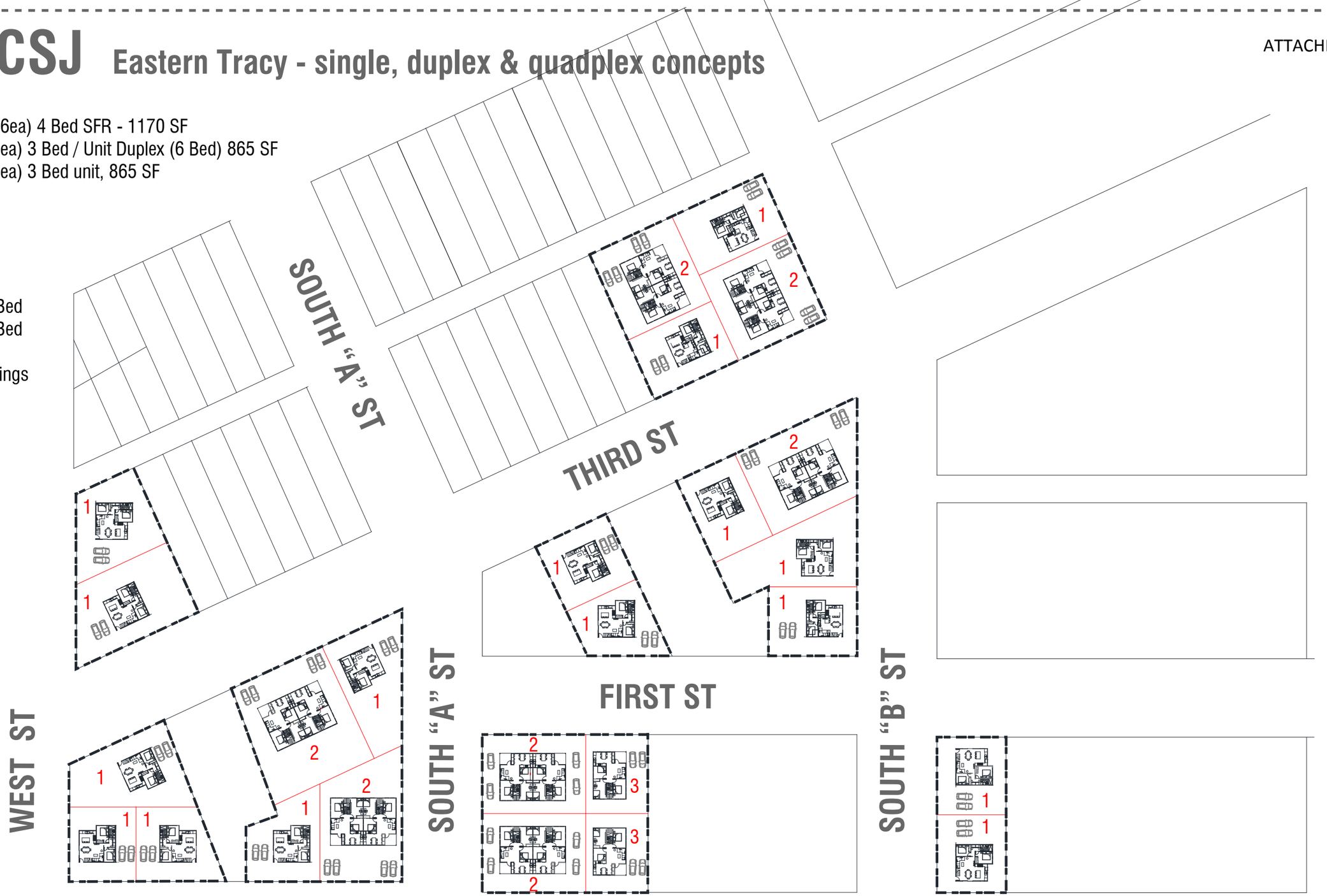
ATTACHMENT B

1. (16ea) 4 Bed SFR - 1170 SF
2. (7ea) 3 Bed / Unit Duplex (6 Bed) 865 SF
3. (2ea) 3 Bed unit, 865 SF

Total:

16 ea 4 Bed
16 ea 3 Bed

32 Dwellings




MAP 235-08

www.artifexwest.com

# HACSJ Eastern Tracy - single, duplex & quadplex concept

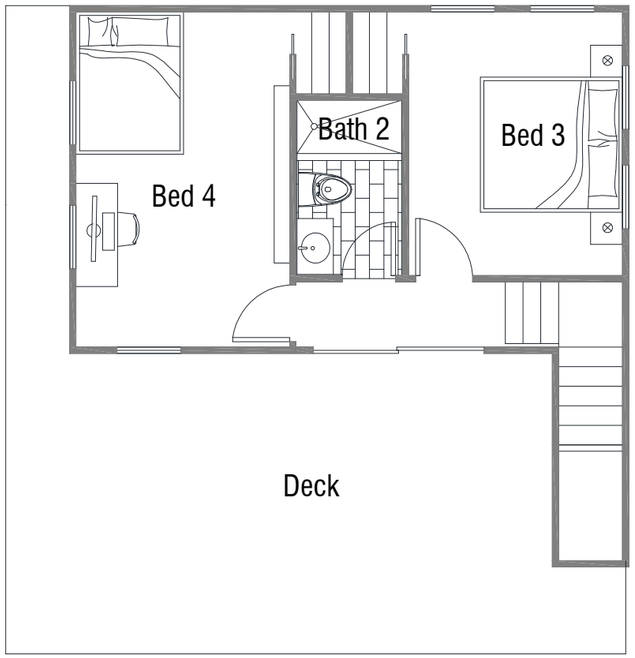




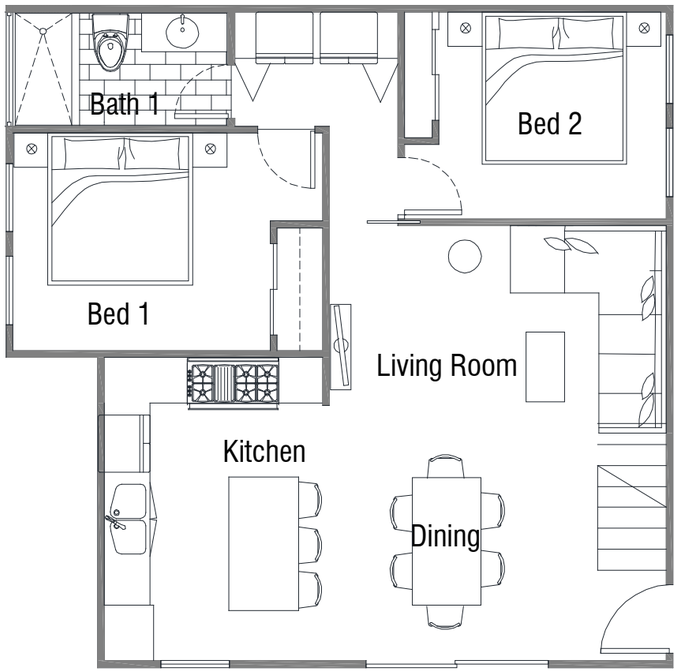
Singel family residence - concept

# HACSJ Eastern Tracy - single, duplex & quadplex concept






Second level

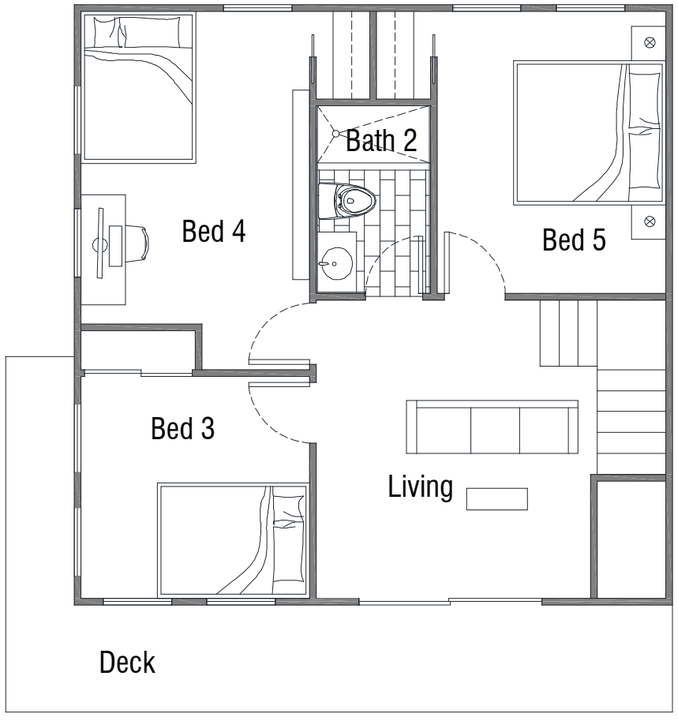



First level

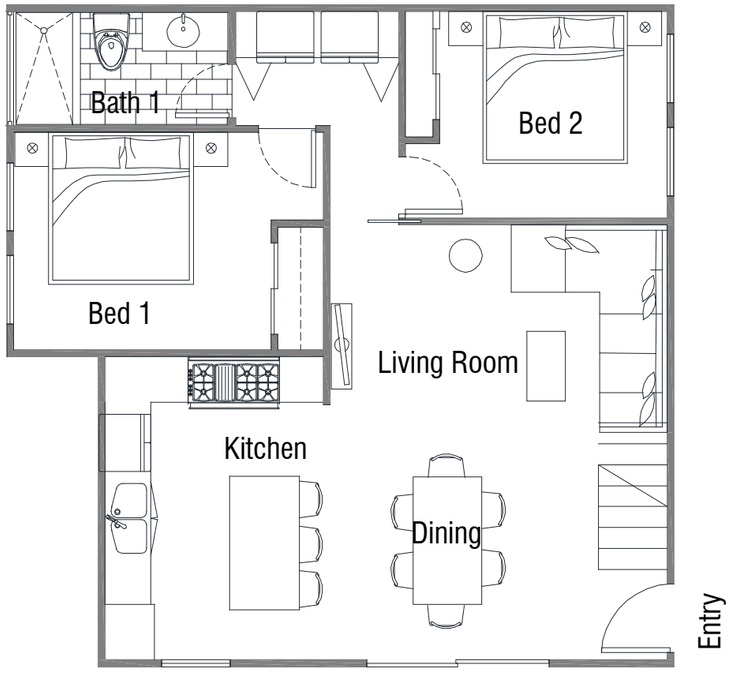
Single family residence - concept
1170 SF 4 bed dwelling

# HACSJ Eastern Tracy - single, duplex & quadplex concept






Second level




First level

Singel family residence - concept
1378 SF 5 bed dwelling as shown

# HACSJ Eastern Tracy - single, duplex & quadplex concept

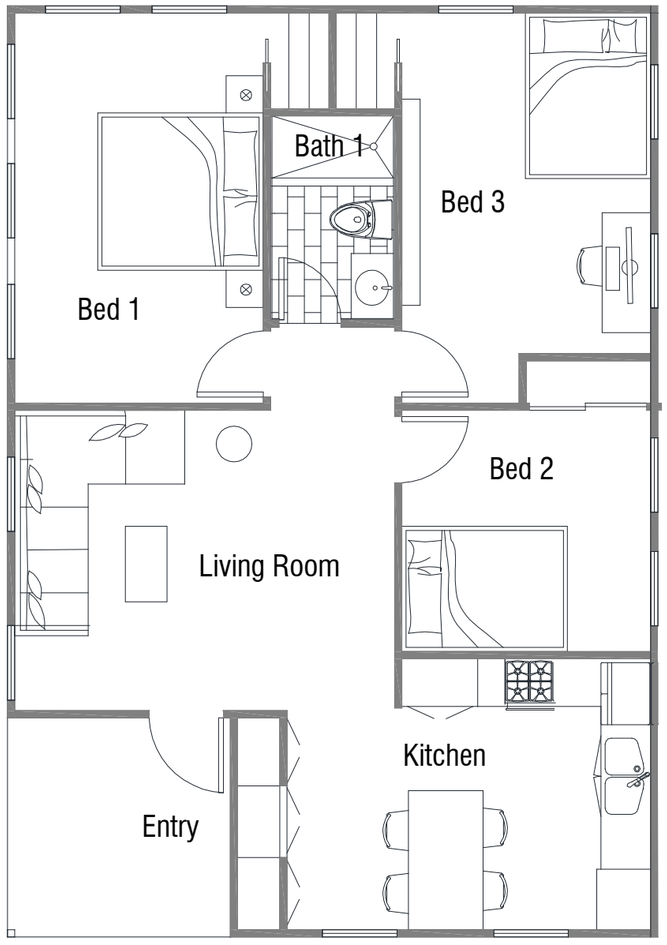




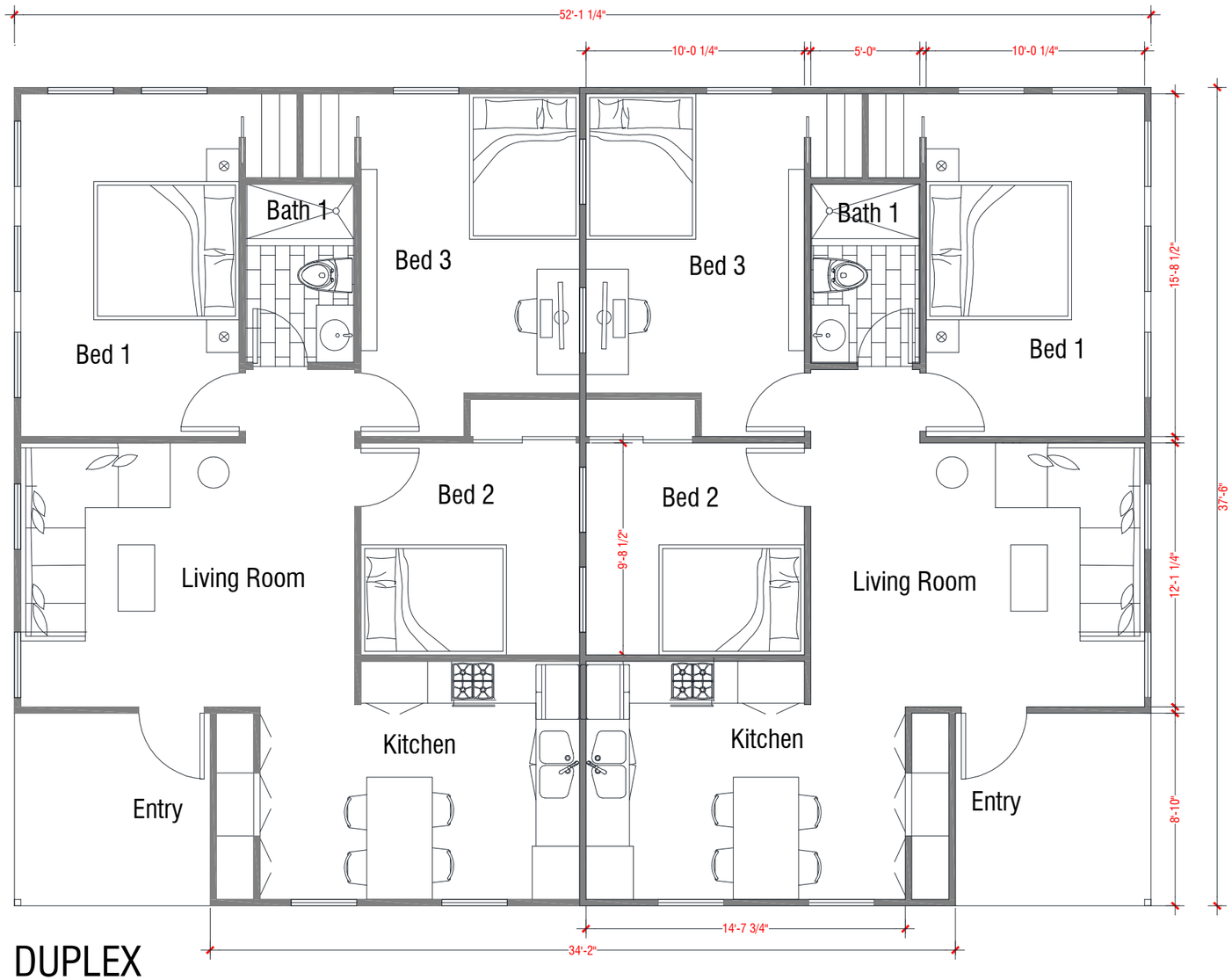
Duplex - concept
2 ea, 865 SF, 3 Bed dwellings

