TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, June 18, 2024, 7:00 P.M.

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

THIS MEETING WILL BE OPEN TO THE PUBLIC FOR IN-PERSON AND REMOTE PARTICIPATION PURSUANT TO GOVERNMENT CODE SECTION 54953(e).

MEMBERS OF THE PUBLIC MAY PARTICIPATE REMOTELY IN THE MEETING VIA THE FOLLOWING METHOD:

As always, the public may view the City Council meetings live on the City of Tracy's website at CityofTracy.org or on Comcast Channel 26/AT&T U-verse Channel 99. To view from the City's website, open the "Government" menu at the top of the City's homepage and select "City Council Meeting Videos" under the "City Council" section.

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**:*

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:*
  - **Online by visiting** https://cityoftracyevents.webex.com and using the following **Event Number: 2551 675 0362** and **Event Password**: TracyCC
  - ***If you would like to participate in the public comment anonymously***, you may submit your comment 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.
  - Join by phone by dialing +1-408-418-9388, enter 25516750362 #8722922# Press *3 to raise the hand icon to speak on an item.

- *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:*
    1) *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.*
    2) *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.*
  - *Comments received on Webex outside of the comment periods outlined above will not be included in the record.*

Date Posted: June 13, 2024

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.cityoftracy.org*

Date Posted: June 13, 2024

CALL TO ORDER

ACTIONS, BY MOTION, OF CITY COUNCIL PURSUANT TO AB 2449, IF ANY

ROLL CALL AND DECLARATION OF CONFLICTS

PLEDGE OF ALLEGIANCE

INVOCATION

PRESENTATIONS

ORDER OF BUSINESS

1. CONSENT CALENDAR

1.A Adoption of June 4, 2024 Special Meeting, Regular Meeting, and Closed Session Meeting Minutes.

1.B Staff recommends that the City Council adopt a Resolution: 1) approving a Subdivision Improvement Agreement between the City and Lennar Homes of California, LLC for the construction of the 1st Neighborhood Park in Tracy Hills Phase 2 in Tract 4136; and 2) authorizing the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

1.C Staff recommends that City Council adopt a Resolution: 1) approving a Master Professional Services Agreement with Associated Right of Way Services, Inc. to provide On-Call Right-of-Way Acquisition Services for the Engineering Division, for an initial term of three years, for a not to exceed amount of $300,000 per fiscal year, and 2) authorizing the City Manager to administratively extend the length of the contract for up to two additional years.

1.D Staff recommends that the City Council 1) declare certain vehicles and equipment as surplus pursuant to Tracy Municipal Code Section 2.20.310, and 2) approve the sale of such surplus property at public auction to the highest bidder.

1.E Staff recommends that City Council adopt a Resolution approving a General Services Agreement with Karbonous, Inc., a California Corporation, for Tertiary Filters Media Replenishment at the City's Wastewater Treatment Plant in a not-to-exceed amount of $217,052 for a one-year term.

1.F Staff recommends that the City Council adopt a Resolution (1) accepting as complete the construction of the Ammonia Storage- Feed Systems at the Park & Ride Well No. 6 and the Ball Park Well No. 7, Capital Improvement Project 75162, completed by TNT Industrial Contractors, Inc. of Sacramento, California, (2) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the bonds and retention payment.

1.G Staff recommends that the City Council adopt a resolution (1) accepting the public improvements for Tracy Hills Phase 1B Park hereinafter known as Gene Birk Park, constructed by Lennar Homes of California, LLC, and assuming all future operations and maintenance, (2) authorizing the City Clerk to file the Notice of Completion for Gene Birk Park with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the Gene Birk Park improvement security in accordance with the terms of the Subdivision Improvement Agreement.

1.H Staff recommends that the City Council adopt the following resolutions: 1) approving an On-Call Professional Services List, for Land Surveying Services, for five years, and 2) authorizing the A) execution of a Master Professional Services Agreement with David W. Enke, L.S., to provide Land Surveying Services for an initial term of three years for a not to exceed amount of $300,000 per fiscal year, and B) City Manager to administratively extend the length of the contract for up to two years.

1.I Staff recommends that City Council adopt the following Resolutions: 1) approving an On-Call Professional Services List, for Material Testing Services, for five years, and 2) authorizing the A) execution of a Master Professional Services Agreements with BSK Associates, and Terracon Consultants, Inc., each, to provide Material Testing Services for an initial term of three years for a not-to-exceed annual amount of $200,000, and B) City Manager to administratively extend the length of the contract for up to two years.

1.J Staff recommends that City Council adopt Resolutions: 1) approving an on-call list, for three years, of qualified consultants for environmental review services and planning assistance; and 2) authorizing the execution of six separate Master Professional Service Agreements with such qualified consultants, each for an initial term of three years and a not-to-exceed annual amount of $500,000.

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

3.A. Staff recommends that the City Council conduct a public hearing and upon conclusion adopt a resolution ordering the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for Fiscal Year 2024/2025.

3.B Staff recommends that the City Council discuss options to amend Chapter 6.04 (Business Taxes) of the Tracy Municipal Code and direct staff to return with a future ordinance 1) amending Chapter 6.04 to provide a temporary fifty percent rate reduction and industry specific amendments, or 2) through some other method of amending Chapter 6.04.

4. ITEMS FROM THE AUDIENCE

5. STAFF ITEMS

6. COUNCIL ITEMS

7. ADJOURNMENT

Posting Date: June 13, 2024

The City of Tracy is in compliance with the Americans with Disabilities Act and will make all reasonable accommodations for the disabled to participate in employment, programs and facilities. Persons requiring assistance or auxiliary aids in order to participate, should contact the City Manager's Office at (209) 831-6000 at least 24 hours prior to the meeting.

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 4, 2024, 5:00 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy, CA.

1. Mayor Young called the meeting to order at 5:02 p.m.

2. There were no actions taken pursuant to AB 2449.

3. Roll call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present. City Council had no declarations of conflicts.

4. Items from the audience – None

5. DISCUSSION ITEMS

5.A. Staff recommends that the City Council discuss options to amend Chapter 6.04 (Business Taxes) of the Tracy Municipal Code and direct staff to return with a future ordinance 1) amending Chapter 6.04 to provide a temporary, phased rate reduction or 2) through some other method of amending Chapter 6.04.

Sara Cowell, Finance Director provided the staff report and responded to questions.

Council questions and comments followed.

Tas Harvey from Harvey Auto Group spoke about the business tax increase impacts to car dealers and provided a handout with comparisons from various car dealers in different cities and stated he was shocked with the new bill. Every person who buys a car will pay $35 each car for the business license tax to the City of Tracy. Mr. Harvey recommended Option B, need to cap the total amount. Looking forward to Tracy being pro-business and urged Council to come up with a reasonable number.

A resident spoke about creating a more friendly business environment, positive impacts of businesses paying the same tax and recommended looking at other options, instead of more taxes. Spoke about the City leaving money on the table in 2023 by not building 500 homes that would have boosted the City's economy. Look at development and growth.

Robert Tanner referred to the previous meeting agenda item handouts stating one indicated 25 industries that paid $50 to $100,000 plus and asked what those groups were. The official Measure B ballot states additional $3.2 million annually until ended by the voters. Does that mean this Council cannot change any of that law until it goes to the voters. Heard some businesses want to leave town where cheaper to work and sell the item with the business tax.

David Mariam, Plant Manager for Leprino Foods stated he appreciates Council recognizing that the tax bill did not go off as planned and they recognize as a

large business they need to pay their fair share. Spoke about breakdown in the $1 million and $5 million gross receipts. Went from $2,000 to hundreds of thousands of dollars, is not fair and equitable, will disincentivize existing businesses from growing and hurt attracting businesses and revenue.

Robin Lopez, Taylor Farms stated the business tax drastically changed for businesses that do $50 million or $100 million. The phased approach gets us right back to where we started in four years and gives companies four years to move because we are going to be back where we started. Larger businesses should pay more than smaller businesses. Need to get the numbers right.

Alice English stated the initiative was bad and is not business friendly, need something fair for all the businesses. Failed to put in Lodi, Ripon, Escalon in comparisons. Tracy is already losing businesses to Lathrop. A cap is needed. Some businesses have contributed so much to our community. Ms. English spoke about cannabis already having an agreement about tax and community benefit. The City is not attracting but trapping businesses here.

Finance Committee Members, Council Member Arriola, and Council Member Bedolla and staff explained the Finance Committee recommendations to Council.

Council questions and comments followed.

Karin Schnaider, Assistant City Manager responded to Council questions.

Council Member Evans supported what the Chamber is offering but remove cannabis section.