# HACSJ Eastern Tracy - single, duplex & quadplex concept






SFR




DUPLEX

Single & Duplex - concept
1 & 2ea 865 SF, 3 Bed, dwellings

www.artifexwest.com




## LEGEND:

- PATIOS
- CIRCULATION PATH
- COMMON AREA
- UTILITY ROOM
- RESIDENTIAL UNITS OVER PARKING
- BIOSWALE

## PROJECT SUMMARY:

COMMUNITY CENTER

| | |
|---|---|
| • GROSS AREA | 36,958 SQ FT |
| • ON SITE SURFACE PARKING | 146 |

FAMILY LIVING

| | |
|---|---|
| • DWELLING UNITS | |
| • 3 BEDROOM UNITS | 22 |
| • 2 BEDROOM UNITS | 23 |
| • 1 BEDROOM UNITS | 18 |
| TOTAL FAMILY UNITS = | 63 |
| • PARKING | |
| • ON SITE SURFACE LOTS | 25 |
| • ON SITE COVERED | 56 |
| TOTAL ON SITE FAMILY PARKING = | 81 |

SENIOR LIVING

| | |
|---|---|
| • DWELLING UNITS | |
| • 2 BEDROOM UNITS | 17 |
| • 1 BEDROOM UNITS | 85 |
| TOTAL SENIOR UNITS = | 102 |
| • PARKING | |
| • ON SITE SURFACE LOTS | 20 |
| • ON SITE COVERED | 28 |
| TOTAL ON SITE SENIOR PARKING = | 48 |

SITE

| | |
|---|---|
| • SITE AREA | 6.7 ACRES |
| • OFF SITE STREET PARKING | 61 |

**Project Summary / Calculation Page**

**2019 CTCAC**
**9%**
**3/23/2020**

ATTACHMENT B

| | | | |
|---|---|---|---|
| **Project Name:** | **Tracy Redevelopment** | | |
| City/County: | Tracy (San Joaquin) | | |
| Census Tract: | | | |
| Rural?: | No | enter Yes or No | |
| HCA?: | Yes | enter Yes or No | **No If using State/HOME** |
| Market Rate units? | No | enter Yes or No | |
| State Credits? | No | enter Yes or No | **State Credit Cap** |
| **At-Risk?** | No | enter Yes if At-Risk Acquisition & State Credits Only | |
| Total Units | 80 | | **None** |
| SqFt | 85,800 | | |
| $ per SqFt | 475.45 | | |
| Tiebreaker Ratio | **48.56368%** | **$7,800,000** | Voluntary Reduction |
| Target | **Large Family** | Enter Family, Senior, etc | |
| **# of BR** | **209** | | |
| **Cost per unit** | **$509,922** | **$344,350** | Hardcost per unit |

**2017**

*Average Rent Calculation*

| Unit | No. | Gross Rents | TC 60% (Max) | Rent Level | |
|---|---|---|---|---|---|
| Studio | 0 | $367 | $734 | 30.00% | **0.00%** |
| Studio | 0 | $428 | $734 | 35.00% | **0.00%** |
| Studio | 0 | $490 | $734 | 40.00% | **0.00%** |
| Studio | 0 | $551 | $734 | 45.00% | **0.00%** |
| Studio | 0 | $612 | $734 | 50.00% | **0.00%** |
| Studio | 0 | $673 | $734 | 55.00% | **0.00%** |
| Studio | 0 | $734 | $734 | 60.00% | **0.00%** |
| 1BR PH ACC | 2 | $597 | $787 | 30.00% | **2.53%** |
| 1BR PH ACC | 1 | $597 | $787 | 30.00% | **1.27%** |
| 1BR | 2 | $525 | $787 | 40.00% | **2.53%** |
| 1BR | 0 | $590 | $787 | 45.00% | **0.00%** |
| 1BR | 3 | $656 | $787 | 50.00% | **3.80%** |
| 1BR | 0 | $722 | $787 | 55.00% | **0.00%** |
| 1BR | 2 | $787 | $787 | 60.00% | **2.53%** |
| 2BR PH ACC | 2 | $631 | $944 | 30.00% | **2.53%** |
| 2BR PH ACC | 1 | $631 | $944 | 30.00% | **1.27%** |
| 2BR | 9 | $630 | $944 | 40.00% | **11.39%** |
| 2BR | 0 | $708 | $944 | 45.00% | **0.00%** |
| 2BR | 9 | $787 | $944 | 50.00% | **11.39%** |
| 2BR | 0 | $866 | $944 | 55.00% | **0.00%** |
| 2BR | 5 | $944 | $944 | 60.00% | **6.33%** |
| 3BR PH ACC | 2 | $663 | $1,092 | 30.00% | **2.53%** |
| 3BR | 0 | $637 | $1,092 | 35.00% | **0.00%** |
| 3BR | 15 | $728 | $1,092 | 40.00% | **18.99%** |
| 3BR | 0 | $819 | $1,092 | 45.00% | **0.00%** |
| 3BR | 8 | $910 | $1,092 | 50.00% | **10.13%** |
| 3BR | 0 | $1,001 | $1,092 | 55.00% | **0.00%** |
| 3BR | 4 | $1,092 | $1,092 | 60.00% | **5.06%** |
| 4BR PH ACC | 2 | $697 | $1,218 | 30.00% | **2.53%** |
| 4BR | 0 | $711 | $1,218 | 35.00% | **0.00%** |
| 4BR | 4 | $812 | $1,218 | 40.00% | **5.06%** |
| 4BR | 0 | $914 | $1,218 | 45.00% | **0.00%** |
| 4BR | 4 | $1,015 | $1,218 | 50.00% | **5.06%** |
| 4BR | 0 | $1,117 | $1,218 | 55.00% | **0.00%** |
| 4BR | 4 | $1,218 | $1,218 | 60.00% | **5.06%** |
| Unit Subtotal | 79 | | | | **100.00%** |
| 4BR | 1 | 0 | Average Rents: | | |
| Unit Total | 80 | | | | |

**SHORTFALL CALCULATION**

| | |
|---|---|
| **35,548,620** | Requested Basis |
| 130.00% | HCA Factor |
| 46,213,206 | Adjusted Basis |
| 100.00% | Less Market (enter rate if not 80%) |
| **46,213,206** | **Qualified Basis** |
| **7,800,000** | **0% Credit Reduction** |
| **38,413,206** | **Total Adjusted Qualified Basis** |
| **0.09** | Fed'l Credit Factor |
| 34,571,885 | **Total Fed'l Credits (ten yrs) Rehab** |
| | Acquisition Basis |
| 100.00% | Less Market (enter rate if not 80%) |
| 0 | Qualified Basis |
| **0.033** | **Fed'l Credit Factor for Acquisition** |
| | Total Acquist Fed'l Credits (ten yrs) |
| **25,000,000** | **Total Fed'l Credits** |
| **0.940** | **Fed Percentage** |
| **23,500,000** | **Proceeds from Federal Credits** |
| 30.00% | State Credit Factor **Always verify with pg 35 F2** |
| 0.00% | State Credit Factor - Acquisition 13% |
| 1,790,532 | **Total State Credits** |
| **0.000** | **State Pecentage** |
| **0** | Proceeds form State Credits |
| **23,500,000** | **Total Federal & State Proceeds** |
| | |
| **40,793,800** | **Total Dev. Costs** |
| -23,500,000 | Total Proceeds |
| -6,887,414 | Perm(from below) |
| -4,000,000 | City Funds (NSP) |
| -3,800,000 | Land Lease donation |
| -1,500,000 | HACSJ |
| | Other: Specify |
| **-1,106,386** | Deferred Dev. Fee |
| **0** | **(Shortfall)/Overage** |

**Developer Fee Details**

| | |
|---|---|
| **2,200,000** | Maximum Dev. Fee |
| **50.29%** | % of Dev. Fee deferred |
| **1,093,614** | Cash fee payable |

**Cost Efficiency**

| | |
|---|---|
| 36,073,206 | 1. Project's adjusted threshold basis limits - Page 7 |
| | |
| | |
| 35,548,620 | 2. Project's total eligible basis - Page 33, line B1 |
| 524,586 | 3. Difference In threshold basis limits |
| **1.45%** | 4. Calculated percent below adjusted threshold limits |

**Syndication Payins**

| | |
|---|---|
| 7,050,000 | 1st Payin (3o% @ Start of Const.) |
| 11,750,000 | 2nd Payin (50% @ Close of Const.) |
| 4,700,000 | 3rd Payin (20% @ 8609) |
| 23,500,000 | |

**Util. Allowances**

| Unit Type | Amt. | Sq Footage | Total SQ FT |
|---|---|---|---|
| 0BR | 0 | | 0 |
| 1BR | 97 | 600 | 6000 |
| 2BR | 131 | 750 | 19500 |
| 3BR | 163 | 1200 | 34800 |
| 4BR | 197 | 1500 | 22500 |
| Community Room | | 3000 | 3000 |
| | | Total SQ FT | 85800 |

**Permanent Loan Calculation**

| | | |
|---|---|---|
| 599,688 | Rental Income | |
| 533,700 | Misc. Income (comes from Cashflow) | |
| -56,669 | Vacancy Allowanc 5.00% | |
| -519,337 | Op. Expenses 6,492 ( Cashflow) | |
| | | |
| -24,000 | Reserves 300 (Cashflow) | |
| 533,382 | NOI | |
| 1.1000 | DSR | |
| 471,256 | Perm (35yrs @6.0%) | **6,887,414** |
| 62,126 | Cashflow (first year) | |

**Services calculation**

| Unit | No. | Services | |
|---|---|---|---|
| Studio | 0 | $75 | $0 |
| 1BR | 20 | $75 | $1,500 |
| 2BR | 20 | $75 | $1,500 |
| 3BR | 20 | $75 | $1,500 |
| 4BR | 19 | $75 | $1,425 |
| Admin | | | |
| Unit Subtotal | 79 | $375 | |
| | | | $5,925 |
| | | Annual | $71,100 |

ATTACHMENT B

**Construction Loan Calculation**

| | |
|---|---|
| 40,793,800 | Total Dev. Costs |
| -7,050,000 | Syndication Payin |
| -301,398 | Deferred Reserves |
| -1,000,000 | Other: Specify |
| -4,000,000 | City Funds (NSP) |
| -1,106,386 | Deferred Dev. Fee |
| **27,336,016** | **Const. Loan Amount** |
| **70.46%** | Home/Const/City Waivers |
| | **Const. Loan Payoff** |
| 6,887,414 | Perm (35yrs @6.0%) |
| 3,800,000 | Land Lease donation |
| 1,106,386 | Deferred Dev Fee |
| | Other: Specify |
| | HACSJ |
| 16,450,000 | 2nd and 3rd Synd. Payment |
| **28,243,800** | **Total to Payoff Const. Loan** |

**CONSTRUCTION FINANCING:**

| | | | | | |
|---|---|---|---|---|---|
| **Loan Fees** | **Rate** | 1.00% | **$24,500,000** | **$** | **245,000** |
| **Interest:** | 18 | **Months** | 5.65% **Interest** | | **1,038,188** |
| | 50.0% | **Outstanding** | | | |
| **Lender's Inspections** | | $1,000 **Per Month** | | | 18,000 |
| **Lender's Legal** | | | | | 50,000 |
| **Insurance (Course of Construction)** | | | | | 65,000 |
| **Lender's Travel** | | | | | 12,000 |
| **Credit Enhancement & application fee** | | | | | 50,000 |
| **Title & Recording** | | | | | 15,000 |
| **Total Construction Financing** | | | | **$** | **1,493,188** |

RESOLUTION 2020-_____

ALLOCATING $4,000,000 OF LOW AND MODERATE INCOME HOUSING ASSET FUND DEPOSITS FOR AFFORDABLE HOUSING DEVELOPMENT WITH THE HOUSING AUTHORITY OF THE COUNTY OF SAN JOAQUIN

WHEREAS, Pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.; the "Redevelopment Law"), the City Council (the "City Council") of the City of Tracy (the "City") adopted in accordance with the Redevelopment Law, Ordinance No. 482 on July 17, 1990 adopting the Community Development Plan (the "Redevelopment Plan"), as amended from time to time, and

WHEREAS, The Community Development Agency of the City of Tracy (the "Agency") was responsible for implementing the Redevelopment Plan pursuant to the Redevelopment Law, and

WHEREAS, Under AB 1x 26 and AB 1484 (collectively, the “Redevelopment Dissolution Statutes”), upon the dissolution of the Agency on February 1, 2012, all rights, powers, duties, obligations, and “housing assets” (as defined in Section 34176(e)) transferred to the City, and

WHEREAS, Under Health and Safety Code Section 34176(d), the City maintains a separate Low and Moderate Income Housing Asset Fund (the "Housing Asset Fund") and the deposits into the Housing Asset Fund must be used consistent with the affordable housing requirements in the Community Redevelopment Law (Part 1 (commencing with Section 33000)), and

WHEREAS, The Housing Authority of the County of San Joaquin, (the “Authority”) has requested the City to commit $4,000,000 (the “Housing Asset Fund Loan”) to develop up to 80-units of low income housing and related improvements, in order to provide increased affordable housing opportunities in the City, and

WHEREAS, Subject to City Council approval, the City will participate in the funding for this affordable family housing project and will work to negotiate a Loan Agreement and ancillary documents, which would document compliance with the Community Redevelopment Law and consistency with the housing needs identified in the City's Housing Element, and

WHEREAS, As further set forth in the staff report accompanying this Resolution (the "Staff Report"), the funds are expected to be used to support predevelopment, acquisition and construction, or rehabilitation of affordable rental housing by the Authority (or an affiliated special purpose entity) in the City, and

WHEREAS, In accordance with the California Environmental Quality Act pursuant to California Public Resources Code Sections 21000 et seq. and California Code of Regulations Sections 15000 et seq. ("CEQA"), the City studied the environmental impacts of the development and concluded that the project involves the replacement of existing housing units and is therefore exempt under 14 California Code of Regulations Sections 15302, and

WHEREAS, The City Council has reviewed and duly considered the Staff Report and other evidence presented at the meeting;

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby finds that the above Recitals are true and correct and have served, together with the supporting documents, as the basis for the findings and approvals set forth below;

BE IT FURTHER RESOLVED, That the City Council of the City of Tracy hereby finds and determines that the project is exempt under 14 California Code of Regulations Sections 15302, and authorizes and directs the City Manager or the City Manager's designee, to file a CEQA Notice of Exemption with the County Clerk of the County of San Joaquin pursuant to 14 California Code of Regulations Section 15075;

BE IT FURTHER RESOLVED, That the City Council of the City of Tracy hereby allocates $4,000,000 to support predevelopment, acquisition and construction, or rehabilitation of affordable rental housing by the Authority (or an affiliated special purpose entity) in the City;

BE IT FURTHER RESOLVED, that the City Council authorizes and directs the City Manager or the City Manager's designee to negotiate loan agreement and ancillary documents consistent with the terms generally outlined in the accompanying staff report, in a form approved by the City Attorney consistent with the substance and intent of this Resolution;

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

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

The foregoing Resolution 2020-_____ was adopted by Tracy City Council on the 21st day of July, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 3.H

REQUEST

**INTRODUCE AN ORDINANCE AMENDING SECTION 2.08.080 OF, AND ADDING CHAPTER 2.10 TO, TITLE 2 OF THE TRACY MUNICIPAL CODE TO REQUIRE A SUPERMAJORITY VOTE OF FOUR (4) MEMBERS OF THE CITY COUNCIL TO REMOVE THE CITY MANAGER OR CITY ATTORNEY**

EXECUTIVE SUMMARY

Per City Council direction on December 17, 2019, staff drafted an ordinance amending the Tracy Municipal Code to require a supermajority vote of four (4) Council members to remove the City Manager or City Attorney.

The proposed ordinance would amend Chapter 2.08 of, and add Chapter 2.10 to Title 2, of the Tracy Municipal Code regarding the tenure of the City Manager and the City Attorney.

DISCUSSION

In 2018-2019 the San Joaquin County Grand Jury conducted an investigation in response to complaints regarding Councils inability to work as a cohesive legislative body thereby creating a volatile Council Manager form of government. The Grand Jury report issued in 2019 identified several opportunities for implementing change to ensure a more harmonious City Council in addition to safeguards for City administrators and staff including the requirement of a supermajority vote to terminate the employment of the City Manager and City Attorney. At the December 17, 2019 City Council meeting, the Council discussed amending the Tracy Municipal Code (TMC) to require a supermajority vote of (4) Council members to remove the City Manager or the City Attorney. Following this discussion, the Council directed staff to return with an ordinance amending the Tracy Municipal Code to establish the supermajority vote requirement (four-fifths vote of the members of the Council) to remove the City Manager or City Attorney.

Section 2.08.080 of Title 2 of the TMC, establishes regulations for appointment and service of the City Manager. Tenure of the City Manager is provided in TMC Section 2.08.080 as follows:

*(a) The City Manager shall hold office for and during the pleasure of the Council.*

*(b) Removal of the City Manager shall be only by a vote of at least three (3) members of the Council.*

*(c) The City Manager shall not be removed from office during or within a period of 120 days immediately succeeding any general municipal election held in the City at which election of a member of the Council is elected. The purpose of this provision is to allow any newly elected member of the Council or a reorganized Council to become familiar with the affairs of the City and to observe the actions and ability of the City Manager in the performance of the powers and duties of his or her office. After the expiration of said 120-day period, the provisions of this section as to the removal of the City Manager shall apply and be effective.*

The proposed ordinance reflects an amendment to section 2.08.080 (b) of Chapter

2.08 requiring a four-fifths vote of the members of Council to remove the City Manager. In addition, this ordinance will add Chapter 2.10 to Title 2 to include provisions regarding the appointment and removal of the City Attorney including the four-fifths vote of the members of Council to remove the City Attorney.

## STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority:

Governance Strategy

Purpose**:** To enhance fiscal stability, retain and attract new talent, improve the use of technology, and enhance transparency for the betterment for the Tracy community.

## FISCAL IMPACT

This agenda item will not require any expenditure of funds.

## RECOMMENDATION

That the City Council introduce and waive the full reading of an ordinance amending Section 2.08.080 of, and adding Chapter 2.10 to, Title 2 of the Tracy Municipal Code to require a supermajority vote of four (4) members of the City Council to remove the City Manager or City Attorney.

Prepared by: Kimberly Murdaugh, Director of Human Resources

Reviewed by: Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jennifer D. Haruyama, City Manager

Attachment(s):

A - Redline Copy of Proposed Amendments to Title 2 of the Tracy Municipal Code

**Attachment A – Redline Amendments to Title 2 of the Tracy Municipal Code**

**2.08.080 - Tenure of the City Manager.**

(a) The City Manager shall hold office for and during the pleasure of the Council.

(b) Removal of the City Manager shall be only by a four-fifths vote of ~~at least three (3)~~ the members of the Council.

(c) The City Manager shall not be removed from office during or within a period of 120 days immediately succeeding any general municipal election held in the City at which election a member of the Council is elected. The purpose of this provision is to allow any newly elected member of the Council or a reorganized Council to become familiar with the affairs of the City and to observe the actions and ability of the City Manager in the performance of the powers and duties of his or her office. After the expiration of said 120-day period, the provisions of this section as to the removal of the City Manager shall apply and be effective.

## Chapter 2.10 – CITY ATTORNEY

### 2.10.010 - Office and appointment of the City Attorney

The City Attorney shall be appointed by and serve at the pleasure of the City Council. The City Attorney shall serve as legal counsel to the City government and all officers, departments, boards, commissions, and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the City Council. In situations where the City Attorney determines there is a conflict in representation by that office, the City Council may authorize the retention or other legal counsel to represent one of the conflicting parties. The City Attorney shall appoint all other members of the City Attorney's Office.

### 2.10.020 - Tenure of the City Attorney

Removal of the City Attorney shall be only by a four-fifths vote of the members of the Council.

ORDINANCE _____

AN ORDINANCE OF THE CITY OF TRACY, AMENDING SECTION 2.08.080 OF CHAPTER 2.08 OF, AND ADDING CHAPTER 2.10 TO, TITLE 2 " ADMINISTRATION" OF THE TRACY MUNICIPAL CODE REGARDING TENURE OF THE CITY MANAGER AND THE CITY ATTORNEY

WHEREAS, The electorate of the City of Tracy established the City Manager form of government in April 1954, and

WHEREAS, In Chapter 2.08 of Title 2 of the Tracy Municipal Code, the City Council has adopted the powers, duties, and tenure of the City Manager, and

WHEREAS, Pursuant to Government Code Sections 36505 and 36506, the City Council may appoint a city attorney and the city attorney holds office during the pleasure of the City Council, and

WHEREAS, The City Council has undertaken a review of the term of office and removal of the City Manager and the City Attorney and desires to establish a requirement of a four-fifths vote of the City Council for the removal of the City Manager or the City Attorney, and

WHEREAS, It is proposed to add Chapter 2.10 to Title 2, entitled "Administration" of the Tracy Municipal Code to include provisions regarding the appointment and removal of the City Attorney to accomplish the request of the City Council;

The City Council of the City of Tracy does ordain as follows:

SECTION 1. Amended Section. Section 2.08.080 of Chapter 2.08 of Title 2 of the Tracy Municipal Code is hereby amended to read as follows:

"**2.08.080 - Tenure of the City Manager.**

(a) The City Manager shall hold office for and during the pleasure of the Council.

(b) Removal of the City Manager shall be only by a four-fifths vote of the members of the Council.

(c) The City Manager shall not be removed from office during or within a period of 120 days immediately succeeding any general municipal election held in the City at which election a member of the Council is elected. The purpose of this provision is to allow any newly elected member of the Council or a reorganized Council to become familiar with the affairs of the City and to observe the actions and ability of the City Manager in the performance of the powers and duties of his or her office. After the expiration of said 120-day period, the provisions of this section as to the removal of the City Manager shall apply and be effective."

SECTION 2. Added Chapter. Chapter 2.10 of Title 2 of the Tracy Municipal Code is hereby added to read as follows:

"**Chapter 2.10 - CITY ATTORNEY**

**2.10.010 - Office and appointment of the City Attorney**

The City Attorney shall be appointed by and serve at the pleasure of the City Council. The City Attorney shall serve as legal counsel to the City government and all officers, departments, boards, commissions, and agencies thereof and shall have such other powers and duties as may be prescribed by state law and by ordinance or resolution of the City Council. In situations where the City Attorney determines there is a conflict in representation by that office, the City Council may authorize the retention or other legal counsel to represent one of the conflicting parties. The City Attorney shall appoint all other members of the City Attorney's Office.

**2.10.020 - Tenure of the City Attorney**

Removal of the City Attorney shall be only by a four-fifths vote of the members of the Council."

SECTION 3. If any provision or the application of this Ordinance is for any reason held to be unconstitutional, invalid, or otherwise unenforceable, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have adopted each subsection or provision of this Ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the Ordinance enforced.

SECTION 4. This Ordinance shall take effect 30 days after its final passage and adoption.

SECTION 5. This Ordinance shall either (1) be published once in a newspaper of general circulation, within 15 days after its final adoption, or (2) be published in summary form and posted in the City Clerk's office at least five days before the ordinance is adopted and within 15 days after adoption, with the names of the Council Members voting for and against the ordinance. (Gov't. Code §36933.)

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

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 21st day of July 2020, and finally adopted on the ____ day of _____, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 3.I

REQUEST

**APPOINT ONE APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY COMMISSION ON AGING AND ONE APPLICANT TO SERVE ON THE SAN JOAQUIN COUNTY MOSQUITO ABATEMENT DISTRICT BOARD**

EXECUTIVE SUMMARY

The City of Tracy representative seat on the San Joaquin County Commission on Aging and the San Joaquin County Mosquito Abatement District are currently vacant. A recruitment was conducted and appointments need to be made to fill these positions.

DISCUSSION

The City Clerk's office was notified in February that the City of Tracy representative on the San Joaquin Commission on Aging had resigned on November 19, 2019. To fill the vacancy, the City Clerk's office conducted a recruitment beginning on March 17, 2020 ending on June 30, 2020 during which time three applications were received.

On May 3, 2020, the term of the San Joaquin County Mosquito Abatement District Commissioner expired. To fill the vacancy, the City Clerk's office conducted a recruitment beginning on March 9, 2020 ending on June 30, 2020 during which time one application was received.

On July 6, 2020, a Council subcommittee consisting of Council Member Arriola and Council Member Ransom interviewed three applicants for the San Joaquin County Commission on Aging and one applicant for the San Joaquin County Mosquito Abatement District Board. In accordance with Resolution No. 2020-009, the Council subcommittee will recommend candidates for appointment to the San Joaquin County Commission on Aging and the San Joaquin County Mosquito Abatement District Board to Council.

STRATEGIC PLAN

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

FISCAL IMPACT

There is no fiscal impact.

RECOMMENDATION

That Council, by motion, approve the subcommittee's recommendations and appoint Wayne Templeton to the San Joaquin County Commission on Aging to serve a 3-year term beginning July 22, 2020 and ending June 30, 2023 and place Scott Jacobson on the 12 month eligibility list.

That Council, by motion, approve the subcommittee's recommendations and appoint Parbhjot Singh to the San Joaquin County Mosquito Abatement District Board to serve a 4-year term beginning July 22, 2020, and ending June 30, 2024.

Prepared by: Necy Lopez, Deputy City Clerk
Reviewed by: Midori Lichtwardt, Assistant City Manager
Approved by: Jenny Haruyama, City Manager

Attachment A: Resolution 2020-009

ATTACHMENT A

RESOLUTION 2020-009

ADOPTING A COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES AND REPEALING RESOLUTION NO. 2004-089 AND RESOLUTION NO. 2004-152

WHEREAS, In March 2004, the Tracy City Council adopted Resolution No. 2004-089 establishing a policy for the selection process and defining residency requirements for appointee bodies ("Policy") in accordance with Government Code sections 54970 et seq. that was last amended in May 2004, via Resolution No. 2004-152;

WHEREAS, The current policy states that the Mayor (or designee) and a selected Council member shall serve on a selection subcommittee to review applications to serve on an advisory body, interview applicants, and make a recommendation to the full Council on a candidate for appointment to an advisory body,

WHEREAS, In practice, Council appoints any two Council members to a subcommittee to review applications and interview applicants for an appointment to an advisory body, and

WHEREAS, Council wishes to amend the policy to accurately reflect its current practice.

NOW, THEREFORE, the City Council of the City of Tracy hereby adopts the Council Policy Establishing a Selection Process for Appointments to City Advisory Bodies, attached as Exhibit A, and thereby repeals and supersedes Resolution No. 2004-089, and Resolution No. 2004-152.

* * * * * * * * * *

The foregoing Resolution 2020-009 was passed and adopted by the Tracy City Council on the 21st day of January, 2020, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, RANSOM, VARGAS, YOUNG, RICKMAN
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTAIN: COUNCIL MEMBERS: NONE

MAYOR

ATTEST:

CITY CLERK

**COUNCIL POLICY ESTABLISHING A SELECTION PROCESS FOR APPOINTMENTS TO CITY ADVISORY BODIES**

**(Exhibit "A" to Resolution No. 2020-009)**

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**SECTION 1: PURPOSE**

To establish a selection process for appointments to City advisory bodies including defining residency requirements, in accordance with Government Code sections 54970 et seq.

**SECTION 2: SELECTION PROCESS FOR APPOINTEE BODIES**

A. On or before December 31st of each year, the City Clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:

   1. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.

   2. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.

   3. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.

B. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.

C. Appointments shall be made for the remainder of the term created by the vacancy except as follows:

   1. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.

   2. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 2.

D. The Council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:

1. Council shall appoint two Council members to serve on a subcommittee to review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.

2. If the Council subcommittee determines there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that occur in the following twelve (12) months.

3. At the Council subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.

E. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by the City Clerk.

F. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

**SECTION 3: DEFINITION OF RESIDENCY REQUIREMENTS**

A. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:

1. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.

2. City of Tracy means within the city limits of the City of Tracy.

3. Citizen means a resident of the City of Tracy.

4. Tracy School District means the geographical area served by the Tracy Unified School District.

5. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.

B. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:

1. Voter registration,

2. Current California Driver's License or Identification,

3. Utility bill information (phone, water, cable, etc.),

4. Federal or State tax returns.

C. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.

July 21, 2020

AGENDA ITEM 3.J

REQUEST

**APPROVE AMENDMENT TO THE COUNCIL POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILITIES TO LIMIT THE DISPLAY OF CEREMONIAL FLAGS TO SEVEN DAYS AND TO ADDRESS FLAG CEREMONIES**

EXECUTIVE SUMMARY

During the City Council meeting on July 7th the City Council directed staff to amend the Council Policy for the Display of Flags at City Facilities ("Flag Policy") to limit the number of days a ceremonial or commemorative flag can be displayed to seven (7) calendar days, excluding weekends and holidays, and to include language regarding flag ceremonies.

DISCUSSION

On June 18, 2019, Council adopted a policy via Resolution No. 2019-138 on the display of flags at City facilities, including ceremonial or commemorative flags ("Flag Policy"). On October 20, 2019, Council amended the Flag Policy via Resolution No. 2019-199.

The Flag Policy outlines the City's practice of displaying flags in accordance with the federal and state law (Section 2.1) and allows the display of commemorative flags by Council request only (Section 2.3). The Policy further declares that the City's flagpoles are not intended to serve as a forum for free expression by the public.

On July 7, 2020, the City Council directed staff to amend the Flag Policy to limit the maximum amount of time a ceremonial flag can be displayed to no more than a week (seven calendar days), not counting any weekends or City holidays in order to avoid overtime costs from staff who are responsible for displaying the flag. The following amended language for Section 2.3.3 is presented to Council for consideration:

> "2.3.3. Commemorative or ceremonial flags will be displayed for 24 hours if displayed during the normal City workweek. If the day of commemoration occurs on a weekend or City holiday, the flag will be posted on the last working day prior to the weekend or holiday and removed on the next normal City work day. The 24-hour period may also be extended up to a maximum of seven (7) calendar days if specified in the approving Council resolution. Saturdays, Sundays or City holidays shall not count towards the maximum 7-day display period."