Mayor Pro Tem Davis asked for the following to be in the record: Measure B was a tax initiative and was recommended to the Council by the Finance Committee in July 2022 and that committee was comprised of Council Member Arriola and Mayor Pro Tem Vargas. What they sold to the Council was the modernization of an existing tax structure under a new initiative. They guaranteed it would ensure greater equity among the business community causing larger businesses to pay their fair share and reducing taxes for smaller businesses. The Council trusted the information presented by Council Member Arriola and Mayor Pro Tem Vargas as representatives of the Finance Committee tasked with doing the deep dive budget analysis with staff and consultants to bring back a recommendation that the Council could support. Based on what was presented to this Council by the Finance Committee we supported the recommendation. Had we known the information was floored and the broader business community was not a part of the taxation conversation with the Finance Committee and had we known that the business communities would be unfairly taxed by the initiative she would not have supported the Finance Committee's recommendation. Over taxation may not have been expected but she trusted the data. Council is here to fix it. Supported the Chambers recommendation of Option 2 which includes the $50 flat fee for everyone under $500,000 and the $50,000 fee cap.

Council Member Arriola responded he objected to some characterization. The original Finance Committee in bringing this item to Council was told $3.4 million impact; was data received by consultants. We were all working from the same

data. Disingenuous to imply any change on reliance upon data from the previous Finance Committee to the Council. The data we relied upon was not accurate.

Council comments continued.

Midori Lichtwardt, City Manager recommended not to have a cap and in terms of the fee raising the exemption and look at changing the percentages of how each of the different industries are being charged and some of the carve outs Council talked about. Would not recommend creating a cap for the business tax amount.

Bijal Patel, City Attorney responded to questions.

Council Member Bedolla stated he is ok with staff's recommendation but consider Finance Committee's recommendation regarding gas sale.

Mayor Pro Tem Davis was not in support of staff's recommendation.

Council Member Arriola was not in support of staff's recommendation.

Council Member Evans did not support staff's recommendation. Could support Option 2.

Mayor Young did not support staff's recommendation.

Council Member Arriola made a motion to direct staff to return to Council with a future ordinance making an amendment for a $50 flat rate for gas sales, car dealerships and cannabis. Mayor Young stated she was in support of a flat rate for those three and wanted to address manufacturing also.

Council Member Arriola amended his motion for a flat rate for gas sales, car dealerships, cannabis and raw materials production. Mayor Young seconded the motion.

Council comments continued.

Council Member Arriola withdrew his previous motion and made a new motion to direct staff to return to Council with a future ordinance with an amendment for a $50 flat rate for gas sales. Council Member Bedolla seconded the motion.

Mayor Pro Tem Davis stated under what the Chamber has recommended she would be in support of $50 flat rate for the gas which is separate than retail.

Council Member Arriola and Mayor Young supported a $50 flat tax for car dealerships.

Mr. Harvey stated $50 is low. $2,500 across the board is about average. All dealers would be in agreement with that.

Council Member Bedolla motioned to direct staff to return with a future ordinance amending Chapter 6.04 to provide a 50% reduction for one year and the gas

sales proposal and have staff come back with a process to amend Chapter 6.04 for the 25/26 fiscal year.

Mayor Young stated she would be in support if we can do all the industry specifics with the 50% for the year and come back after that.

Council Member Bedolla said he would support two of the industry specific.

Council Member Bedolla asked if there would be support for 50% reduction for one year and gas station proposal.

Council Member Arriola requested when the item returns to have a chart that would have each reduction level with the impacts to the City if also implementing a cap for each of those levels.

Mayor Young asked for it to be broken down with some options too so Council can grasp what it looks like, give us a fuller picture.

Ms. Lichtwardt clarified if Council is not able to come to consensus today, will hear item 3.B on the regular agenda and whatever results are, presuming a moratorium and do a couple of workshops so we can fully flush out the options Council wants to see. If not able to make calculations on the fly, give Council our findings with the iterations that Council is wanting to see. Foresee potentially two special meetings with workshops.

Council comments continued.

Ms. Cowell confirmed she has directed HDL to not send out the business tax billing until we knew what the decision will be.

Ms. Patel clarified the moratorium would still be relevant because Council would not have adopted a code amendment until June 18th through a 4/5th vote on the urgency ordinance amending the code. Because there is a gap between tonight and the 18th there is something to figure out. There are still scheduled meetings outside of the workshop. If Council is able to reach consensus, staff can bring the urgency ordinance on June 18th whether it is 50% or anything else. Need some breathing room to hold those bills back and not implement the current code.

Council discussion continued.

Motion was made by Council Member Evans for staff to come back with multiple working sessions for Council to try to establish code in the next 45 days. Council Member Arriola seconded the motion.

Council Member Bedolla asked Council Member Evans if he would accept a friendly amendment for 50% today for one year and the industry specific proposals. Council Member Evans responded not yet.

ACTION: Council Member Evans motioned for staff to arrange up to two working sessions as needed and bring back this item at a later date within 45 days. Council Member Arriola seconded the motion. Roll call found all in favor; passed and so ordered.

6. Council Items and Comments – Council Member Bedolla provided some information regarding infrastructure in Tracy Hills stating currently there is a target date of mid-summer this year where Lammers Road would be connected to Tracy Hills Drive and also connected to the entrance of the second phase of Tracy Hills. Tracy Hills could potentially have three paved entries and exits for residents to drive on.

7. Adjournment – Time: 7:26 p.m.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to adjourn. Roll call found all in favor; passed and so ordered.

The above agenda was posted at the Tracy City Hall on May 30, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

_____
Mayor

ATTEST:

_____
City Clerk

TRACY CITY COUNCIL REGULAR MEETING MINUTES

June 4, 2024, 7:00 p.m.

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

Mayor Young called the meeting to order at 7:40 p.m.

There were no actions taken pursuant to AB 2449.

Roll call found Council Members Arriola, Bedolla, Evans, Mayor Pro Tem Davis and Mayor Young present. City Council had no declarations of conflict.

Mayor Young led the Pledge of Allegiance.

Pastor Doug Diestler, Tracy Mission City Church offered the invocation.

Midori Lichtwardt, City Manager presented Employee of the Month award for June to Wayne Bogart, Public Works.

Mayor Young presented Certificates of Recognition to Earth Day Challenge winners.

Mayor Young presented a Certificate of Appointment to Measure V Residents' Oversight Committee Member Glen Tony Rock Maria Joseph.

Mayor Young presented Juneteenth Day Proclamation to Gwendolyn White and Olinga Alexander, Tracy African American Association.

1. CONSENT CALENDAR – Following the removal of Consent Items 1.B by Mayor Young, 1.G by Alice English and 1.E by Robert Tanner motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to adopt the Consent Calendar. Roll call found all in favor; passed and so ordered.

1.A. Adoption of May 21, 2024 Special Meeting and Regular Meeting Minutes. – **Minutes were approved**.

1.C Staff recommends that the City Council adopt a Resolution (1) authorizing designation of the City Manager and Assistant City Manager to execute future documents required by the California Governor's Office of Emergency Services for state and federal disaster funding assistance for a period of three (3) years; (2) authorizing the Assistant City Manager to execute the Project Assurances For Federal Assistance. – **Resolution 2024-079** authorized the designation of the City Manager and Assistant City Manager to execute future documents required by the California Governor's Office of Emergency Services for state and federal disaster funding assistance.

1.D. Adopt a Resolution: 1) Calling and giving notice to hold a General Municipal Election on Tuesday, November 5, 2024, for the election of certain officers pursuant to the California Elections Code; 2) Requesting the Board of

Supervisors of San Joaquin County to consolidate the City of Tracy's General Municipal Election with the Statewide General Election to be held on November 5, 2024; 3) Requesting the services of the San Joaquin County Registrar of Voters (Registrar); and 4) Authorizing the payment of costs for such services, for the amount of actual costs incurred. – **Resolution 2024-080** called and gave notice to hold a General Municipal Election on Tuesday, November 5, 2024 2) Requested the Board of Supervisors of San Joaquin County to consolidate the City of Tracy's General Municipal Election with the Statewide General Election 3) Requested the services of the San Joaquin County Registrar of Voters; and 4) authorized the payment of costs for such services.

1.F. Staff recommends that the City Council adopt a Resolution (1) accepting Landscape Improvements for Retention Basin, Tracy Hills Phase 1A, Tract 3878, (2) authorizing the City Engineer to accept a One Year Warranty bond, and (3) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office. – **Resolution 2024-081** accepted Landscape Improvements for Retention Basin, Tracy Hills Phase 1A, Tracy 3878.

1.H. Staff recommends that the City Council adopt a Resolution authorizing the following amendments to the City's Classification and Compensation Plan and Master Salary Schedule: (1) Add the classifications of Communications Coordinator, Deputy Police Chief, Planning Manager, and Senior Animal Services Officer. – **Resolution 2024-082** authorized the amendments to the City's Classification and Compensation Plan and Master Salary Schedule.