Council also directed staff to amend the Flag Policy to include language that allows Council members to request the use of City resources for a flag ceremony to commemorate the raising of a ceremonial flag. The following language is presented for Council consideration as a new Section 2.3.5:

> "2.3.5 If Council Members want to also request a flag ceremony, such request must be made when requesting to display a commemorative flag in accordance with Section 2.3.1. Said flag ceremony shall consist of the following: publicity on

the City's website and social media accounts, press release, and audio/visual support (podium with speaker and microphone, recording, and/or photography)."

By requiring Council to submit requests for flag ceremonies prior to May 1st, staff can ensure that sufficient funding for flags and staff time and resources are included in the City budget.

## FISCAL IMPACT

Costs associated with the purchase or storage of ceremonial or commemorative flags and flag ceremonies will be included in the City Manager's budget.

## STRATEGIC PLAN

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

## RECOMMENDATION

That Council adopt, via resolution, the proposed amendments to the Council's Flag Policy.

Prepared by: Leticia Ramirez, City Attorney

Reviewed by: Don Scholl, Public Works Director
Karin Schnaider, Finance Director
Midori Lichtwardt, Assistant City Manager

Approved by: Jenny Haruyama, City Manager

ATTACHMENT:

A- Policy for the Display of Flags at City Facilities, revised 2019

# POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILTIES

(Exhibit "A" to Resolution No. 2019-199)

## SECTION 1: PURPOSE

The purpose of this policy is to establish clear guidelines regarding the display of the flags at City facilities.

## SECTION 2: POLICY

2.1 Conformance with Federal and State Flag Regulations. Flags shall be displayed in accordance with federal and state regulations, including Title 4, Chapter 1 of the United States Code, and Sections 430 through 439 of the California Government Code.

2.2 The City Manager is authorized to order that the City flag be lowered to half-staff in honor of a City employee killed in the line of duty.

2.3 Ceremonial or Commemorative Flags.

2.3.1 Non-Public Forum. The City's flagpoles are not intended to be a forum for free expression by the public. Ceremonial or commemorative flags shall be displayed as an expression of the City's official sentiments. A request to display a commemorative or ceremonial flag must be supported by two Council members in order to be agendized for Council consideration. All requests to display commemorative flags must be listed as a "Regular Item" on a Council agenda. Council must present requests to display a commemorative flag by May 1st of every year. A Council resolution authorizing the display of a commemorative flag must be approved by a supermajority vote (four-fifths) of the City Council.

2.3.2. Commemorative flags shall only be displayed at City Hall and on the flagpole designated to display the City's flag. Commemorative or ceremonial flags shall be displayed concurrently with the City flag at second position (below the City flag).

2.3.3 Commemorative or ceremonial flags will be displayed for 24 hours if displayed during the normal City workweek. If the day of commemoration occurs on a weekend or holiday, the flag will be posted on the last working day prior to the weekend or holiday and removed on the next normal City workday. The 24-hour period may also be extended if specified in the approving resolution.

2.3.4 The City will not display a commemorative or ceremonial flag based on a request from a third party, nor will the City use its flagpoles to sponsor the expression of a third party.

2.4 Implementation of Policy. The Public Works Director is responsible for ensuring the proper implementation of this Policy. The Public Works Director is further authorized to develop standard operating procedures consistent with this Policy.

RESOLUTION 2020-_____

AMENDING THE COUNCIL POLICY FOR THE DISPLAY OF FLAGS AT CITY FACILITIES TO LIMIT THE DISPLAY OF CEREMONIAL FLAGS TO SEVEN DAYS AND TO ADDRESS FLAG CEREMONIES

WHEREAS, The City of Tracy displays and handles all flags in accordance with Federal and State Law, and

WHEREAS, On June 18, 2019, the City Council adopted a policy via Resolution No. 2019-138 on the display of flags at City facilities, including ceremonial or commemorative flags (Flag Policy), and

WHEREAS, The Flag Policy was amended via Resolution No. 2019-199 to address implementation issues, and

WHEREAS, On July 7, 2020, the Council directed staff to amend the Flag Policy to limit the maximum amount of time a ceremonial flag can be displayed to no more than a week (seven calendar days), not counting any weekends or City holidays in order to avoid overtime costs from staff who are responsible for displaying the flag and to allow Council to request a flag ceremony to commemorate the raising of a ceremonial flag, and

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Tracy hereby amends the Flag Policy as follows:

1. Section 2.3.3. is hereby replaced in its entirety by the following language:

   "2.3.3 Commemorative or ceremonial flags will be displayed for 24 hours if displayed during the normal City workweek. If the day of commemoration occurs on a weekend or City holiday, the flag will be posted on the last working day prior to the weekend or holiday and removed on the next normal City work day. The 24-hour period may also be extended up to a maximum of seven (7) calendar days if specified in the approving Council resolution. Saturdays, Sundays or City holidays shall not count towards the maximum 7-day display period."

2. A new Section 2.3.5 shall be added to read as follows:

   "2.3.5 If Council Members want to also request a flag ceremony, such request must be made when requesting to display a commemorative flag in accordance with Section 2.3.1. Said flag ceremony shall consist of the following: publicity on the City's website and social media accounts, press release, and audio/visual support (podium with speaker and microphone, recording, and/or photography)."

* * * * * * * * * *

The foregoing Resolution 2020-_____ was adopted by the Tracy City Council on the 21st day of July, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK

July 21, 2020

AGENDA ITEM 3.K

REQUEST

**AMEND THE COUNCIL CODE OF CONDUCT TO ADDRESS CITY COUNCIL COMMUNITY MESSAGING ACTIVITIES**

EXECUTIVE SUMMARY

At the April 7, 2020, City Council meeting, Council Member Veronica Vargas seconded by Council Member Rhodesia Ransom, requested that the topic of City Council participation in community messaging be agendized for discussion and direction. The topic was agendized and discussed at the July 7, 2020 City Council meeting and direction was provided to staff. This item seeks Council approval to amend the Code of Conduct to include language regarding Council community messaging activities.

DISCUSSION

On April 7, 2020, Council Member Veronica Vargas second by Council Member Rhodesia Ransom requested a policy discussion about the role of City Council in community communications, including, but not limited to social media.

Chapter 2 of the City Council's Code of Conduct policy (Attachment A) speaks to the role of the Mayor as the presiding officer of the City Council, and his/her ceremonial, public relations, and legislative duties. In this context, the Code of Conduct also clarifies the role of the Mayor Pro Tem regarding the performance of Mayoral duties in the absence of the Mayor. While the Code of Conduct generally discusses the role of City Council, it does not speak directly to Council's participation in community communications (i.e. public relations) and other related activities. That being said, the City Council in recent months, has participated in several joint social messaging campaigns, including but not limited to COVID-19 (Coronavirus) safety, Tracy's 2020 Graduating Seniors, 2020 Census, Memorial Day, and 4th of July.

On July 7, 2020 Council directed staff to amend: Section 2.1 "City Council Generally" in Chapter 2 of the Council Powers and Responsibilities to include the following language:

> "2.1.6: Based on available resources as determined by the City Manager, unless directed by the City Council, the Council as a body may participate in public relations activities regarding issues or topics pertaining to City business or that affect the community at-large. This may include, but is not limited to the dissemination of information via press release, video, social media, and/or other means of communication."

FISCAL IMPACT

There is no fiscal impact related to this update.

## STRATEGIC PLAN

This agenda item supports the City of Tracy's Governance Strategic Priority, which is to enhance fiscal stability, retain and attract new talent, improve the use of technology, and enhance transparency for the betterment of the Tracy community.

## RECOMMENDATION

It is recommended that Council amend the Code of Conduct to include language regarding Council community messaging activities.

Prepared and Approved by: Jennifer D. Haruyama, City Manager

## ATTACHMENTS

ATTACHMENT A - City Council Code of Conduct – Adopted October 15, 2019

ATTACHMENT A

# CITY COUNCIL

# CODE OF CONDUCT

Adopted on October 15, 2019 by Resolution No. 2019-203

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B. Council Appointed Committees

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G. Resolution No. 2007-075 – Council Travel Procedures

ATTACHMENT 1 – City Council Code of Conduct Norms and Values Statement

ATTACHMENT 2 – Council Advisory Body Norms and Values Statement

# CHAPTER 1
## FORM OF GOVERNMENT

### 1.1 Preamble

The legal responsibilities of the Tracy City Council are set forth by applicable state and federal laws. In addition, the City Council has adopted regulations, including this Code of Conduct Policy, that hold Council Members to standards of conduct above and beyond what is required by law. This Policy is written with the assumption that Council Members, through training, are aware of their legal and ethical responsibilities as elected officials.

### 1.2 Form of Government

The City of Tracy operates under a Council-Manager form of government as prescribed by the Tracy Municipal Code ("TMC"). Accordingly, the Mayor and members of the Council are elected at-large, provide legislative direction, set City policy, and ultimately answer to the public.

### 1.3 City Manager Appointment, Power and Duties

The City Manager is appointed by a majority vote of the Council and serves as the City's chief administrative officer and is responsible for directing the day-to-day operations of the City and implementing policy direction per Section 2.08.060 of the TMC (Appendix A attached). Specifically, Section 2.08.070 of the TMC prohibits interference by either the City Council or any of its members with the City Manager's execution of their powers or duties:

- The Council nor a member shall interfere with the appointment by the City Manager of any of the department heads or any person to any office or employment.
- Additionally, the Council nor any of its members shall interfere with the City Manager's power to remove any of those persons.
- Neither the Council nor any of its members shall give orders to any subordinate of the City Manager, either publicly or privately.
- The City Council nor any of its members shall interfere with the administration of the City Attorney or give orders to the subordinates of the City Attorney.
- The City Manager and his/her senior staff shall conduct themselves in accordance with the International City Management Association (ICMA) Code of Ethics.

The Council and its members shall deal only with the City Manager with respect to the administrative services or operational matters of the City.

1.4 City Attorney Appointment and Responsibilities

The City Attorney is appointed by a majority vote of the Council. Per Section 12.08.40, the City Attorney is responsible for approving as to form all subdivision improvement agreements and security, deferred improvement agreements, liability agreements and insurance, and all governing documents for a community apartment project, condominium, stock cooperative, or conversion.

- The City Attorney and his/her senior staff shall at all times conduct themselves in accordance with the California Rules of Professional Conduct, established by the California State Bar, and the Ethical Principles for City Attorneys, adopted by the League of California Cities' City Attorneys Department.

# CHAPTER 2
## COUNCIL POWERS AND RESPONSIBILITIES

2.1 City Council Generally

2.1.1 The City Council has the power, in the name of the City, to do and perform all acts and things appropriate to a municipal entity and the general welfare of its inhabitants, which are not specifically prohibited by the constitution, and/or State or Federal laws.

2.1.2 The Council acts as a body. Council policy and directives are established by majority vote, unless otherwise required by state law. A decision of the majority binds the Council to a course of action.

2.1.3 No Council Member has extraordinary powers beyond those of other members (except as may otherwise be provided in State law). All members, including the Mayor, have equal powers.

2.1.4 No member of the Council is permitted to hold any other City office or City employment.

2.1.5 Council Members are appointed by the Council body to serve on various committees, including Council standing and ad hoc committees, and third agency member committees.

2.2 Mayor and Mayor Pro Tem - Appointment, Power, and Duties

2.2.1 The Mayor is directly elected by the voters to serve a two-year term. The selection of the Mayor Pro Tem occurs every two years in December after the City receives the certified results from the County Registrar of Voters electing a Mayor.

2.2.2 A Mayor Pro Tem is appointed by the Council and can be replaced at any time by a majority vote of the Council.

2.2.3 The Mayor is the presiding officer of the City Council. In the Mayor's absence, the Mayor Pro Tem shall perform the duties of the Mayor.

2.2.4 The Mayor is the official head of the City for all ceremonial purposes.

2.2.5 Per Government Code, the Mayor, with the approval of the City Council, shall (a) execute official documents (Section 40602b) and (b) make appointments to city boards, commissions, and committees unless otherwise specifically provided by statute (Section 40605).

2.2.6 The Mayor is authorized to send letters stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.

2.2.7 The Mayor may perform other duties consistent with the mayoral office as prescribed by the Tracy Municipal Code, California Government Code, or as determined by the Council.

2.2.8 The Mayor does not possess any power of veto.

2.2.9 The Mayor coordinates with the City Manager in the development of agendas for meetings of the City Council. Once the agenda is published, the City Manager may withdraw an item. Additionally, the Mayor may rearrange the order of business on the agenda.

2.3 Council Actions

2.3.1 Legislative actions by the City Council can be taken by means of ordinance, resolution, or minute action (motion) duly made and passed by the majority (unless otherwise required).

2.3.2 Under Council protocols and procedures, an item may be placed on the agenda if requested by two Council Members. The request can be made during open session or outside of a Council meeting.

2.3.3 Public actions of the Council are recorded in the minutes of the City Council meeting. The City Clerk is required to make a record only of business actually passed upon by a vote of the Council and is not required to record any remarks of Council Members, except at the special request of a Council Member and with the consent of the Council.

2.3.4 Actions of the Council concerning confidential property, personnel, and/or legal matters of the City are to be reported consistent with State law.

## 2.4 Council Member Committees

2.4.1 The City Council may organize itself into standing and/or special/ ad hoc subcommittees to facilitate Council review of policy matters and action.

2.4.2 The Council may create or dissolve standing and/or special/ad hoc sub committees at any time by an affirmative vote of a majority of the Council. The Council will endeavor to rotate appointments to standing and ad hoc standing committees to ensure equitable participation.

2.4.3 The Council appoints and removes members to standing and ad hoc committees.

2.4.4 The Council also appoints and removes Council Members to third member agencies.

2.4.5 It is a best practice for non-appointed Council Members not to attend Council standing Committees to avoid the appearance of impropriety.

## CHAPTER 3

## LEGAL AND ETHICAL STANDARDS

3.1 Preamble

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government;
- Be independent, impartial, and fair in their judgment and actions;
- Use their public office for the public good, not for personal gain; and
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted this Code of Conduct and the Norms and Values Statement (Attachment 1) to encourage public confidence in the integrity of local government and its fair and effective operation.

3.2 Public Interest

3.2.1 Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest. Council Members must endeavor to treat all members of the public and issues before them in a fair and equitable manner.

3.2.2 Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions; the Tracy Municipal Code; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3.3 Conduct

3.3.1 Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.

3.3.2 Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.

3.3.3 Council Members shall inform themselves on public issues, listen attentively to public discussions before the body, and focus on the business at hand.

3.3.4 Council decisions shall be based upon the merits and substance of the matter at hand.

3.3.5 It is the responsibility of Council Members to publicly share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members and the public prior to taking action on the matter.

3.3.6 Council Members shall not attend internal staff meetings or meetings between City staff and third parties unless authorized by the City Manager.

3.3.7 Policy Role

3.3.7.1 Council Members shall respect and adhere to the Council-Manager structure of the Tracy City government as provided in State law and Tracy Municipal Code.

3.3.7.2 Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

3.3.8 Implementation

3.3.8.1 This Code of Conduct shall be included in the regular orientations for City Council candidates. Current Council Members, including those entering office upon election shall sign a City Council Norms and Values Statement **(Attachment 1)** affirming they have read and understand this Tracy City Council Code of Conduct.

3.4 Conflict of Interest

3.4.1 In order to assure their independence and impartiality on behalf of the public good, Council Members are prohibited from using their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

3.4.2 In accordance with State law, Council Members must file an annual written disclosure (Form 700) of their economic interests.