1.I. Staff recommends that the City Council adopt a Resolution accepting a list of proposed projects for Fiscal Year 2024-2025 funded by California Senate Bill 1: The Road Repair and Accountability Act of 2017. – **Resolution 2024-083** accepted a list of proposed projects for Fiscal Year 2024-2025 funded by California Senate Bill 1: The Road Repair and Accountability Act of 2017.

1.J. Staff recommends that the City Council adopt a Resolution approving an On-Call Professional Services list, for five years, for Roadway and Utility Design Services consisting of: Bellecci & Associate Inc., BKF Engineers, CSG Consultants, Inc., Kimley-Horn and Associates, Inc., Kjeldsen, Sinnock, and Neudeck, Inc., Mark Thomas & Company, Inc., Mott MacDonald Group, Inc., SNG & Associates, Inc., and West Yost & Associates, Inc. – **Resolution 2024-084** approved an On-Call Professional Services list, for five years, for Roadway and Utility Design Services.

1.K. Staff recommends that the City Council adopt a Resolution awarding a construction contract to O.C. Jones & Sons, Inc. of Berkeley, California, in the amount of $42,587,374 for the Interstate 580/Patterson Pass Road/International Parkway Diverging Diamond Interchange Improvements Project (CIP 73147), Federal Project Number ACSB1IM-580-1 (982)E. – **Resolution 2024-085** awarded a construction contract to O.C. Jones & Sons, Inc. for the Interstate 580/Patterson Pass Road/International Parkway Diverging Diamond Interchange Improvements (CIP 73147).

1.B. Staff recommends that the City Council accept the Tracy Homelessness Advisory Committee's informational update on efforts pertaining to the Tracy Homelessness Strategic Plan.

Mayor Young pulled the item for discussion.

Virginia Carney, Homeless Services Manager provided the staff report and responded to questions.

Kimberly Murdaugh, Interim Assistant City Manager responded to questions.

Council comments followed.

Robert Tanner asked about bus usage at the shelter. If usage goes down he recommended the bus service be stopped for the shelter.

Ubbo Coty commended Mayor Pro Tem Davis for her work on the Homeless Shelter. Mr. Coty spoke about mailers going out, it is a disgrace, ugly and nasty politics and would be appropriate if other Council Members denounce it as well.

A speaker commended all the work being done and asked if there are temporary places for homeless during extreme weather.

Alice English stated there is a lot of misinformation and shared concerns regarding Council Member Arriola saying he was following Constitutional Law. Mayor Pro Tem Davis has been fighting for policy to clear the parks and help the homeless. The Constitutional Law has not changed. Will continue to support the two Council Members who have been supporting policies in Tracy. Don't be misled by flyers. They are planting the seed.

Council Member Arriola objected to some of the comments. He is a lawyer and denounced any of the information from the flyers and commended this Tracy Homelessness Advisory Committee (THAC).

Council comments followed.

ACTION: Motion was made by Mayor Young and seconded by Council Member Bedolla to accept the Tracy Homelessness Advisory Committee's informational update on efforts pertaining to the Tracy Homelessness Strategic Plan. Roll call found all in favor; passed and so ordered.

1.E. Staff Recommends that the Tracy City Council receive an informational report regarding the City of Tracy Police Department's update on Crime Statistics of Homicide, Rape, Robbery, and Aggravated Assaults. –

Robert Tanner pulled the item to ask why crime has gone up and asked about the report timeframe.

Sekou Millington, Police Chief and Luis Mejia, Police Captain responded to Mr. Tanner's questions.

Council comments followed.

ACTION: Motion was made by Council Member Bedolla and seconded by Council Member Evans to receive the informational report regarding the City of Tracy Police Department's update on Crime Statistics of Homicide, Rape, Robbery, and Aggravated Assaults. Roll call found all in favor; passed and so ordered.

1.G. Staff recommends that the City Council adopt a Resolution approving Amendment No. 2 to the Professional Services Agreement with MTM Transit, LLC to (1) extend the contract term for one additional year, from July 1, 2024 through June 30, 2025, and (2) Increase the total contract price for the one-year extension from $4,216,849.87 to $4,511,558.21 resulting from an increase in base wages.

Alice English pulled the item and spoke about the comparison of salaries between cities. Be more transparent and bring numbers from San Joaquin County.

There were no comments from City Council.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to adopt **Resolution 2024-086** approving Amendment No. 2 to the Professional Services Agreement with MTM Transit, LLC to (1) Extend the contract term for one additional year from July 1, 2024 through June 30, 2025, and (2) increase the total contract price for the one year extension from $4,216,849.87 to $4,511,588.21 resulting from an increase in base wages. Roll call found all in favor; passed and so ordered.

2. ITEMS FROM THE AUDIENCE – Manki addressed Council about Tracy Hills Phase 1 and the Corral fire which exposed many shortcomings in disaster plan. Need a fire abatement wall around community. It is not there because of aesthetics. Asked Council to stop further development until wall is built. Lammers exit is Phase 2 and not allow residents to go to City side and many years in the making. Asking for multiple exits toward the City.

Mayor Young left the dais.

A resident stated the builder has been disingenuous. They are building another way out but it is toward what was on fire. The exit they need should be east towards the City. Lammers does extend but it is gated off. There is one way out of Tracy Hills no matter what they are telling you. Also, there are problems with Tracy Hills Blvd. It is a trap. It is poorly designed and cannot believe it was allowed to be built this way.

A resident said there was no evacuation order. There is one single lane and if by chance Police Department issued an evacuation order at night, the single lane would be blocked. The school is coming and if anything happens the whole community will rush to that single exit. The emergency road does not work. Need a proper road and asked Council to help them, it will be a big safety concern. Make it a priority. Make an exit on I-580 and on Lammers.

A resident stated we had a nightmare on Sunday and need Council's help to get a wall. Builder does not cooperate. Council needs to stop the development until we get security measures in place. Google shows there is an exit at Lammers. Couldn't exit Lammers Road exit.

Stephanie Peno stated in homes and restaurants two points of exit are required but a community with thousands of residents has only one way in and out. Asking for a useable, paved and unlocked open road for residents to have as a second exit. Asking for a fire abatement barrier along I-580 not only from fires but also vehicles ploughing into the community. Corral fire is a huge wake up call. If wind blowing in different direction, it would have been a disastrous result. Need dates, details, actions and decisions and results. Concerned elected officials are putting needs of developers first.

Mahameed commended the Fire Department and the City who risked their lives. Need prevention. Community is poorly designed. Behind Tracy Hills Road is a mud road behind development. Start working on it and provide a passage. Should be a paved road. Spoke about Lammers exit towards I-205, make exit to I-580. Give at least three exits, and have a wall.

A resident stated in case of an evacuation order were told Police are coming and going to open private entrance. But it should be open already, no one should come and open it. Asking for safe exit and safety measures.

A resident asked Council to visit the Tracy Hills Community and get an idea of how close the fire was to the community. Evacuation plans are not good and need to be revised and asked the plan to be made as soon as possible. Issue is one exit and one entry.

A resident stated evacuation plans are needed. Emergency exit does not have any signs. Have to rely on GPS. In those scenarios residents are in a panic. Asking to put a sign directing where they can go in those situations.

A resident expressed concern regarding Corral fire and gave heartful thanks to the Fire Departments for helping save everyone. There is only one entry/exit in Tracy Hills. What is the contingency plan. New homes also being built and also going to be built on the other side of I-580. Daily commute is a big challenge and requested City conduct a drill and open emergency exit. Have meeting with Tracy Hills resident on the recent fire. Time to open South Lammers exit.

Vijay shared appreciation for the Fire Department.

A resident submitted a petition to Council regarding a disaster recovery plan and development of Tracy Hills Phase 1.

Niki Sharma stated the importance of asking for the north Lammers exit is because one side is freeway, and the other side is aqueduct. There is no way out. Tracy Hills Blvd is single lane. Need that exit.

Kristina stated she previously spoke about the Animal Shelter and someone was supposed to contact her but did not. Shared concerns regarding stray dogs and the need for more kennels at the Animal Shelter. Started Tracy Dog Girls Rescue. Need to help the shelter expand.

A resident who fosters dogs shared concerns regarding stray dogs and the shelter and open kennels. No kennels should be open. Telling people to drop the dog back where they found it is unacceptable. City needs to step it up. Build houses, people come and so do pets so who will take accountability.

Robert Tanner stated a flyer received in the mail does not tell whole story. It shows that Council Member Bedolla and Mayor Pro Tem Davis awarded the $2.6 million to the Salvation Army but it was approved by all five Council Members. Had bad temporary housing taken away and cost over $600,000 at that time. It is not just these two people on this flyer, was done by a 5-0 vote. The address on the flyer reminded him of the same address that the people from the Aquatics Park are using. Think they are going after progress with Homeless Shelter and MGRC.

Ubbo Koty stated he saw some Council Members doing their part during the fire. Did not see Mr. Arriola at fire site or Facebook. San Joaquin County Supervisor was on Facebook and helping with updates. Kudos to those that helped out.

Council Member Arriola objected to the characterization; he posted many updates on social media.

Jose Lopez on behalf of Tracy Hills Community shared his real-life experience of grandmother falling and not getting help. Took ambulance over 20 minutes to get to her. Today received a call from a good friend who lost his family and home in Maui fire. If something would have gone wrong would be stuck like him with no home and dealing with insurances and unable to find a job. Now we are aware what happens when everything goes right but who will be there when everything goes wrong.

A resident requested Council to come and see Tracy Hills. Will try and organize a meeting this week so they can view the community. Rhere was absolute chaos in the community. Needs to be better communication. People are self-evacuating with no evacuation order.

Alice English thanked the Tracy residents that are here. The miscommunication was incorrect with the news. Instead of saying the hills of Tracy, they said Tracy Hills. Shared her concerns regarding the Corral fire. Power went out. There wa a line of traffic all the way from Tracy Hills past Valpico. Ms. English reminded the Mayor that funds from Measure B and Measure V are not for her personal use. Not here to pay for her to go to galas.

Fire Chief Bradley shared information regarding the Corral fire and evacuations at Tracy Hills. Never an imminent threat to Tracy Hills. Understand messaging was a challenge and are working on that.

Ajith Subramoni echoed all the comments. Have had a really harrowing time to see the hills burning. Some of us evacuated much early because it would have been a lot of chaos. Approach road is one way. Need an abatement wall to save them from fires. Need another exit to I-580. Appreciate Fire Department and all of the other public service during this crisis. Shared concerns regarding roads and evacuation problems and being a safe environment.

Jonathan Hirschberg stated his family saw a wall of fire from their window and were panicking but heard from a friend it was a controlled burn. We should have had better

communication in general with residents. Said there were no evacuation orders for the area. Agreed with putting up a wall to prevent fire from reaching the community. Have to account for winds and security is needed. There has been a four way stop sign at Valpico and Corral Hollow for a long time. Need a wider road and traffic light.

Anonymous shared concerns regarding Tracy Hills area and requested the City to not accept this community until they build a wall.

A resident stated the people who evacuated early got stuck on Valpico and Corral Hollow. Really need that Lammers Road open and shared her concerns regarding the traffic.

Cynthia Reis thanked City Council for always being engaging and interactive when there is anything like the Corral fire and publishing on social media. Council Member Arriola posted a minimum of eight postings regarding evacuation orders and updates.

A resident of Tracy Hills shared his concerns regarding the Corral fire, evacuation plan and the single entry and exit point. There is no fire prevention.

Mayor Young returned to the dais at 9:34 p.m.

3. REGULAR AGENDA

3.A. Staff recommends that the City Council receive the annual informational report of the Tracy Arts Commission for the 2023 calendar year and projected goals for calendar year 2024.

William Wilson, Cultural Arts Supervisor provided the staff report and introduced Cynthia Reis, Tracy Arts Commission Chair who provided the presentation.

Council questions and comments followed.

There was no public comment.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Bedolla to receive the annual informational report of the Tracy Arts Commission. Roll call found all in favor; passed and so ordered.

3.B Adopt an urgency ordinance making findings and establishing a temporary moratorium pursuant to Government Code 65858 on the processing of business tax under Chapter 6.04 of the Tracy Municipal Code, to take effect immediately upon adoption.

Council Member Arriola and Karin Schnaider, Assistant City Manager provided the staff report.

There was no public comment.

Council questions and comments followed.

ACTION: Motion was made by Council Member Arriola and seconded by Mayor Pro Tem Davis to adopt **Urgency Ordinance 1345** making findings and establishing a temporary moratorium pursuant to Government Code 65858 on the processing of business tax under Chapter 6.04 of the Tracy Municipal Code, to take effect immediately upon adoption. Roll call found all in favor; passed and so ordered.

3.C. Staff requests that the City Council discuss and provide direction to staff whether to return to a future meeting with: 1) an ordinance amending Chapter 2.04.060 of the Tracy Municipal Code modifying the monthly salary of the Mayor and/or Councilmembers; and 2) a resolution amending the monthly salary of the City Treasurer.

Karin Schnaider, Assistant City Manager provided the staff report.

Robert Tanner stated Council is overpaid and do not care about seniors, hiked the water and sewer rates. $1,900 is too much. $22,000 plus a year – no to increase. Increase it only an extra $100.00. People want to see what Council can do. It has been recommended only $100 difference between Mayor and City Council.

Alice English echoed the same sentiment as Mr. Tanner. Remembers when the water rates were increased and shared concerns about various price and rate increases. Someone that truly cares will not run for money. This is a choice you all made. Be good stewards to our City.

Council questions and comments followed.

ACTION: Motion was made by Council Member Bedolla and seconded by Mayor Young to return with a first reading that amends the Tracy Municipal Code (TMC 2.04.060) to reflect the Mayor's monthly salary as $2,100 compensation and City Councilmembers' as $1,900 monthly salary compensation; and 2) return with a resolution that reflects an amendment to the City of Tracy's Elected City Treasurer monthly salary compensation to $1,900. Roll call found Council Members Arriola, Bedolla and Mayor Young in favor; passed and so ordered. Council Member Evans and Mayor Pro Tem Davis opposed.

Mayor Young left the meeting at 10:38 p.m.

4. ITEMS FROM THE AUDIENCE - Siva Yerruboyina spoke about Tracy Hills community needing a sound wall which may help to control the fires. Work with City and Developer to get the wall and asked for Council's help.

Venky stated he had discussions with the Fire Chief about communication and evacuation. Need preventative measures and better communication. Need a sound wall. Shared concerns about traffic on the freeway. It is tumbleweed season and could catch fire and go to other side. Figure out way to build the wall. Invited Council to come to Tracy Hills to see for themselves.

Alice English spoke about a sound wall being confused for a fire wall. Had there been an evacuation Police would have done traffic control. There is a procedure they follow. They are having a meeting with residents in Tracy Hills to talk about emergency steps.

5. STAFF ITEMS – Midori Lichtwardt, City Manager thanked the Fire Authority, Police Department, County OES, multi jurisdictions that crossed over for the Corral fire. It was fortunate not a single life was lost. We are sorry for the house that was not able to be saved but we had minor injuries. Tremendous effort pulling together resources to help keep the community safe. It revealed some vulnerabilities we will have an opportunity to address. There is a meeting being scheduled on Friday with staff. Had an internal meeting on Monday.

6. COUNCIL ITEMS – Council Member Evans shared praise for first responders – South San Joaquin County Fire Authority (SSJCFA) did amazing job, Tracy Police Department had enormous part in ensuring people were safe, other first responder agencies that teamed with our folks. There were risks taken by all, were injuries and did lose a house. There were adverse effects to this fire. Thanked everyone that rose to the challenge.

   Council Member Evans thanked those that came from Tracy Hills tonight. Need more people coming into chambers and voicing opinions and making sure to be heard. Got to get in front of your elected officials. Council is here to help the community and public safety is number one. Tried to distribute updates as best he could. Saw a lot of positive stories and hope we get through the lessons learned.

   Council Member Arriola thanked SSJCFA, Cal Fire, Alameda County Fire Department, Police Department, County OES, local staff. It is amazing to see the work done together. It was a scary situation, and we were all being contacted by constituents. Thank you to our Tracy Hills residents and look forward to addressing Tracy Hills residents and our vulnerabilities.

   Council Member Bedolla made a correction to a comment he made at the prior special meeting: By the end of mid-summer Tracy Hills Phase 1 and Phase 2 will have a total of two paved entrances and exits. The connection of South Lammers Road to Tracy Hills is a few years out.

   Council Member Bedolla shared he is a second generation that has built homes in Tracy Hills. His father built the models. He visited Tracy Hills yesterday and saw the communications that came out from Seabreeze Management from their HOA, and pointed out there are three possible ways to exit the community and one is Tracy Hills Drive and the emergency vehicle access route that has to be opened by emergency services as well as the maintenance access route. There may be portions of the maintenance access route that is accessible to vehicles specifically where there are construction trailers finishing up active construction sites. There are metal poles that are secured by padlocks that the residents don't have the code for that are preventing access to the maintenance route. There are legitimate concerns. Since 2020 he brought up there is only one paved road. Emergency showed cracks in the system. Should have a general discussion and evaluation of the concerns and options brought up by the public including a notification system. Want staff to be aware the residents are not going to go away about this and should have the discussion sooner or later. Council Member Evans supported the request.

   Council Member Bedolla echoed the comments his colleagues said and City management. There were private property owners who provide their land to Cal Fire for staging effort.

Council Member Bedolla asked about the comments made about Animal Shelter and stated there should be discussion regarding concerns about shelter expansion and a conversation about transitioning to no kill shelter.

Council Member Bedolla clarified he is seeking a general discussion that there is one paved entrance at Tracy Hills at this time, the concerns brought up today about the fire and including the notification system. The OES transposed something that caused a lot of chaos.