3.4.3 Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general.

3.4.4 Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They must neither disclose confidential information without proper legal authorization nor use such information to advance the personal, financial, or private interests of themselves or others.

3.4.5 City Council Members should avoid any action that could be construed as, or create the appearance of, using public office for personal gain, including use of City stationery or other City resources to obtain or promote personal business or political campaigns.

3.4.6 Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain and, personal and political purposes.

3.4.7 In keeping with their role as stewards of the public interest, Council Members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee or proceeding of the City, except as permitted by law.

3.4.8 To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions publicly, members shall explicitly state they do not represent the Council or the City.

3.4.9 Tracy City Municipal Code Provisions

3.4.9.1 Financial Interests in City Contracts Prohibited.

Section 2.04.050 of the Municipal Code prohibits members of the Council, appointed employees, the City Treasurer and members of City boards and commissions during their term of office, to contract or subcontract with the City.

Section 2.04.050 also requires a City Council Member to recuse (as defined by the Fair Political Practices Commission) themselves from any vote regarding any Memorandum of Understanding between the City and any lawfully recognized bargaining unit in which a City Council member has an immediate family member. "Immediate family member" is defined as "any and/or all spouses, partners or adult children, whether they live in a single household or not" under this section of the TMC.

3.4.9.2 Nepotism.

The City of Tracy's Nepotism Policy prohibits the initial appointment of an individual to a position within the City of Tracy who has a marital or familial relationship, as defined in Section 4 of the Policy, with any member the City Council, City Manager, or City Attorney.

3.4.9.3 Use of City Property for Private Purposes by City Official/ Employee.

The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager. (City Personnel Rule 9.2 (d))

3.4.9.4 Political Activities Prohibited; Discrimination.

For informational purposes, the following provisions apply to City and contract employees and consultants:

1. No employee shall, while in uniform or during the employee's working hours, take an active part in any municipal or other political campaign.

2. No employee shall, while in uniform or during the employee's work hours, seek or accept contributions for or against a candidate or issue.

3. An employee may not seek or accept signatures to any petition for or against any such candidate or issue during their work hours.

4. No person in the classified service shall be employed, promoted, demoted, or discharged or in any way favored or discriminated against because of political opinions or affiliations or on any other basis protected by state and/or federal law.

### 3.4.10 California State Law Regarding Conflicts

While not enforceable by the City, there are four key areas of California State law that regulate the ethics of public officials.

#### 3.4.10.1 Constitutional prohibitions

State law strictly forbids elected and appointed public officials from accepting free or discounted travel from transportation companies. The penalty for a violation includes the forfeiture of office.

#### 3.4.10.2 Contractual conflicts of interest

This prohibition, found in Government Code Section 1090, applies to elected and appointed officials as well as other City staff members. It prohibits the City from entering into a contract if one of its members (i.e., a Council Member) is financially interested in the contract. If the bar (or prohibition) applies, the agency is prohibited from entering into the contract whether or not the official with the conflict participates or not. In some limited circumstances, officials are allowed to disqualify themselves from participation and the agency may enter into the contract.

Financial interest has been defined to include employment, stock/ ownership interests, and certain membership on the board of directors of a for-profit or nonprofit corporation, among others. Violations can be charged as a felony. A person convicted of violating Section 1090 is prohibited from ever holding public office in the State.

### 3.4.10.3 Political Reform Act - Conflicts of Interest

The Political Reform Act (PRA) was adopted by the voters in 1974 and is the primary expression of the law relative to conflicts of interest (and campaign finance) in California. The Act created the Fair Political Practices Commission (FPPC), a five-member State board which administers the Act.

The Act and the regulations are complex and are continuously subjected to official interpretation. The following synopsis of key parts of the Act will be helpful in spotting issues; however, the FPPC and/or City Attorney should be consulted for further advice and clarification.

With respect to conflicts of interest, the FPPC has promulgated a regulation which establishes an analysis which assists in determining whether a public official is participating in a government decision in which they have a qualifying financial interest and whether it is reasonably foreseeable that the decision will have a material financial effect on the public official's financial interest, which is distinguishable from the effect the decision will have on the public generally.

#### 3.4.10.3.1 Political Reform Act-Enforcement

The FPPC can assess administrative fines and penalties for violation of the Act. The District Attorney and the State Attorney General may prosecute violators as civil or criminal matters.

Violators may also be removed from office pursuant to Government Code Section 3060.

3.4.10.4 Common Law Conflicts of Interest

This is the judicial expression of the public policy against public officials using their official position for private benefit. An elected official bears a fiduciary duty to exercise the powers of office for the benefit of the public and is not permitted to use those powers or their office for the benefit of any private interest. This common law doctrine continues to survive the adoption of various statutory expressions of conflict law.

3.4.10.5 Appearance of Impropriety

When participation in action or decision-making as a public official does not implicate the specific statutory criteria for conflicts of interest; however, participation still does not "look" or "feel" right, that public official has probably encountered the appearance of impropriety.

For the public to have faith and confidence that government authority will be implemented in an even-handed and ethical manner, public officials may need to step aside even though no technical conflict exists. An example is where a long-term nonfinancial affiliation exists between the public official and an applicant or the applicant is related by blood or marriage to the official. For the good of the community, members who encounter the appearance of impropriety should step aside.

## 3.5 AB 1234-Required Ethics Training

AB 1234 requires elected or appointed officials who are compensated for their service or reimbursed for their expenses to take two hours of training in ethics principles and laws every two years. Those who enter office after January 1, 2006 must receive the training within a year of starting their service. They must then receive the training every two years after that.

The training must cover general ethics principles relating to public service and ethics laws including:

- Laws relating to personal financial gain by public officials (including bribery and conflict of interest laws);

- Laws relating to office-holder perks, including gifts and travel restrictions, personal and political use of public resources, and prohibitions against gifts of public funds;

- Governmental transparency laws, including financial disclosure requirements and open government laws (the Brown Act and Public Records Act); Laws relating to fair processes, including fair contracting requirements, common law bias requirements, and due process

> NOTE: State laws governing conflicts of interest are written to ensure that actions are taken in the public interest. These laws are very complex. Council Members should consult with the City Attorney, their own attorney, or the Fair Political Practices Commission for guidance in advance.

## 3.6 Code of Conduct Compliance and Enforcement

Consistent with this oath is the requirement of this Council policy to comply with the laws as well as report violations of the laws and policy of which they become aware.

3.6.1 A request for censure of a member of the Council may be submitted to the City Manager by any member of the Council ("Initiating Member"), with the support of another Council member ("Seconding Member"). Censure is a formal statement or resolution by the Council officially reprimanding a Council Member for conduct that may include sanctions. It is the intent of the Council that a request for censure be used only for significant and/or repeated violations of this Code of Conduct and not a means to address politically or personally motivated disagreements amongst Council.

The request shall contain the specific charges on which the proposed censure is based. The City Manager shall deliver a copy of the request for censure and the charges to each member of the Council at least 72 hours after receipt of the request. The request for censure shall first be considered by a neutral mediator selected by the Presiding Judge of the Superior Court of California of the County of San Joaquin. The neutral mediator shall conduct an investigation and prepare a written analysis of the allegation and their preliminary findings and recommendation. Said investigation shall, at a minimum, include interviews with the Initiating Member and the member who is the subject of the request. The neutral mediator's recommendation shall be to: (a) set the matter for a censure hearing and whether censure is warranted or (b) no further action should be taken with respect to the request. The neutral mediator shall present its recommendation to the Council for its consideration and action within thirty (30) days of completing their investigation.

3.6.1.1 The censure request shall be agendized at the next regular Council meeting following receipt of the neutral mediator's written findings and recommendation. Council shall determine whether or not to accept the neutral mediator's recommendation. If the Council decides to set the matter for a censure hearing, it shall schedule it no sooner than two weeks after its determination to hear the matter. It may not schedule the matter during any previously scheduled excused absence of the subject Council Member. Written notice of the hearing shall be delivered in person to the member of the Council subject to the censure hearing at least ten (10) days in advance of the scheduled hearing. If the Council decides that no further action is required, Council may also request the Initiating Member either reimburse the City the cost of the neutral mediator's services from personal funds (not campaign funds), not to exceed $2,500, or forgo a month's salary as Council Member. A report regarding the Initiating Member's compliance with that request shall be presented to Council within sixty (60) days of that request.

3.6.1.2 At the censure hearing, the member of the Council who is the subject of the request for censure shall be given the opportunity to make an opening and a closing statement, to call witnesses on their behalf and to question their accusers. The member subject to the charges may be represented by a person or persons of their choice whether or not an attorney at law and may have that representative speak or question witnesses on their behalf. The questioning or cross-questioning of witness may be reasonably limited by the person chairing the hearing.

3.6.1.3 Testimony shall be taken only from witnesses having direct knowledge of facts or circumstances relevant to the specific charges under consideration. However, the rules of evidence and judicial procedure applicable in courts of law shall not be applied to this hearing, and the procedures shall be generally informal.

3.6.2 At the discretion of the Council, sanctions may be imposed as a result of a censure. These sanctions may be applied individually or in combination. They include, but are not limited to:

3.6.2.1 Public Admonishment - —A reproof or verbal warning directed to a Council Member about a particular type of behavior that violates City policy.

3.6.2.2 Revocation of Special Privileges —A revocation of a Council Member's Council Committee assignments, such as standing and ad hoc committees, regional boards and commissions, and other board/ committee appointments. Other revocations may include temporary suspension of official travel, conference participation, and ceremonial titles.

3.6.3 Nothing in this Section shall limit Council's ability to informally address conduct considered to be not significant or a minor violation of this Code, which may include informal counseling from one Council member to another, and a Council member to a Council advisory body member.

# CHAPTER 4
# COMMUNICATIONS

## 4.1 Relationship/Communications with Staff

Staff serves the City Council as a whole, therefore:

4.1.1 A Council Member shall not direct staff in person or in writing to initiate any action, change a course of action, or prepare any report. A Council Member shall not initiate any project or study without the approval of the majority of the Council.

4.1.2 Requests for information and corresponding responses made by Council Members will be shared with the full Council.

4.1.3 Council Members shall not attempt to pressure or influence discussions, recommendations, workloads, schedules, or department priorities without first consulting with the City Manager and obtaining the approval of a majority of the Council.

4.1.4 When preparing for Council meetings, Council Members should direct questions ahead of time to the City Manager so that staff can provide the desired information at the Council meeting.

4.1.5 Any concerns by a member of the City Council regarding the behavior or work of a City employee should be directed to the City Manager privately to ensure the concern is resolved. Council Members shall not reprimand employees directly nor should they communicate their concerns to anyone other than the City Manager.

4.1.6 Council Members may direct routine inquiries to either the City Manager or appropriate department head.

4.1.7 Council Members serving on Council committees or as the City's representative to an outside agency may interact directly with City staff assigned to that effort as the City Manager's designee. The City

staff member so designated and assigned will keep the City Manager appropriately informed.

4.2 Council Relationship/Communication with Council Advisory Bodies

4.2.1 Council Members shall not attempt to pressure or influence board, commission, or committee decisions, recommendations, or priorities absent the approval of the majority of the Council.

4.2.2 It is a best practice that Council Members refrain from attending Board, Commission, and/or Committee meetings to avoid the appearance of impropriety.

4.3 Handling of Litigation and Other Confidential Information

4.3.1 All written materials and verbal information provided to Council Members on matters that are confidential and/or privileged under State law shall be kept in complete confidence to ensure that the City's position is not compromised. No disclosure or mention of any information in these materials may be made to anyone other than Council Members, the City Attorney, or City Manager.

4.3.1.1 Confidential materials provided in preparation for and during Closed Sessions shall not be retained and documents must be returned to staff at the conclusion of the Closed Session.

4.3.1.2 Council Members may not request confidential written information from staff that has not been provided to all Council Members.

4.4 Representing an Official City Position

4.4.1 City Council Members may use their title only when conducting official City business, for information purposes, or as an indication of background and expertise, carefully considering whether they are exceeding or appearing to exceed their authority.

4.4.2 Once the City Council has taken a position on an issue, all official City correspondence regarding that issue will reflect the Council's adopted position.

4.4.3 The Mayor is authorized to send letters on City letterhead stating the City's official position to appropriate legislators as long as it is consistent with the Council's Legislative Policy.

4.4.4 City letterhead may be used by Council Members only for official City business and/or to represent a policy action taken by the Council body.

4.4.5 If a member of the City Council appears before another governmental agency organization to give a statement on an issue affecting the City, the Council Member should indicate the majority position and opinion of the Council.

4.4.6 Personal opinions and comments may be expressed only if the Council Member clarifies that these statements do not reflect the official position of the City Council.

4.5 Quasi-Judicial Role/Ex *Parte* Contacts

The City Council has a number of roles. It legislates and makes administrative and executive decisions. The Council also acts in a quasi-judicial capacity or "like a judge" when it rules on various permits, licenses, and land use entitlements.

In this last capacity, quasi-judicial, the Council holds a hearing, takes evidence, determines what the evidence shows, and exercises its discretion in applying the facts to the law shown by the evidence. It is to these proceedings that the rule relative to *ex parte* contacts applies.

4.5.1 *Ex Parte* Contacts/Fair Hearings. The Council shall refrain from receiving information and evidence on any quasi-judicial matter while such matter is pending before the City Council or any agency, board, or commission thereof, except at the public hearing.

As an elected official, it is often impossible to avoid such contacts and exposure to information. Therefore, if any member is exposed to information or evidence about a pending matter outside of the public hearing, through contacts by constituents, the applicant or through site visits, the member shall disclose all such information and/or evidence acquired from such contacts, which is not otherwise included in the written or oral staff report, during the public hearing, and before the public comments period is opened.

Matters are "pending" when an application has been filed. Information and evidence gained by members via their attendance at noticed public hearings before subordinate boards and commissions are not subject to this rule.

4.6 No Attorney-Client Relationship

Council Members who consult the City Attorney, their staff, and/or attorney(s) contracted to work on behalf of the City cannot enjoy or establish an attorney-client relationship with said attorney(s) by consulting with or speaking to same. Any attorney-client relationship established belongs to the City, acting through the City Council, and as may be allowed in State law for purposes of defending the City and/or the City Council in the course of litigation and/or administrative procedures, etc.

# CHAPTER 5
# COUNCIL ADVISORY BODIES

## 5.1 Boards, Commissions, and Committees Generally

5.1.1 The Tracy Municipal Code establishes a Planning Commission to advise the Council on land use matters (Chapter 10.04) and a Parks and Community Services Commission (Chapter 7.16)

5.1.2 The rules of procedure and code of conduct that govern the City Council apply with equal force to all Council advisory boards and commissions.

5.1.3 The City Council may also establish by ordinance or resolution, boards, commissions, and committees to assist the Council in making its policy decisions. The City Council has the inherent power to create advisory bodies.

5.1.4 City boards, commissions, and committees (collectively "Council advisory bodies") provide policy recommendation to Council; they do not set or establish City policy or provide administrative direction to City staff.

5.1.5 City boards, commissions, and committees are advisory in nature and therefore do not represent City's official position on city matters.

5.1.6 Appointments to boards, commissions, and committees are made by a majority vote of the Council. Appointees to Council advisory bodies serve at the pleasure of the City Council.

5.1.7 The terms "board" and "commission" can be used interchangeably. Boards and commissions typically have broader policy and advisory responsibilities than committees which typically have much more focused advisory roles to the Council.

5.2 Board, Commission, and Committee Organization and Conduct

5.2.1 Annually, each board, commission, and committee elects one of their members to serve as the chair (presiding officer) and vice-chair.

5.2.2 Boards, commissions, and committees hold regular and special meetings as required. The conduct of board, commission, and committee meetings are governed by the same rules of policy and procedure as the City Council.

5.2.3 Boards, commissions, and committees should comply with all applicable open meeting and conflict-of-interest laws of the State.

5.2.4 Upon appointment or reappointment, Council advisory body members shall sign a Council Advisory Body Norms and Values statement (**Attachment 2**) affirming they have read and understand this City of Tracy City Council Code of Conduct.

5.3 Board, Commission, and Committee Appointments

5.3.1 Resolution No. 2004-152 establishes the board, commission, and committee appointment/selection process and requirements for residency.

5.3.2 The term of office for each board, commission, or committee member is 4 years, with the exception of the Measure V Residents' Oversight Committee which is 3 years.

5.3.3 The City Clerk provides application forms, maintains a listing of all applications received, and solicits applications when vacancies occur.

5.4 Boards, Commissions, and Committees- Vacancy and Selection/Appointment Processes

5.4.1 Resolution No. 2004-152 outlines procedures for filling a board, commission or committee vacancy and selection and appointment process. The Council appoints all City boards, commissions, and committee members.

5.4.2 Resignations may be submitted at any time to the City Council either directly or through the board, commission, or committee chair. Resignations are effective upon submittal.

5.5 Boards, Commissions, and Committees - Removal

A board member, commissioner, or committee member serves at the pleasure of the Council and may be removed at any time. The removal of a planning commission member must comply with TMC Section in accordance with the applicable procedure.

# CHAPTER 6
## COUNCIL FINANCIAL MATTERS

### 6.1 Compensation

6.1.1 Pursuant to Ordinance No. 1094, the Tracy Mayor and City Council receive a monthly salary. The amount is the salary limit established by the State Legislature for members of the City Council of general law cities having a population range within which the City of Tracy falls, as specified in California Government Code Section 36516(a).

6.1.2 The salary of the Mayor and City Council should be reviewed every two years.

### 6.2 Benefits

6.2.1 The California Government Code provides that Council Members may receive City-funded health, retirement, and other benefits. City-funded medical, dental, and life insurance plan benefits are provided. The Council Policy Providing City Paid Health Insurance for City Treasurer, City Clerk, and City Council, adopted by Resolution No. 2003-391, states that an elected official is not eligible for City-funded health benefits if the official or the official's spouse has employer-paid health insurance.

### 6.3 City Council Budget and Expenses

6.3.1 City Council Resolution No. 2007-075 provides policy guidance regarding Council expenditures for equipment, supplies and communications; travel; local expenses; and eligible reimbursements.

Tracy Municipal Code 2.08.060 - Duties and powers.

The City Manager shall be the administrative head of the government of the City under the direction and control of the Council except as otherwise provided in this chapter. He or she shall be responsible for the efficient administration of all the affairs of the City which are under his or her control. In addition to his or her general powers as administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in the following subsections:

(a) It shall be the duty of the City Manager and he or she shall have the power to see that all laws and ordinances of the City are duly enforced and that all franchises, permits, and privileges granted by the City are faithfully observed.

(b) It shall be the duty of the City Manager and he or she shall have the power to control, order, and give directions to all heads of departments and to subordinate officers and employees of the City through their department heads, to transfer employees from one department to another, and to consolidate or combine offices, positions, departments, or units under his or her direction.

(c) It shall be the duty of the City Manager and he or she shall have the power to appoint, remove and demote any and all officers and employees of the City, except the City Attorney and the City Treasurer.

(d) It shall be the duty of the City Manager and he or she shall have the power to exercise control over all departments of government of the City and over all appointive officers and employees thereof.

(e) It shall be the duty of the City Manager and he or she shall have the power to attend all the meetings of the Council unless excused therefrom by said Council.

(f) It shall be the duty of the City Manager and he or she shall have the power to recommend to the Council for adoption such measures and ordinances as he or she deems necessary or expedient.

(g) It shall be the duty of the City Manager and he or she shall have the power to keep the Council at all times fully advised as to the financial conditions and needs of the City.

(h) It shall be the duty of the City Manager and he or she shall have the power to prepare and submit the proposed annual budget and the proposed annual salary plan to the Council for its approval.

(i) It shall be the duty of the City Manager and he or she shall have the power to purchase all supplies for all of the departments or divisions of said City. No expenditure shall be submitted or recommended to the Council except on report or approval of the City Manager.

(j) It shall be the duty of the City Manager and he or she shall have the power to make investigations into the affairs of the City and any department or division thereof, and any contract or the proper performance of any obligations running to the City.

(k) It shall be the duty of the City Manager and he or she shall have the power to investigate all complaints in relation to matters concerning the administration of the City Government and in regard to the service maintained by public utilities in said City, and to see that all franchises, permits and privileges granted by the City are faithfully performed and observed.

(l) It shall be the duty of the City Manager and he or she shall have the power to exercise general supervision over all public buildings, public parks, and all other public property which are under the control and jurisdiction of the Council.

(m) It shall be the duty of the City Manager to devote full time to the duties of his or her office in the interests of the City.

(n) It shall be the duty of the City Manager and he or she shall have the power to perform such other duties and exercise such other powers as may be delegated to him or her from time to time, by ordinance or resolution or other action of the Council.

(o) The City Manager may attend any and all meetings of any other commissions or boards created by the Council, upon his or her own volition or upon direction of the Council. At any such meetings at which the City Manager attends, he or she shall be heard by such commissions and boards as to all matters upon which he or she wishes to address them.

(p) The City Manager shall at all times conduct himself or herself in accordance with the International City Management Association ("ICMA") Code of Ethics.

(Ord. 1114 § 1 (part), 2008: prior code § 2-2.106)

(Ord. No. 1175, § 1, 10-16-2012)

APPENDIX B

# 2019 - COUNCIL COMMITTEES/COMMISSIONS

| Committee/Commission | Meetings Held | Council Members |
|---|---|---|
| City/Chamber Liaison | Quarterly | Council Member Arriola<br>Council Member Ransom (Alternate) |
| City/Schools Liaison | Every other month | Mayor Rickman<br>Council Member Arriola |
| Investment Review Committee | Quarterly | Council Member Vargas<br>Council Member Ransom |
| South San Joaquin County Fire Authority | Monthly | Mayor Rickman<br>Council Member Ransom<br>Council Member Vargas (Alternate) |
| *Tracy Area Public Facilities Financing Agency | As needed, with an annual meeting in May | Council Member Vargas<br>Mayor Pro Tem Young |
| **City Selection Committee | Annually, additional meetings as needed | Mayor Rickman |
| **Community Development Block Grant Policy Advisory Committee | As needed, in conjunction with the distribution of the CDBG grants. | Council Member Vargas |
| **Council of Governments | Monthly, in Stockton at 4:00 p.m. on the fourth Thursday of the month. | Mayor Rickman<br>Council Member Ransom - Alternate |
| **Duel Vocational Institution, Citizen's Advisory Committee | Alternate Months | Council Member Ransom<br>Mayor Pro Tem Young (Alternate) |
| **San Joaquin County Water Advisory Commission | Monthly | Kul Sharma<br>Stephanie Reyna-Heinstand |
| **San Joaquin Partnership | Monthly, on the fourth Thursday of each month | Council Member Ransom |
| **San Joaquin Regional Rail Commission | Monthly | Mayor Pro Tem Young<br>Council Member Vargas (Alternate) |
| **Solid Waste Management Plan Advisory Task Force | As needed | Mayor Pro Tem Young<br>Don Scholl |
| **Special City Selection Committee, SJVAPCD | As needed | Council Member Vargas<br>Mayor Pro Tem Young (Alternate) |
| **League of California Cities, Central Valley Division Executive Committee | Quarterly | Council Member Ransom<br>Council Member Arriola (Alternate) |
| Joint City/County Criminal Justice Task Force | As needed | Mayor Pro Tem Young<br>Council Member Vargas (Alternate) |

# 2019 - COUNCIL COMMITTEES/COMMISSIONS CONTINUED

| | | |
|---|---|---|
| San Joaquin Council of Government's One Voice – Washington | Annual Delegation: May 5 – 9, 2019 | All Council |
| Altamont Regional Traffic Authority (ARTA) JPA | As needed | Mayor Rickman |
| Tri-Valley- San Joaquin Valley Region Rail Authority | Monthly | Council Member Vargas |
| LAFCo | | No appointment at this time |
| Tracy Chamber Governmental Affairs Committee | | Council Member Vargas |

*Ad Hoc Committee **Outside Agencies ***Third Agency Members

Following is a current list of both standing committees and ad hoc committees. Some of these appointments are City of Tracy appointments to a larger body, while others are City directed activities only.

## I. STANDING COMMITTEES

### A. City/Chamber Liaison Committee

1. Dan Arriola, Council Member
2. Rhodesia Ransom, Council Member (Alternate)
3. City Manager

Meets quarterly, typically on the second Monday of the designated month at 4:00 p.m. at the Chamber to discuss issues of concern to both the City and the Chamber, i.e. Fourth of July activities, Downtown activities, etc.

### B. City/Schools Liaison Committee

1. Robert Rickman, Mayor
2. Dan Arriola, Council Member
3. City Manager
4. Alex Neicu, Interim Police Chief
5. Assistant City Manager
6. Don Scholl, Public Works Director
7. Brian MacDonald, Parks & Recreation Director

Meets every other month with School District officials to discuss issues of mutual concern, i.e. school pedestrian routes, bus routes, facilities, crossing guards, etc.

### C. Investment Review Committee

1. Veronica Vargas, Council Member
2. Rhodesia Ransom, Council Member
3. Ray McCray, Treasurer
4. Finance Director
5. City Manager

Meets on a quarterly basis to address issues involving investment of the City's funds and management of the City's portfolio. Meetings are usually held on the last Monday of the quarter at 5:30 p.m. in Room 109 at City Hall.

### D. South San Joaquin County Fire Authority (SSJCFA)

1. Robert Rickman, Mayor
2. Rhodesia Ransom, Council Member
3. Veronica Vargas, Council Member (Alternate)

The SSJCFA consists of four members - two Council Members appointed annually by the City Council, and two Board Members of the Tracy Rural Fire Protection District appointed annually by the Board. The Board of Directors meets on a monthly basis, and has the responsibility to manage and administer the fire protection services provided to the jurisdictional area of the South San Joaquin County Fire Authority.

## II. AD HOC COMMITTEES

### A. Tracy Area Public Facilities Financing Agency (TAPFFA)

1. Nancy Young, Mayor Pro Tem
2. Veronica Vargas, Council Member
3. Finance Director

TAPFFA was formed as a Joint Power Authority between the City, Tracy School District, and Jefferson School District. The JPA was authorized to issue Mello-Roos bonds primarily to build new schools in the Residential Specific Plan area. With the ultimate build out of the TAPFFA area usually only a brief annual meeting of the TAPFFA Board of Directors is necessary in order to approve the budget and levy the necessary tax for the duration of the bonds. The annual meeting is normally held in May.

## III. THIRD AGENCY MEMBER APPOINTMENTS

### A. City Selection Committee

1. Robert Rickman, Mayor

This committee is composed of the Mayors of the cities in San Joaquin County and addresses issues related to membership and appointments to regional boards, such as LAFCO, Delta Protection Agency, and the San Joaquin Valley Unified Air Pollution Control District, etc.

### B. Community Development Block Grant Policy Advisory Committee

1. Veronica Vargas, Council Member

Meets as needed in conjunction with the distribution of the CDBG grants.

C. **Council of Governments (COG)**

1. Robert Rickman, Mayor
2. Rhodesia Ransom, Council Member (Alternate)

The Council of Governments meets monthly and deals with regional issues, including transportation issues, habitat mitigation, regional rail issues, airport land use matters, etc. Meetings are held in Stockton at 4:00 p.m. on the fourth Thursday of the month.

D. **Deuel Vocational Institution, Citizens Advisory Committee**
Contact: Martina Virrey, Community Partnership Manager (209/830-3891) or martina.virrey@cdcr.ca.gov

1. Rhodesia Ransom, Council Member
2. Nancy Young, Mayor Pro Tem (Alternate)

This subcommittee serves in an advisory capacity to Deuel Vocational Institution, a state prison located to the southeast of Tracy. The subcommittee's primary objective is to promote effective communication between the Institution and the community at large. California Penal Code Section 5056 requires two persons shall be appointed for two year terms from nominations submitted by the local City Council in whose district the prison is located. Individuals nominated may be elected officials or involved residents of the City. Meetings are normally held on the second Thursday of odd numbered months from 9:00 a.m. to 10:00 a.m.

E. **Local Transportation Authority Citizens Advisory Committee**
(COG) Contact: COG (468-3913)

1. Eleassia Davis (Citizen appointed by Mayor)

F. **San Joaquin County Water Advisory Commission**
Contact: Mel Lytle, San Joaquin County Public Works Dept. (468-3000)

1. Kul Sharma, Director of Utilities
2. Stephanie Reyna-Heinstand, Water Resources Coordinator (Alternate)

Appointed by the Board of Supervisors, this Commission acts in an advisory capacity to the San Joaquin County Flood Control and Water Conservation District. Consists of 22 members from the various cities and water agencies in San Joaquin County. Meets monthly.

G. **San Joaquin Partnership**
Contact: Chris Youngsma, (956-3380)

1. Rhodesia Ransom, Council Member

The San Joaquin Partnership is a non-profit, private-public economic development corporation assisting business and industry to locate into San Joaquin County. Meets on the fourth Thursday of each month.

H. **San Joaquin Regional Rail Commission**
Contact: Rail Commission staff (468-3025)

1. Nancy Young, Mayor Pro Tem
2. Veronica Vargas, Council Member (Alternate)

The San Joaquin Regional Rail Commission oversees the development of rail services on a regional basis. Meets monthly.on the first Friday of each month in Stockton. (Appointed by Commission)

I. **Solid Waste Management Plan Advisory Task Force**
Contact: Tom Horton, SJC Public Works Department – (209/468-3066)

1. Nancy Young, Mayor Pro Tem
2. Don Scholl, Public Works Director

This task force is comprised of elected representatives of the governmental agencies responsible for preparing the County Integrated Waste Management Plan. The duties of the task force include: identifying solid waste management issues of County-wide or regional concern; facilitating the development of multi-jurisdictional arrangements for the marketing of recyclable materials; developing goals, policies and procedures consistent with guidelines and regulations adopted by the Department of Resources Recycling and Recovery, and advising the Board of Supervisors on matters pertaining to the County-wide Household Hazardous Waste Program. Meets as needed.

J. **Special City Selection Committee, SJVAPCD**
Contact: Seyed Sadredin, Executive Director – (559/230-6036)
Email: seyed.sadredin3@valleyair.org

1. Veronica Vargas, Council Member
2. Nancy Young, Mayor Pro Tem (Alternate)

The Committee is charged with making appointments of City representatives to the San Joaquin Valley Air Pollution Control District's Governing Board.

**K. League of California Cities, Central Valley Division Executive Committee**

1. Rhodesia Ransom, Council Member
2. Dan Arriola, Council Member (Alternate)

Meets Quarterly

**L. Joint City/County Criminal Justice Task Force**

1. Nancy Young, Mayor Pro Tem
2. Veronica Vargas, Council Member (Alternate)

Meets when needed.

**N. San Joaquin Council of Government's One Voice Trip to Washington**

1. All City Council will be attending in 2019

Annual trip to Washington, D.C. as part of SJCOG delegation.