Council Member Evans asked how we ensure public safety at Tracy Hills. If there is direction needed that Council could give, he is 100% behind this. Whatever the forum is fine.

Midori Lichtwardt, City Manager asked if a debrief of actions with an opportunity for Council to provide direction to staff for future action.

Council Member Evans stated it would be a conversation of staff, elected officials, developers, first responders.

Ms. Lichtwardt responded the first conversations will be with staff and staff from County OES that had jurisdiction over the communication and bring something back to Council. It may be a two-part step, separating out policy and operations. Council wants to be able to weigh in.

Council Member Evans responded if there is funding needed, Council can weigh in.

Mayor Pro Tem Davis commended SSJCFA and everyone who was a part of OES team, Tracy Police Department, Cal Fire, Office of Emergency Services staff, community members who volunteered, and Council Members who shared messaging about what we were receiving from OES. Want to assure the community that safety is our number one priority, and we will do everything in our power to keep our residents safe. Extended gratitude to SSJCFA in particular because they worked long hours to contain the fire and not reach Tracy Hills. Mayor Pro Tem Davis stated she went to Larch Community Center, the evacuation site. Commended Fire Chief. Recognized vulnerabilities but have confidence that our OES is handling it. No lives lost. Heart goes out to family who lost home.

Mayor Pro Tem Davis echoed sentiments of Council Member Bedolla regarding animals. Hoping something can be done to give support to those that are passionate in helping animals on the street and requested a second to talk about real solutions for unhoused animals and fosters. Council Member Bedolla supported the request.

Karin Schnaider, Assistant City Manager confirmed that a report from the Police Department will be coming to Council on July 2, 2024.

Mayor Pro Tem Davis stated she was proud of Tracy Hills residents who came in and spoke up and expressed their needs. Will accept invitation to visit the Tracy Hills community.

Mayor Pro Tem Davis announced the following: Attended the 100 year anniversary of Festa Holy Ghost. Congratulated them on beautiful parade and celebration. There was a family fun day at the Tracy Airport. The aerobatics contest enjoyed its 3rd year here. The

guys from IAC38 were kind enough to invite the City to Byron for their annual dinner and recognized the City for holding that contest.

Mayor Pro Tem Davis stated one of our nonprofits in conjunction with Corporal Charles Palmer II Troop support was recognized as nonprofit of the year for the 13th District by Carlos Villapudua. Congratulated them for that recognition. Do a lot of great work for the military.

7. ADJOURNMENT – Time: 11:10 p.m.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Evans to adjourn. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent.

The above agenda was posted at the Tracy City Hall on May 30, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

_____
Mayor

ATTEST:

_____
City Clerk

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

June 4, 2024, 9:00 p.m.

Tracy City Hall, 333 Civic Center Plaza, Tracy, CA.

1. Mayor Pro Tem Davis called the meeting to order at 11:25 p.m.

2. There were no actions taken pursuant to AB 2449.

3. Roll call found Council Members Arriola, Bedolla, Evans, and Mayor Pro Tem Davis present. City Council had no declarations of conflicts. Mayor Young absent.

   Council Member Bedolla, Council Member Evans and Mayor Pro Tem Davis announced separately that per legal Counsel they would be recusing themselves from a part of the closed session discussion for agenda item 5.A due to a conflict of interest.

4. Items from the audience – None

5. DISCUSSION ITEMS

   5.A. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
   (Paragraph (1) of subdivision (d) of Gov. Code Section 54956.9)

   Name of Case: *Steve Nicolaou v. City of Tracy, et al*, San Joaquin County Superior Court, Case No. STK-CV-UWH-2024-5436

   There was no public comment on item 5.A.

   Bijal Patel, City Attorney stated due to a conflict of interest she would be recusing herself from this matter. The City Attorney's office has engaged Jenica Maldonado and Sarah Lustig from Atkinson, Andelson Loya, Rudd & Romo to serve as special Counsel for City Council.

ACTION: Motion was made by Council Member Arriola and seconded by Council Member Bedolla to recess to closed session. Roll call found Council Members Arriola, Bedolla, Evans and Mayor Pro Tem Davis in favor; passed and so ordered. Mayor Young absent. Time: 11:29 p.m.

6. Reconvene to Open Session – Time: 12:29 a.m. Wednesday, June 5, 2024.

7. Report of Final Action, if Any – There was no report of final action.

8. Council Items and Comments - None

9. Adjournment – Time: 12:30 a.m. Wednesday, June 5, 2024.

ACTION: Motion was made by Council Member Bedolla and seconded by Council Member Arriola to adjourn. Roll call found all in favor; passed and so ordered. Mayor Young absent.

The above agenda was posted at the Tracy City Hall on May 30, 2024. The above are action minutes. A recording is available at the office of the City Clerk.

_____
Mayor

ATTEST:

_____
City Clerk

June 18, 2024

Agenda Item 1.B

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution: 1) approving a Subdivision Improvement Agreement between the City and Lennar Homes of California, LLC for the construction of the 1st Neighborhood Park in Tracy Hills Phase 2 in Tract 4136; and 2) authorizing the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

EXECUTIVE SUMMARY

This Agenda Item seeks approval of a Subdivision Improvement Agreement (SIA), for the construction of the 1st Neighborhood Park which will be located in Tract 4136 – Village 10 by Lennar Homes of California, LLC (Developer). Construction of this park is a condition of approval of the vesting tentative subdivision map (VTSM) that was approved by the City Council for Phase 2 of Tracy Hills by Resolution No. 2021-154. Under the condition of approval, Developer does not need to commence construction of this park until prior to the issuance of the 125th building permit. However, the park plans have been approved by the City Engineer and the Developer is ready to commence construction now. The Final Maps and related agreements for Phase 2 will be presented at a later date for future action by the City Council.

The Developer has executed the SIA and posted the required security to guarantee the completion of the park improvements as required by the Conditions of Approval of the VTSM. The SIA is attached hereto as Attachment B.

BACKGROUND AND LEGISLATIVE HISTORY

On April 5, 2016, the City Council approved the Tracy Hills Specific Plan Final Subsequent Environmental Impact Report (Resolution No. 2016-062), the Tracy Hills Specific Plan (Resolution No. 2016-063), and the Development Agreement executed between the City of Tracy and the Developers of the Tracy Hills Project (Ordinance 1213), among other related actions.

On November 10, 2020, the City Council approved the First Amendment to the Development Agreement (Ordinance 1300).

Developer is the builder of the residential development project commonly known as Tracy Hills Phase 2 (Project). On October 19, 2021, the City Council approved a General Plan Amendment, under Application No. GPA21-0001 (Resolution No. 2021-153), the Tracy Hills Specific Plan Amendment for Tracy Hills Phase 2, under Application No. SPA21-0003 (Ordinance 1319), and the Vesting Tentative Subdivision Map for Tracy Hills Phase 2, Tract 4057, under Application No. TSM20-0003 (Resolution No. 2021-154). Attachment A shows the location of the VTSM.

The Developer has divided the Project into two phases as depicted in Attachment A, with Tracy Hills Phase 2A generally encompassing the eastern portion of the Project, and Tracy Hills Phase 2B generally encompassing the western portion. Phase 2A consists of seven tracts containing ten villages totaling 726 residential lots and numerous other non-residential parcels

on approximately 242.2 acres. Phase 2B consists of seven tracts containing eight villages totaling 744 residential lots and other numerous non-residential parcels on approximately 242.0 acres.

Tracy Hills Phase 2A includes the following seven tracts and 10 villages: Tract 4132 - Tracy Hills Villages 1 & 4, Tract 4133 - Tracy Hills Villages 2 & 3, Tract 4134 - Tracy Hills Villages 5 & 6, Tract 4135 - Tracy Hills Village 7, Tract 4136 - Tracy Hills Village 8, Tract 4137 - Tracy Hills Village 9, and Tract 4138 - Tracy Hills Village 10. Phase 2A also includes two neighborhood parks, 26 open space parcels, a future school site, a retention basin, and a recreation center. Attachment A also shows the locations of the tracts and villages in Tracy Hills Phase 2A.

The VTSM, which consists of both Phase 2A and 2B, proposes 1,470 single-family residential lots, public park parcels, open space parcels, retention basin parcels, school parcels, Homeowners Association (HOA) recreation center parcel, and numerous other parcels. The non-residential parcels are to be owned and maintained by the HOA, Developer, or City. The Project occupies approximately 1,143 acres within the Tracy Hills Specific Plan Area, located south of the I-580 Freeway and west of Corral Hollow Road. Attachment A shows the location of the VTSM.

This approval will further guarantee that the Developer is complying with the VTSM Conditions of Approval. In addition, the following agreements have been approved to date in connection with the Developer's efforts to satisfy the Conditions of Approval for the VTSM:

1) IIA for Tract 4132 - Tracy Hills Villages 1 and 4, approved by City Manager (as authorized by COVID Urgency Ordinance No. 1285) on August 15, 2022.
2) IIA for Tract 4133 - Tracy Hills Villages 2 and 3, approved by City Manager (as authorized by COVID Urgency Ordinance No. 1285) on August 15, 2022.
3) IIA for Tract 4134 - Tracy Hills Villages 5 and 6, approved by City Council on October 4, 2022, by Resolution No. 2022-145.
4) IIA for Tract 4135 - Tracy Hills Village 7, approved by City Council on December 6, 2022, by Resolution No. 2022-188.
5) IIA for Tract 4136 - Tracy Hills Village 8, approved by City Council on October 4, 2022, by Resolution No. 2022-189.
6) IIA for Tract 4137 - Tracy Hills Village 9, approved by City Council on October 4, 2022, by Resolution No. 2022-190.
7) IIA for Tract 4138 - Tracy Hills Village 10, approved by City Council on October 4, 2022, by Resolution No. 2022-191.
8) IIA for Sierra View Drive and Lammers Road Improvements, approved by City Council on October 18, 2022, by Resolution No. 2022-151.
9) IIA for Corral Hollow Road Widening Improvements at Tracy Hills Phase 2 Frontage, approved by City Council on February 7, 2023, by Resolution No. 2023-024.
10) OIA for Tracy Hills Phase 2A - Zone 5/6 Water Tanks and Booster Pump Station Building Improvements, approved by City Council on October 4, 2022, by Resolution No. 2022-144.
11) OIA for Tracy Hills Zone 5 Water Line Improvements, approved by City Council on October 18, 2022, by Resolution No. 2022-153.
12) OIA for Lammers Road Undercrossing Improvements at Interstate 580, approved by City Council on July 5, 2023, by Resolution No. 2023-126.
13) OIA for Tracy Hills Phase 2 Zone 5 Water Main Improvements, approved on August 15, 2023, by Resolution No. 2023-156.

ANALYSIS

The Conditions of Approval for the VTSM require the Developer to design and construct on-site public improvements such as a neighborhood park.

The SIA, included as Attachment B, allows for the construction of the 1st Neighborhood Park. As noted above, the Conditions of Approval require that Developer commence construction of 1st Neighborhood Park prior to the issuance of the 125th building permit in Tracy Hills Phase 2. However, the plans have been approved by the City Engineer and the Developer is ready to commence construction now.

FISCAL IMPACT

There will be no fiscal impact associated with this Agenda Item. Developer has paid for the cost of plan checking, engineering inspection and processing of the park plans.

Developer will receive neighborhood park development impact fee credits for all 582 single-family residential lots, based upon a neighborhood park area of 5.76 acres.

PUBLIC OUTREACH / INTEREST

All public outreach for the Tracy Hills Phase 2 development (notifications, public hearings, etc.) was conducted at the Planning Commission and City Council hearings that were held in October 2021 to consider the General Plan Amendment, Specific Plan Amendment, and Vesting Tentative Subdivision Map for the overall Project.

COORDINATION

This Staff Report was prepared by the Engineering Division. The park design and programming were coordinated with the Parks and Recreation Department.

CEQA DETERMINATION

An Environmental Impact Report (EIR) for the Tracy Hills Specific Plan was certified by the City Council on April 5, 2016 (SCH#2013102053). An Addendum to the EIR was prepared in accordance with the provisions of California Environmental Act (CEQA) Guidelines Section 15162 and 15164 to address the General Plan Amendment, Specific Plan Amendment, and Vesting Tentative Subdivision Map for the Tracy Hills Phase 2 Project. All the in-tract and off-site improvements associated with this Agenda Item are within the scope of the development evaluated by the EIR and the Addendum to the EIR and therefore no further environmental review is required for the Project.

STRATEGIC PLAN

This item is consistent with the City Council's approved Economic Development Strategy to ensure the construction of physical infrastructure necessary for development.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution: 1) approving the Subdivision

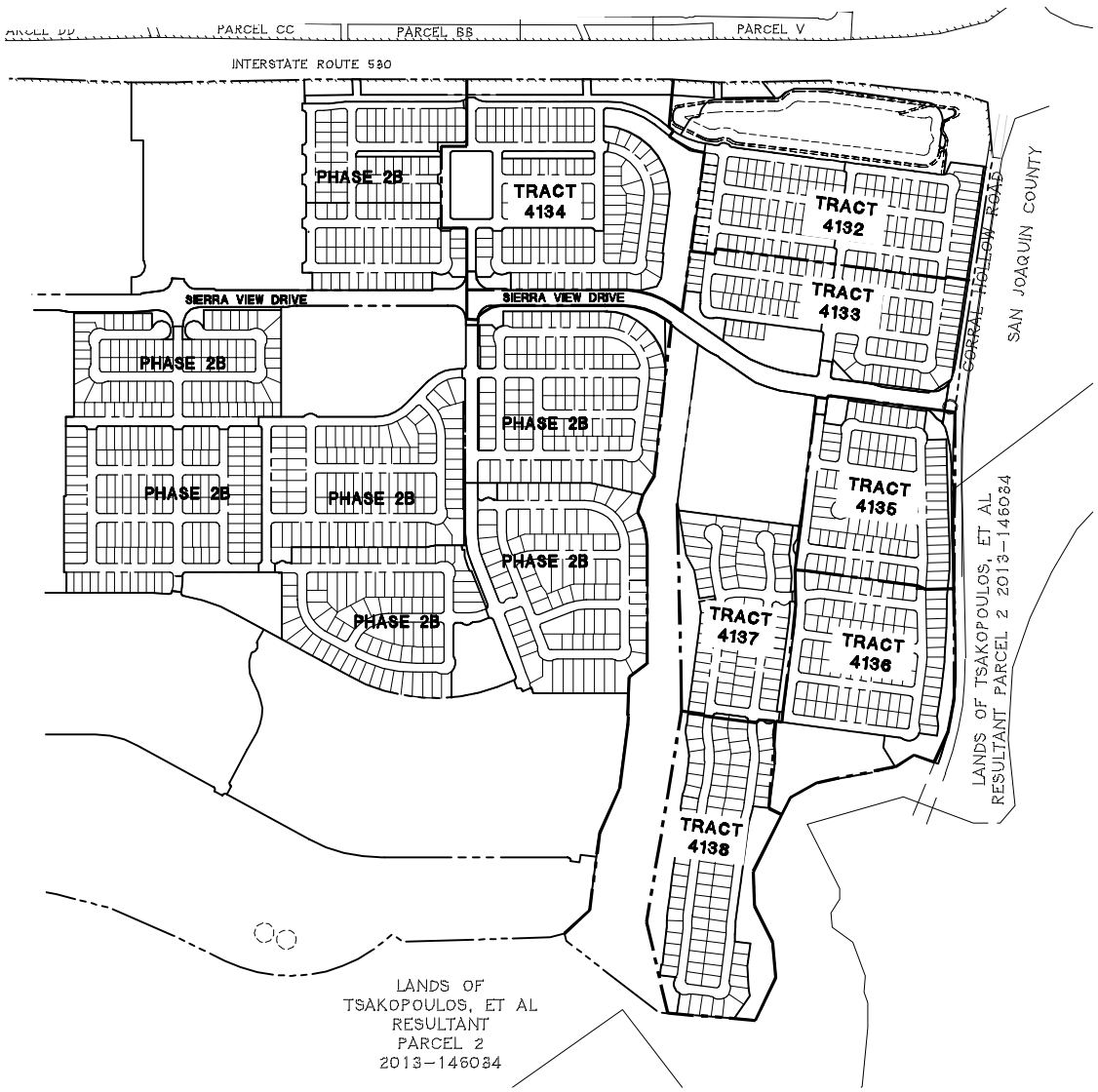
Improvement Agreement between the City and Lennar Homes of California, LLC for the construction of the 1st Neighborhood Park in Tracy Hills Phase 2 in Tract 4136; and 2) authorizing the City Clerk to file the Agreement with the Office of the San Joaquin County Recorder.