**O. Tri-Valley-San Joaquin Valley Regional Rail Authority**

1. Veronica Vargas, Council Member

The Tri-Valley-San Joaquin Valley Regional Rail Authority was formed for purposes of planning, developing, and delivering cost-effective and responsive transit connectivity between the Bay Area Rapid Transit District's (BART) rapid transit system and the Altamont Corridor Express commuter rail service in the Tri-Valley region. Meets on second Wednesday of the month. Location rotates. Contact: Michael Tree

**P. Altamont Regional Traffic Authority (ARTA) JPA**

1. Robert Rickman, Mayor

JPA consists of Mayor of Tracy, Mayor of Livermore, and Supervisor from Alameda County BOS District 1. Meets as needed.

## Q. LAFCo (Local Agency Formation Commission)

1. City of Tracy's next rotation will not be until 2025 as Alternate

LAFCo is responsible for coordinating logical and timely changes in local governmental boundaries, including: annexations and detachments of territory; incorporations of cities; formations of special districts; and consolidations, mergers, and dissolutions of districts. LAFCo Commission meets regularly on the 2nd Thursday of each month at 9:00 a.m.

## R. Tracy Chamber Governmental Affairs Committee

1. Veronica Vargas, Council Member

The purpose of the Tracy Chamber Governmental Affairs Committee is to provide information and updates to Chamber membership on issues and legislation affecting businesses. Every month, the Chamber invites businesses to agenda the Governmental Affairs Committee to engage in dialogue about issues affecting the business community, as well as receive updates from local, county, state, and federal representatives. The committee meets on the third Wednesday of every month at 4:00 p.m. at the Chamber of Commerce office.

CITY OF TRACY
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

SUBJECT: : NEPOTISM - *Policy*

DATE ISSUED: : November 1, 1997

SECTION: : N

SECTION 1: PURPOSE

The purpose of this policy is to provide guidance in its employment practices pertaining to the employment of relatives of City employees.

SECTION 2: POLICY STATEMENT

It is the policy of the City of Tracy not to discriminate in its employment and personnel actions with respect to its employees, prospective employees, and applicants on the basis of familial or marital status. No employee, prospective employee, or applicant shall be denied employment or benefits of employment on the basis of his or her familial or marital status. This policy applies to the selection of persons for a training program leading to employment in addition to the above-designated persons. The City of Tracy reserves the right to reasonably regulate for reasons of supervision, safety, security, or morale, the working of spouses and relatives in the same department division or facility.

SECTION 3: APPOINTMENT

The City of Tracy shall prohibit the initial appointment to a position within the City of Tracy of any person or employee who has a marital or familial relationship with the Tracy City Manager, City Attorney or members of the City Council.

SECTION 4: DEFINITIONS

A. Marital status is defined as an individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state for the purpose of this anti-discrimination policy.

B. Spouse is a partner in marriage as defined in California Civil Code Section 4100.

C. Familial status is defined as the state of an individual's specific relatives working for the City of Tracy and shall include spouse, child, brother, sister, parent or parent-in-law.

SECTION 5: INITIAL APPOINTMENT/PROMOTION

The City of Tracy shall prohibit the initial appointment or advancement of any person or employee to any position within any department within the City of Tracy, wherein that person so appointed or advanced would or may in any manner or form, supervise, public safety dispatch, or evaluate; or wherein that person would or may be supervised, dispatched or evaluated by any person within the same department, where, in either event, there exists a marital or familial status factor between said persons. The provisions of this paragraph shall not apply to part time employees who may supervise, dispatch or evaluate other part time employees.

SECTION 6: EMPLOYEE MARRIAGES

In the event two persons employed in the same City department marry each other and would thereby fall within the prohibitions listed in this policy, one of such employees shall be transferred to a comparable vacant position, if any exists, in another division or City department.

If no comparable position is then vacant, the married employees may remain in their respective positions for up to six (6) months. If a conflict still exists at the end of six (6) months, the married employees may designate the one to be terminated, or the employee with less seniority will be terminated.

9. **OUTSIDE EMPLOYMENT AND USE OF CITY PROPERTY**

d. The use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or information obtained through one's City office or employment. No City-owned facilities, equipment or supplies, including autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal or non-City business reasons except upon prior written approval of the City Manager;

RESOLUTION 2004-152

REVISING RESOLUTION NO. 2004-089 ESTABLISHING THE COUNCIL SELECTION PROCESS, AND DEFINING RESIDENCY REQUIREMENTS, FOR APPOINTEE BODIES (GOVERNMENT CODE §54970 ET SEQ. LOCAL APPOINTEE OFFICERS)

WHEREAS, Council Policy D-5 was adopted by Resolution 2002-434 on October 15, 2002, which established a selection process for appointee bodies, and

WHEREAS, A variety of terms are used to define residency for the purposes of eligibility for appointment to various Appointee bodies and a method to verify residency has not been established, and

WHEREAS, Council wishes to define the terms and identify methods by which to verify residency and to incorporate those definitions into the selection process, and

WHEREAS, The definitions established herein shall apply to all boards and commissions to which the City Council appoints members unless the Bylaws of the board or commission specifically define otherwise, and

WHEREAS, Revisions to Resolution No. 2004-089 were considered and approved by the City Council on May 18, 2004 as set forth below.

NOW, THEREFORE, the Tracy City Council hereby resolves as follows:

A. SELECTION PROCESS FOR APPOINTEE BODIES:

1. On or before December 31st of each year, the clerk shall prepare an appointment list of all regular and ongoing boards, commissions and committees that are appointed by the City Council of the City of Tracy. The list shall contain the following information:

   a. A list of all appointee terms which will expire during the next calendar year, with the name of the incumbent appointee, the date of the appointment, the date the term expires and the necessary qualifications for the position.

   b. A list of all boards, commissions and committees whose members serve at the pleasure of the Council and the necessary qualifications of each position.

   c. The list of appointments shall be made available to the public for a reasonable fee that shall not exceed actual cost of production. The Tracy Public Library shall receive a copy of the list.

2. Whenever a vacancy occurs in any board, commission or committee, whether due to expiration of an appointee's term, resignation, death, termination or other causes, a special notice shall be posted in the office of the City Clerk, The Tracy Public Library, the City website, and in other places as directed within twenty (20) days after the vacancy occurs. Final

appointment to the board, commission or committee shall not be made by the City Council for at least ten (10) working days after the posting of the notice in the Clerk's office. If Council finds an emergency exists, the Council may fill the unscheduled vacancy immediately.

3. Appointments shall be made for the remainder of the term created by the vacancy except as follows:

   a. If appointee will fill an un-expired term with six months or less remaining, the appointment shall be deemed to be for the new term.

   b. If the vacancy is filled by an emergency appointment the appointee shall serve only on an acting basis until the final appointment is made pursuant to section 3.

4. The council shall use the following selection process to provide an equal opportunity for appointment to a board, commission or committee:

   a. Mayor (or designee) and a selected Council member will review applications, interview applicants and recommend a candidate for appointment to the board, commission or committee.

   b. If the interview subcommittee determines there are multiple qualified candidates, the subcommittee can recommend the Council establish an eligibility list that can be used to fill vacancies that occur in the following twelve (12) months.

   c. At the interview subcommittee's discretion, the chair (or designee) of the board, committee or commission for which a member will be appointed, can participate in the interviews.

5. In the event there are not two or more applicants than vacancies on any board, commission or committee, the filing deadline may be extended by staff.

6. An individual already serving on a City of Tracy board, committee or commission may not be appointed to serve on an additional City of Tracy board, committee, or commission concurrently.

B. DEFINITION OF RESIDENCY REQUIREMENTS:

1. The following definitions shall be used to determine whether residency requirements are met for boards and commissions to which the Tracy City Council appoints members:

   a. Tracy Planning Area means the geographical area defined in the City of Tracy General Plan and any amendments thereto.

   b. City of Tracy means within the city limits of the City of Tracy.

c. Citizen means a resident of the City of Tracy.

d. Tracy School District means the geographical area served by the Tracy Unified School District.

e. Sphere of Influence shall be the geographical area approved by the Local Agency Formation Commission (LAFCo) of San Joaquin County and any amendments thereto.

2. Residency, as defined above and as set forth in the applicable bylaws for each board or commission, shall be verified annually by the City Clerk. The residency must be verifiable by any of the following means:

a. Voter registration,

b. Current California Driver's License or Identification,

c. Utility bill information (phone, water, cable, etc.),

d. Federal or State tax returns.

3. Members of boards or commissions shall notify the City Clerk in writing within thirty (30) days of any change in residency. If the change in residency results in the board member or commissioner no longer meeting the residency requirements, the member shall tender their resignation to the City Clerk who shall forward it to the City Council.

**********

The foregoing Resolution 2004-152 was passed and adopted by the Tracy City Council on the 18th day of May, 2004, by the following vote:

AYES: COUNCIL MEMBERS: HUFFMAN, IVES, TOLBERT, TUCKER, BILBREY

NOES: COUNCIL MEMBERS: NONE

ABSENT: COUNCIL MEMBERS: NONE

ABSTAIN: COUNCIL MEMBERS: NONE

Mayor

ATTEST:

City Clerk

ca:dec:general:Policy- Select, Appoint, Residency (Reso rev. 5-18-04)

APPENDIX F

ORDINANCE 1094

AN ORDINANCE OF THE CITY OF TRACY
AMENDING ORDINANCE NO. 1064
REGARDING COMPENSATION
FOR COUNCIL MEMBERS AND ELECTED MAYOR

WHEREAS, On June 15, 2004, pursuant to Government Code section 36516(a)(2), the City Council of the City of Tracy adopted Ordinance No. 1064 establishing the Council salary at Five Hundred Thirty Two Dollars ($532.00); and

WHEREAS, Pursuant to Government Code section 36516.1 which permits an elected Mayor to receive additional compensation, the salary for the Mayor was increased by One Hundred Dollars ($100.00) for a total of Six Hundred Thirty Two Dollars ($632.00); and

WHEREAS, Pursuant to Government Code section 36516(a)(4) the City Council may set the City Council salary at up to Six Hundred Dollars ($600.00) per month based on a population between 75,000 and 150,000; and

WHEREAS, As of January 1, 2005, the California Department of Finance determined the total population of the City of Tracy is 78,307; and

WHEREAS, Pursuant to Government Code section 36516(c) any adjustment to compensation may not exceed an amount equal to 5 percent for each calendar year from the operative date of the last adjustment; and

WHEREAS, the last adjustment was operative January 1, 2005, allowing for a maximum total adjustment of ten (10%) percent to the current $532.00 per month salary, to wit Fifty Three Dollars ($53.00).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN AS FOLLOWS:

SECTION 1: The salary of each Member of the City Council of the City of Tracy shall be set at Five Hundred Eighty Five Dollars ($585.00) per month.

SECTION 2: The Mayor of the City of Tracy shall receive additional compensation in the amount of One Hundred Dollars ($100.00) for a total of Six Hundred Eighty Five Dollars ($685.00) per month.

SECTION 3: This Ordinance shall take effect thirty (30) days after its final passage and adoption, however, pursuant to Government Code section 36516.5 this change in compensation shall be effective January 1, 2007, following certification of the results of the November 2006 City Council election.

SECTION 4: This Ordinance shall be published once in the Tracy Press, a newspaper of general circulation, within fifteen (15) days from and after its final passage and adoption.

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

The foregoing Ordinance 1094 was introduced at a regular meeting of the Tracy City Council held on the 4th day of April, 2006, and was finally adopted by said Council at the regular meeting held on the 18th day of April, 2006, by the following vote:

| | | |
|---|---|---|
| AYES: | COUNCIL MEMBERS: | IVES, SUNDBERG, TOLBERT, BILBREY |
| NOES: | COUNCIL MEMBERS: | TUCKER |
| ABSENT: | COUNCIL MEMBERS: | NONE |
| ABSTAIN: | COUNCIL MEMBERS: | NONE |

Mayor

ATTEST:

City Clerk

APPENDIX G

Resolution No. 2007-075

REVISING THE POLICY AND PROCEDURES
FOR TRAVEL AND EXPENSES REIMBURSEMENT
FOR ELECTED AND APPOINTED OFFICIALS

WHEREAS, the City Council finds that it is in the best interests of the City that elected and appointed officials remain informed and trained in activities, developments and professional trends affecting the affairs of the City and that attendance at institutes, hearings, meetings, conferences, or other gatherings is of value to the City and its citizens; and

WHEREAS, appointed officials include Planning Commission, Parks and Recreation Commission members, and other non-employee members of boards, commissions, and committees; and

WHEREAS, the City of Tracy takes its stewardship over the use of its limited public resources seriously; and

WHEREAS, public resources should only be used when there is a substantial benefit to the City; and

WHEREAS, such benefits include:

a. The opportunity to discuss the community's concerns with state and federal officials;
b. Participating in regional, state and national organizations whose activities affect the City;
c. Attending educational seminars designed to improve officials' skill and information levels; and
d. Promoting public service and morale by recognizing such service; and

WHEREAS, a) legislative and other regional, state and federal agency business is frequently conducted over meals; b) sharing a meal with regional, state and federal officials is frequently the best opportunity for a more extensive, focused and uninterrupted communication about the City's policy concerns; and c) each meal expenditure must comply with the limits and reporting requirements of local, state and federal law; and

WHEREAS, this Policy provides guidance to elected and appointed officials on the use and expenditure of City resources, as well as the standards against which those expenditures will be measured; and

WHEREAS, Government Code section 36514.5 allows council members to be reimbursed for actual and necessary expenses incurred in the performance of their official duties; and

WHEREAS, On April 17, 2007, Council revised the policy to include a remedy for non-compliance by Board and Commission members; and

WHEREAS, this Policy satisfies the requirements of Government Code sections 53232.2 and 53233.3.

NOW, THEREFORE, the Tracy City Council does resolve, declare, determine and order as follows:

SECTION 1: Resolution No. 2007-023 is hereby repealed. The Travel and Expenses Reimbursement Policy and Procedures for Elected and Appointed Officials in the City of Tracy, attached hereto as Exhibit "A", is hereby adopted.

SECTION 2: This resolution shall take effect immediately upon adoption.

**********

The foregoing Resolution 2007-075 was passed and adopted by the Tracy City Council on the 17th day of April, 2007, by the following vote:

| | | |
|---|---|---|
| AYES: | COUNCIL MEMBERS: | SUNDBERG, TOLBERT, TUCKER, IVES |
| NOES: | COUNCIL MEMBERS: | NONE |
| ABSENT: | COUNCIL MEMBERS: | ABERCROMBIE |
| ABSTAIN: | COUNCIL MEMBERS: | NONE |

Mayor

ATTEST:

City Clerk

EXHIBIT "A" TO RESOLUTION NO. 2007-075

POLICY FOR REIMBURSEMENT
FOR TRAVEL AND EXPENSES
FOR ELECTED AND APPOINTED OFFICIALS

The City Council of the City of Tracy believes that it is important that elected and appointed officials (including Planning Commissioners, Parks and Recreation Commissioners, and other volunteer members of boards, commissions, and committees) remain informed and trained in issues affecting the affairs of the City and that attendance at institutes, hearings, meetings, conferences, or other gatherings is of value to the City and its citizens. The benefits include:

a. The opportunity to discuss the community's concerns with state and federal officials;
b. Participation in regional, state and national organizations whose activities affect the City;
c. Attending educational seminars improve officials' skill and information levels; and
d. Promoting public service and morale by recognizing such service.

In order to promote these endeavors, to protect public resources and foster public trust in the use of those resources, as well as comply with state law requirements regarding reimbursement of expenses, the City Council hereby sets forth the travel and expense reimbursement policies for the City of Tracy.