Prepared by: Al Gali, Associate Engineer

Reviewed by: Koosun Kim, PE, City Engineer
Sara Cowell, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS
Attachment A - Location of the VTSM
Attachment B - Subdivision Improvement Agreement for the 1st Neighborhood Park in Tracy Hills Phase 2 – Tract 4136



ATTACHEMENT A - LOCATION MAP & PHASING EXHIBIT

RJA
RUGGERI-JENSEN-AZAR
ENGINEERS ▪ PLANNERS ▪ SURVEYORS
4690 CHABOT DRIVE, SUITE 200 PLEASANTON, CA 94588
PHONE: (925) 227-9100 FAX: (925) 227-9300

DATE: APRIL 24, 2024 JOB NO: 20106BVTM

CITY OF TRACY SUBDIVISION IMPROVEMENT AGREEMENT – 1ST NEIGHBORHOOD PARK OF PHASE 2

Recording Requested By:

City of Tracy
Development Services
333 Civic Center Plaza
Tracy, CA 95376

And When Recorded Mail To:
City of Tracy
Office of the City Clerk
333 Civic Center Plaza
Tracy, CA 95376
Attn: Adrianne Richardson
(No recording fee under Government Code Section 27383)

SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

CITY OF TRACY
SUBDIVISION IMPROVEMENT AGREEMENT – 1ST NEIGHBORHOOD PARK OF PHASE 2

This **CITY OF TRACY SUBDIVISION IMPROVEMENT AGREEMENT – 1ST NEIGHBORHOOD PARK OF PHASE 2** ("**Agreement**") is made and entered into by and between the **CITY OF TRACY** a municipal corporation ("**City**"), and **LENNAR HOMES OF CALIFORNIA, LLC,** a California limited liability company (hereinafter "**Developer**"). The effective date of this Agreement shall be the date on which City executes the Agreement ("**Effective Date**").

Recitals

A. The Developer is the developer of the real property generally bordered by the Interstate 580 to the north and Corral Hollow Road to the east (hereinafter "**Property**") and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. AG EHC II (LEN) CA 2, L.P., is a landbank holding fee title to the property described in Exhibit A until such time as it is conveyed to Developer and consents to the recordation of this Agreement as evidenced by its signature below.

B. On April 5, 2016, the Tracy City Council ("**City Council**") adopted the Tracy Hills Specific Plan and approved related land use entitlements, including but not limited to that certain Development Agreement by and Among the City of Tracy, The Tracy Hills Project Owner, LLC, and Tracy Phase I, LLC, ("**DA**") under Application Number TSM16-001 and approved by Resolution 2016-065.

C. October 19, 2021, the City Council adopted the Tracy Hills Specific Plan Amendment for Tracy Hills Phase 2 and approved various related land use entitlements, including that certain Vesting Tentative Subdivision Map for Tracy Hills Phase 2, Tract 4057, processed under Application No. TSM20-0003 and approved by Resolution No. 2021-154 ("**Tentative Map**"). The Tentative Map includes 1,470 single-family residential lots, in addition to park parcels, HOA recreation area parcel, retention basin parcels, school parcels, and numerous other parcels to be owned and maintained by Homeowners Association, Developer or City on approximately 1,143 acres within the Tracy Hills Specific Plan Area, located south of the I-580 Freeway and west of Corral Hollow Road. The Tentative Map is on file with the City Clerk and is incorporated herein by this reference.

D. The approval of the Tentative Map by the City Council was subject to specified conditions of approval attached to Resolution No. 2021-154 as Exhibit 1 and are on file with the City Engineer ("**Conditions of Approval**").

E. The Developer has applied to the City for approval of a Final Map based upon the approved Tentative Map to, among other things, enable the Developer to finance public improvements required to serve the development set forth in the approved Tracy Hills Specific Plan (the "**Project**").

F. In accordance with the Subdivision Map Act (California Government Code sections 66410, et seq) and the Subdivision Ordinance (Tracy Municipal Code, Title 12), Developer has submitted to the City the Final Subdivision Map for Tract 4136 - Tracy Hills Village 8 (the "**Final Subdivision Map**"), consisting of 89 single-family residential lots, and other parcels to be owned by a Homeowner's Association, all to be located on approximately 21.02 acres within the boundaries of the Project. **Exhibit "B"** shows the overall Project area and the location of the Final Subdivision Map for Tract 4136 - Tracy Hills Village 7. Developer is required to execute this Agreement as a condition of the City's approval of the Final Subdivision Map.

G. Specifically, pursuant to Tentative Map Condition B.10.a, the first neighborhood park within Phase 2 ("**1st Park**" also known as Lot M on the Tentative Map and Lot A on the Final Subdivision Map) is required to be commenced by the issuance of the 125th building permit in Phase 2 (the "**Trigger Event**"). 1st Park will be the first park constructed in Phase 2 and is referred to in the current plan set as Neighborhood Park 1. Condition C.2.9.2 requires Developer and City enter into an agreement to be recorded against the property stipulating this time prior to recordation of the first Final Map in Phase 2, and this Agreement is intended to satisfy that requirement.

H. In accordance with the Conditions of Approval, Developer has prepared and the City Engineer has approved certain improvement plans and specifications (which incorporate portions of the City's Standard Specifications), which describe the 1st Park improvements that are required to be constructed on the 1st Park site and

are incorporated herein by reference. The approved plans are entitled "Tracy Hills Phase 2 – 1st Neighborhood Park, Tracy, California" and include: 32 sheets of landscape construction plans prepared by Urban Arena; 12 sheets of playground plans prepared by Harris and Sloan; 13 sheets of electrical plans prepared by Harris and Sloan; and 6 sheets of civil improvement plans prepared by Ruggeri, Jensen, Azar. The Plans and Specifications are on file with the City Engineer under Tracking No. ENG23-0036.

I. Because the required improvements have not been completed, Developer is required to execute this Agreement as authorized by Government Code section 66462.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Scope of Work; Location**. Developer shall perform, or cause to be performed, the Work in the manner and as described in the Plans and Specifications, to the satisfaction of the City Engineer pursuant to this Agreement. The Work shall be performed, and all materials and labor shall be provided, at Developer's sole expense. No material change shall be made to the scope of Work unless authorized in writing by the City Engineer. Developer may submit a written request to the City Engineer for a change in the Work, as required by Tracy Municipal Code Section 12.36.060(f). To the extent applicable, all of the Work shall be performed by Developer in accordance with the requirements of the State prevailing wage laws.

   Developer shall perform all Work at the locations and grades per the Plans and Specifications. Developer has (a) acquired any necessary easement or right-of-way or (b) entered into a separate Agreement with the City to acquire the necessary easement or right-of-way at Developer's expense.

2. **Time Of Performance**. Time is of the essence in the performance of the Work. The timing requirements set forth herein shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Developer 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.

   2.1 **Commencement of Work**. Work shall begin within 60 days after after the Effective Date of this Agreement. "Effective Date" is defined as the date on which the City executes the Agreement. No later than fifteen (15) days prior to the commencement of Work, Developer shall provide written notice to the City Engineer of the date on which Developer intends to commence Work. Developer shall not commence Work until after the notice required by this section is properly provided, and Developer shall not commence Work prior to the date specified in the written notice.

2.2 **Schedule of Work**. Concurrently with the written notice of commencement of Work, Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect Developer's prosecution of the Work.

2.3 **Completion of Work**. Developer shall complete all Work no later than three hundred and sixty-five (365) calendar days after Developer's submittal of its notice of commencement of Work pursuant to Section 2.1 above. If the Work is not completed by this date, City Engineer may grant an extension of time if (a) Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) Developer pays all processing fees for such time extension.

3. **Withholding of Building Permits for Failure to Commence Construction**. In the event Developer has not commenced construction of 1st Park prior to the issuance of the 125th building permit that allows construction of a dwelling, not including plumbing only permits, the City may withhold issuance of any additional building permits over the 125th building permit unless and until Developer commences construction of 1st Park.

4. **Improvement Security**. Concurrently with the execution of this Agreement, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code Sections 66499 *et seq.*) and Tracy Municipal Code Section 12.36.080, in the following amount:

4.1 **Faithful Performance** security in the amount of **$3,158,206.00** to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) under government code section 66499.1, 66499.4 and 66499.9.

4.2 **Labor and Material** security in the amount of **$3,158,206.00** in accordance with the cost estimates approved by City to secure payment by the Subdivider to laborers and materialmen (until the date on which claims are required to be made by laborers and materialmen).

4.3 **Warranty** security in the amount of **$315,821.00** in accordance with the cost estimates approved by City to secure faithful performance of this Agreement (from the date on which the City Council accepts the Work as complete until one year thereafter).

5. **Indemnification**. Developer shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors,

or employees, except when caused by the active negligence or willful misconduct of City, until such time as all of the following have occurred: (1) the City Council accepts all of the improvements comprising the Work, (2) the City becomes responsible for the maintenance, operation and repair of all of the improvements comprising the Work, and (3) the one year warranty period set forth in Section 15, below, has expired, at which time the indemnification obligations under this Section 5 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, Developer's obligations under this Section 5 are in addition to all other Developer's obligations set forth in this Agreement and shall not affect Developer's warranty obligations set forth in Section 15, below.

6. **Insurance**. Concurrently with the execution of this Agreement by Developer, and before beginning any Work, Developer shall furnish evidence to the City that the following insurance requirements have been satisfied. The insurance requirements contained in this Section 6 are material terms of this Agreement. These insurance coverage requirements below may be satisfied by umbrella or excess liability policies upon City approval.

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

6.2 **Commercial General Liability** (with coverage at least as broad as ISO form CG 00 01) coverage shall be maintained in an amount not less than $4,000,000 per occurrence and $8,000,000 general aggregate for general liability, bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse, and underground property hazards.