All anticipated conferences, conventions and professional meetings shall be budgeted for in the current operating budget. As the trip is being paid for with public funds, it shall be the responsibility of the official undertaking the trip to make every effort to attend the entire conference and/or as many sessions as possible.

All elected officials and appointed officials (including the City Manager and City Attorney) who receive compensation for their service or reimbursement for their expenses shall comply with this Policy. This shall include Planning Commissioners, Parks and Community Services Commissioners, and Cultural Arts Commissioners.

## A. AUTHORIZED EXPENSES

City funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized City business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this Policy are met:

1. Communicating with representatives of regional, state and national government on City adopted policy positions;

2. Attending educational seminars designed to improve officials' skill and information levels;

3. Participating in regional, state and national organizations whose activities affect the city's interests;

4. Recognizing service to the City (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);

5. Attending City events;

6. Implementing a City-approved strategy for attracting or retaining businesses to the City, which will typically involve at least one staff member;

7. Meetings such as those listed above for which a meeting stipend is expressly authorized under this Policy, and

8. City council members may be reimbursed for Internet and/or Cable TV expenses related to, and used in connection with, their official duties.

All other expenditures require prior approval by the City Council.

Expenses for international and out-of-state travel, other than the annual "One-Voice" trip to Washington D.C. coordinated through the San Joaquin County Council of Governments, require prior City Council approval.

For the purposes of this Policy, if the City pays directly for the expenses it is not considered a reimbursement (e.g. conference fees).

## B. EXPENSES NOT ELIGIBLE FOR REIMBURSEMENT

Examples of personal expenses that the City will not reimburse include, but are not limited to:

1. The personal portion of any trip;

2. Political or charitable contributions or events;

3. Family expenses, including partner's expenses, when accompanying official on agency-related business[1], as well as children- or pet-related expenses;

4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage and/or golf related expenses), or other cultural events;

5. Alcohol/personal bar expenses;

6. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and

7. Personal losses incurred while on City business.

8. Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority before the expense is incurred.

---

[1] If trip arrangements are made, as a convenience, for spouse or family members, reimbursement to the City for any advanced expenses must be received by the City prior to the trip.

## C. COMPENSATION FOR ATTENDANCE AT MEETINGS

Compensation for meeting attendance, for elected and appointed members of city boards and commissions, shall be as follows:

1. City Council members' salaries shall be set and enacted as mandated by the California Government Code.
2. Compensation for meeting attendance for members of the Planning Commission, Parks and Community Services Commission, and the Community Cultural Arts Commission, shall be established by resolution of the City Council.

## D. TRANSPORTATION

When attending conferences or meetings that are of such distance that it is more economical to take commercial transportation, if an official proposes to drive his/her car in those cases, commercial air fare will be paid and not automobile mileage. Government and group rates must be used when available.

**1. Airfare.** Airfares that are reasonable and economical shall be eligible for reimbursement.

**2. Automobile.** Automobile mileage is reimbursed at Internal Revenue Service ("IRS") rates in effect at the time of travel. These rates are designed to compensate the driver for gasoline, insurance, maintenance, and other expenses associated with operating the vehicle. This amount does not include bridge and road tolls, which are also reimbursable.

**3. Car Rental.** Rental rates that are reasonable and economical shall be eligible for reimbursement.

**4. Taxis/Shuttles.** Taxis or shuttles fares may be reimbursed, including a fifteen (15%) percent gratuity per fare, when the cost of such fares is equal or less than the cost of car rentals, gasoline and parking combined, or when such transportation is necessary for time-efficiency.

## E. LODGING

Lodging expenses will be reimbursed, or paid for. when travel on official city business reasonably requires an overnight stay. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question if such rates are available at the time of booking. Travelers must request government rates, when available. If the group rate is not available, reimbursement at the IRS rate in effect at the time of travel shall apply (IRS Publication 463).

## F. MEALS

A local expense reimbursement policy identifying a "per diem" of reasonable rates for meals is not adopted. Receipts for expenses for meals shall be required. Actual expenses shall be reimbursed subject to the maximum per diem for the meal as set by the IRS rate in effect at the time of travel. (See Cal. Gov't Code §53232.2(c) and Publication 1542 at www.irs.gov or www.policyworks.gov/perdiem.) The City will not pay for alcohol/personal bar expenses.

## G. MISCELLANEOUS EXPENSES

Officials will be reimbursed for actual telephone, fax, and parking expenses incurred on City business. Telephone bills should identify which calls were made on City business.

## H. CASH ADVANCE POLICY

From time to time, it may be necessary for an official to request a cash advance to cover anticipated expenses while traveling or doing business on the City's behalf. Such request for an advance should be submitted to the City Manager ten (10) working days prior to the need for the advance with the following information:

1. The purpose of the expenditure(s);
2. The benefits of such expenditure to the residents of City;
3. The anticipated amount of the expenditure(s) (for example, hotel rates, meal costs, and transportation expenses); and
4. The dates of the expenditure(s).

Any unused advance must be returned to the City within five (5) working days of the official's return, along with an expense report and receipts documenting how the advance was used. In the event the City Manager is uncertain as to whether a request complies with this Policy, such individual must seek resolution from the City Council.

## I. CREDIT CARD USE POLICY

City does not issue credit cards to individual office holders but does have an agency credit card for selected City expenses. City office holders may use the city's credit card for such purposes as airline tickets and hotel reservations by following the same procedures for cash advances. Receipts documenting expenses incurred on the City credit card and compliance with this Policy must be submitted within five (5) working days of use. Except as allowed under Section B(3), city credit cards may not be used for personal expenses, even if the official subsequently reimburses the City.

## J. EXPENSE REPORT CONTENT AND SUBMISSION DEADLINES

All cash advance expenditures, credit card expenses and expense reimbursement requests must be submitted on an expense report form provided by the city. This form shall include the following advisory:

> "All expenses reported on this form must comply with the city's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the city's policies include loss of reimbursement privileges, restitution, civil and criminal penalties as well as additional income tax liability."

Expense reports must document that the expense in question met the requirements of this Policy. Officials must submit their expense reports within thirty (30) calendar days of an

expense being incurred, accompanied by receipts documenting each expense. Restaurant receipts, in addition to any credit card receipts, are also part of the necessary documentation.

Inability to provide such documentation in a timely fashion may result in the expense being borne by the official.

In the event the official does not attend the trip and non-refundable expenses have been incurred for registration, lodging and/or travel, the non-attending official shall submit a written explanation of the reasons for non-attendance to the City Manager. The City Manager shall determine if the public funds advanced must be reimbursed to the City. Any decision of the City Manager may be appealed to the City Council.

All expenses are subject to verification that they comply with this Policy.

## K. REPORTS TO CITY COUNCIL, BOARD OR COMMISSION

At the next regular City Council (or Board or Commission) meeting, each official shall make a brief report (written or oral) on meetings attended at City expense. If multiple officials attended, a joint report may be made.

## L. COMPLIANCE WITH LAWS; VIOLATION

City officials should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other applicable laws. Use of public resources or falsifying expense reports in violation of this Policy may result in any or all of the following: 1) loss of reimbursement privileges, 2) a demand for restitution to the City, 3) the agency's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to $1,000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.

Failure of an appointed Board or Commission member, after forty-five (45) days written notice, to complete the training required by AB1234 and this Policy shall result in the automatic removal of the member from their Board or Commission position.

# CITY OF TRACY CITY COUNCIL

# NORMS AND VALUES STATEMENT

## PREAMBLE

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Tracy City Council has adopted a Code of Conduct to encourage public confidence in the integrity of local government and its fair and effective operation.

City Council Members shall sign this Norms and Values statement upon assuming office and upon reelection to office as a symbol of each Council Member's continuing commitment to abide by the principles of this code.

1. Act in the Public Interest

   Recognizing that stewardship of the public interest must be their primary concern, Council Members shall work for the common good of the people of Tracy and not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

   Council Members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California constitutions;

the Tracy City Municipal Code; laws pertaining to Council-Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Members

Council Members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of other members of the City Council, boards, commissions, committees, staff, or the public.

4 Respect for Process

Council Member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

Council Members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

Council decisions shall be based upon the merits and substance of the matter at hand.

7. Communication

It is the responsibility of Council Members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council Members.

8. Coordination with City Staff

Appropriate City staff should be involved when Council Members meet with officials from other agencies and jurisdictions to ensure proper staff support as needed and to keep staff informed.

9. Disclosure of Corruption

All City officials shall take an oath upon assuming office, pledging to uphold the constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

In order to assure their independence and impartiality on behalf of the public good, Council Members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

Council Members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

Council Members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council Members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council Members shall not appear on behalf of the private interests of a third-party before the City Council or any board, commission, or committee or proceeding of the City.

15. Advocacy

To the best of their ability, Council Members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

16. Improper Influence

Council Members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council Members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council Members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

19. Implementation

Ethics standards shall be included in the regular orientations for City Council candidates. Council Members entering office shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council Members themselves have the primary responsibility to assure that ethical standards are understood and met and that the public can continue to have **full** confidence in the integrity of City government.

This City Council Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council Members.

I affirm that I have read and understand the City of Tracy City Council Norms and Values statement.

_____ _____

Signature Date

CITY OF TRACY
COUNCIL ADVISORY BODY
NORMS AND VALUES STATEMENT

**PREAMBLE**

The residents and businesses of Tracy are entitled to have fair, ethical, and accountable local government. Such a government requires that public officials, including Council advisory body members:

- Comply with both the letter and the spirit of the laws and policies affecting operations of the government.
- Be independent, impartial, and fair in their judgment and actions.
- Use their public office for the public good, not for personal gain.
- Conduct public deliberations and processes openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, Council advisory body members are expected to adhere to the Code of Conduct adopted by the Tracy City Council to encourage public confidence in the integrity of local government and its fair and effective operation.

Council advisory body members shall sign this Norms and Values statement at the first meeting of the board, commission, or committee upon assuming office and, if applicable, upon reappointment to the board, commission, or committee as a symbol of each Council advisory body member's commitment to abide by the principles of this code during their term.

1. Act in the Public Interest

   Recognizing that stewardship of the public interest must be their primary concern, Council advisory body members shall work for the common good of the people of Tracyand not for any private or personal interest, and they will endeavor to treat all persons, claims, and transactions in a fair and equitable manner.

2. Comply with the Law

   Council advisory body members shall comply with the laws of the nation, the State of California, and the City in the performance of their public duties. These laws include, but are not limited to: the United States and California Constitutions; the Tracy City Municipal Code; laws pertaining to the Council-

Manager form of government, conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and City ordinances and policies.

3. Conduct of Council Advisory Body Members

   Council advisory body members shall refrain from abusive conduct, personal charges, or verbal attacks upon the character or motives of Council Members; other members of the Council advisory body; other boards, commissions, or committees; staff; or the public.

4. Respect for Process

   Council advisory body member duties shall be performed in accordance with the processes and rules of order established by the City Council.

5. Conduct of Public Meetings

   Council advisory body members shall inform themselves of public issues, listen attentively to public discussions before the body, and focus on the business at hand.

6. Decisions Based on Merit

   Council advisory body members shall base their decisions upon the merits and substance of the matter at hand.

7. Communication

   It is the responsibility of Council advisory body members to share substantive information that is relevant to a matter under consideration that they have received from sources outside of the public decision-making process with all other Council advisory body members.

8. Coordination with City Staff

   Appropriate City staff should be involved when Council advisory body members meet with officials from other agencies and jurisdictions to ensure proper staff support, as needed, and to keep staff informed.

9. Disclosure of Corruption

   All City officials shall take an oath upon assuming office, pledging to uphold the Constitution and laws of the City, the State, and the Federal government. As part of this oath, officials commit to disclosing to the appropriate authorities and/or to the City Council any behavior or activity that may qualify as corruption, abuse, fraud, bribery, or other violation of the law.

10. Conflict of Interest

    In order to assure their independence and impartiality on behalf of the public good, Council advisory body members shall not use their official positions to influence government decisions in which they have a financial interest or where they have an organizational responsibility or a personal relationship that would present a conflict of interest under applicable State law.

    In accordance with the law, members shall file written disclosures of their economic interests and if they have a conflict of interest regarding a particular decision, refrain from participating in that decision unless otherwise permitted by law.

11. Gifts and Favors

    Council advisory body members shall not take advantage of services or opportunities for personal gain by virtue of their public office that are not available to the public in general. They shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action or give the appearance of being compromised.

12. Confidential Information

    Council advisory body members shall respect and preserve the confidentiality of information provided to them concerning the confidential matters of the City. They shall neither disclose confidential information without proper legal authorization nor use such information to advance their personal, financial, or private interests.

13. Use of Public Resources

    Public resources not available to the general public (e.g., City staff time, equipment, supplies, or facilities) shall not be used by Council advisory body members for private gain or personal and/or campaign purposes.

14. Representation of Private Interests

In keeping with their role as stewards of the public trust, Council advisory body members shall not appear on behalf of the private interests of a third party before the City Council or any board, commission, or committee, or proceeding of the City.

15. Advocacy

To the best of their ability, Council advisory body members shall represent the official policies and positions of the City of Tracy. When presenting their personal opinions or positions, members shall explicitly state that they represent neither the Council advisory body nor the City.

16. Improper Influence

Council advisory body members shall refrain from using their position to improperly influence the deliberations or decisions of City staff, boards, commissions, or committees.

17. Policy Role of Members

Council advisory body members shall respect and adhere to the Council-Manager structure of Tracy City government as provided in State law and the City Municipal Code.

18. Positive Work Environment

Council advisory body members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees. Attachment 2 to City Council Code of Conduct

19. Implementation

Ethics standards shall be included in the regular orientations for Council advisory body members. Upon entering office and upon reappointment, Council advisory body members shall sign a statement affirming they read and understood the City of Tracy's City Council Code of Conduct.

20. Compliance and Enforcement

Council advisory body members themselves have the responsibility to assure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of City government.

Attachment 2 to City Council
Code of Conduct

The Council Advisory Body Norms and Values statement shall be considered to be a summary of the longer City Council Code of Conduct document. The City Council Code of Conduct document shall be considered to be the definitive document relating to ethical conduct by Tracy City Council advisory body members.

I affirm that I have read and understand the City of Tracy City Council Code of Conduct.

_____ _____

Signature Date

RESOLUTION 2020-_____

AMENDING THE CITY COUNCIL CODE OF CONDUCT TO ADDRESS COUNCIL COMMUNITY MESSAGING ACTIVITIES

WHEREAS, It is a best practice for City Councils to develop governance policies around roles and responsibilities, and norms and behaviors to ensure a shared understanding of the City Manager's role and Council's expectations to optimize working relationships, and

WHEREAS, On October 15, 2019, the Tracy City Council adopted a Code of Conduct that outlines the norms and values the City Council holds itself to as City elected officials, and

WHEREAS, On July 7, 2020, Council directed staff to amend the Code of Conduct to include the following language regarding community messaging activities as a new Section 2.1.6:

> "2.1.6: Based on available resources as determined by the City Manager, unless directed by the City Council, the Council as a body may participate in public relations activities regarding issues or topics pertaining to City business or that affect the community at-large. This may include, but is not limited to the dissemination of information via press release, video, social media, and/or other means of communication."

NOW, THEREFORE, BE IT RESOLVED, That the City Council of the City of Tracy hereby amends the Code of Conduct to address Council community messaging as described herein.

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

The foregoing Resolution 2020-_____ was passed and adopted by the Tracy City Council on the 21st day of July, 2020, by the following vote:

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

_____
MAYOR

ATTEST:

_____
CITY CLERK