6.3 **Professional Contracts**. Developer shall cause its design professionals to maintain professional liability insurance that insures against professional errors and omissions that may be made in performing services related to the Work to be rendered in connection with this Agreement, in the minimum amount of one million dollars ($1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Developer agrees to cause its design professionals to maintain continuous coverage through a period no less than three years after completion of the services required pursuant to this Agreement.

6.4 **Automobile Liability** (with coverage at least as broad as ISO form 00 01 07 97 for "any auto" including "hired autos" and "non-owned autos") coverage shall be maintained in an amount not less than $2,000,000 per accident for bodily injury and property damage.

6.4.1 If Developer has no employees, or does not own automobiles, then "hired autos" and "non-owned autos" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

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

6.6 **Endorsements.** Developer shall obtain endorsements to the commercial general liability and automobile policies with the following provisions:

6.6.1 The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an Additional Insured on Developer's Commercial General Liability policy utilizing endorsement form CG 20 10 (or its equivalent) for ongoing operations and CG 20 37 (or its equivalent) for products/completed operations.

6.6.2 For any claims related to this Agreement, Developer's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of Developer's insurance and shall not contribute with it.

6.6.3 Developer shall require its contractors and subcontractors providing services required by this Agreement (e.g. general contractors, design professionals) to name it and the City as Additional Insureds.

6.7 **Notice of Cancellation**. Developer shall notify the City of any cancellation of either the commercial general liability policy or automobile insurance policy before the expiration date. For the purpose of this notice requirement, any material change in the policy before the expiration shall be considered a cancellation. Developer shall immediately obtain a replacement policy.

6.8 **Authorized Insurers**. All insurance companies providing coverage to Developer 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, with an AM Best rating of at least A-VII.

6.9 **Insurance Certificate**. Developer shall provide evidence of compliance with the commercial general liability insurance and automobile insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City Attorney before the City executes this Agreement.

6.10 **Substitute Certificates**. No later than thirty (30) days before the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.

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

7. **Independent Contractor Status**. Developer is an independent contractor and is solely responsible for all acts of its employees, agents, or subcontractors, including any negligent acts or omissions. Developer is not City's employee and Developer 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 Developer.

8. **Default**

8.1 **Notice of Default**. In the event that Developer is in default of this Agreement, as defined in this section, the City Engineer shall provide written notice to Developer and Developer's surety (if any) in which the default is described.

8.2 **Events of default.** Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist (which conditions are not intended to constitute the exclusive bases for default):

8.2.1 Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

8.2.2 Developer abandons the Work site.

8.2.3 Developer fails to perform one or more requirements of this Agreement and fails to cure any such non-performance pursuant to Section 8.3 below.

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

8.2.5 Developer violates any legal requirement related to the Work and fails to cure such violation pursuant to Section 8.3 below.

8.3 **Cure of Default**. In the event that Developer fails, within thirty (30) calendar days after receipt of written notice from the City, to either

cure the default or provide adequate written assurance to the reasonable satisfaction of the City Engineer that the cure will be promptly commenced and diligently prosecuted to its completion, the City may, in its discretion, take any or all of the following actions:

8.3.1 Demand that Developer complete performance of the Work.

8.3.2 Demand that Developer's surety (if any) complete performance of the Work.

8.3.3 Resort to any judicial remedies available to the City.

8.3.4 For defaults of Section 3, impose the remedies described in Section 3.

9. **Ownership of Work**. All original documents prepared by Developer for this Agreement are the property of the City and shall be given to the City at the completion of Developer's Work, or upon demand from the City. Prior to acceptance of the Work, Developer shall submit the as-built drawings in AutoCAD format Release-14 or higher.

10. **Repair of any Damage**. In the event and to the extent Developer or its agents, representatives, contractors, subcontractors, or employees, in connection with performance of the Work, cause any damage to property owned by City or other property owners, then Developer shall promptly take all reasonable steps to repair or replace (as necessary) such property to remedy the damage caused thereto.

11. **Inspection by the City; Inspection Fees**. To permit City to inspect the Work, Developer shall, at all times, provide to City reasonable and safe access to the Work site, and all portions of the Work, and to all shops wherein portions of the Work are in preparation.

11.1 **Inspection Fees**. Concurrently with the execution of this Agreement by Developer, and prior to the commencement of any Work, Developer shall pay the City Inspection Fees in the amount of three and one-half percent (3.5%) of the estimated Project costs (as approved by the City Engineer).

In the event that the City requires an independent inspection, the City may retain an independent inspector to inspect the Work and prepare an inspection report for the City, and all costs associated therewith shall be borne by Developer.

12. **FEES AND FEE CREDITS**. Developer shall be entitled to fee credits consistent with Section 3.3 of the Development Agreement (DA), adopted by Ordinance 1213, as may be amended from time to time, and as provided in greater detail in the Finance and Implementation Plan (FIP) for the Project pursuant to the DA and Tracy Municipal Code Section 10.20.060(b)(3), as may

be amended from time to time. Developer shall pay all fees due to City in connection with the Work.

12.1 **FEE CREDITS**. Upon submission of the improvement security, payment of engineering review fees, and City's execution of this Agreement, Developer shall be entitled to receive neighborhood park development impact fee credits for 581 single-family residential lots, based upon a neighborhood park area of 5.76 acres, see Exhibit "D". Developer is responsible for paying the neighborhood park program management fee.

13. **Developer's Authorized Representative**. At all times during the progress of the Work, Developer shall have a competent foreman or superintendent ("**Authorized Representative**") on site with authority to act on Developer's behalf. Developer shall, at all times, keep the City Engineer informed in writing of the name and telephone number of the Authorized Representative. Developer shall, at all times, keep the City Engineer reasonably informed in writing of the names and telephone numbers of all contractors and subcontractors performing the Work. **Exhibit "C"** attached hereto includes the initial contact information referenced in this Section 13.

14. **Acceptance of Work**. Prior to acceptance of the Work by the City Council, Developer shall be solely responsible for maintaining the quality of the Work and maintaining safety at the Work site. Developer's obligations to perform the Work shall not be satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied and all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.

15. **Warranty Period**. Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. In the event that (during the one-year warranty period) any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default of this Agreement and shall without delay and without any cost to City repair, replace or reconstruct any defective improvements.

16. **Notices**.

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

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

17. **Approvals by City**. Any approval or consent that is to be given by City under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on City.

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

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

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

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

22. **Permits, Licenses, and Compliance with Law**. Developer shall, at its expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Prior to the commencement of the Work, Developer shall obtain a City of Tracy Business License. Developer shall comply with all local, state, and federal laws, whether or not said laws are expressly stated in this Agreement.

23. **Entire Agreement; Exhibits; Severability**. The recitals and all defined terms in this Agreement are part of this Agreement. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed pursuant to this Agreement. This Agreement supersedes all prior negotiations, representations, or agreements. The following Exhibits attached hereto are incorporated into this Agreement and made a part hereof by this reference:

    A. Description of Property (Recital A.)
    B. Tract Location (Recital F.)
    C. Developer's Authorized Representative Information (Section 13.)
    D. Fee Credits (Section 12.1)

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

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

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

CITY:

CITY OF TRACY,
a municipal corporation

By: _____
Nancy D. Young
Title: Mayor

Date: _____

DEVELOPER:

LENNAR HOMES OF CALIFORNIA, LLC,
a California limited liability company

By: _____
Chad Kiltz
Title: Vice President

Date: 5-30-24

Attest:

_____
By: Adrianne Richardson
Title: City Clerk

Date: _____

Approved As To Form:

_____
By: Bijal M. Patel
Title: City Attorney

Date: _____

Consent to Recordation

AG EHC II (LEN) CA 2, L.P., is the owner in fee simple of the real property described in Exhibit A and hereby consents to the recordation of this Subdivision Improvement Agreement.

AG EHC II (LEN) CA 2, L.P.
a Delaware Limited Partnership

By: Essential Housing Asset Management, LLC
An Arizona Limited Liability Company,
Its Authorized Agent

_____
By:
Title:

Date: _____

[ATTACHED]

STATE OF ARIZONA)
) ss.
County of Maricopa)

The foregoing instrument was acknowledged before me this _____ day of _____, 2024, by _____, the Authorized Representative of Essential Housing Asset Management, LLC, an Arizona limited liability company, the Authorized Agent of AG EHC II (LEN) CA 2, L.P., a Delaware limited partnership, for and on behalf thereof.

_____
Notary Public

(Seal)

CITY OF TRACY SUBDIVISION IMPROVEMENT AGREEMENT – 1ST NEIGHBORHOOD PARK OF PHASE 2

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

STATE OF CALIFORNIA
COUNTY OF Contra Costa

On this 30th day of May, 2024 before me, Lauren Mary Morte, Notary Public, personally appeared Chad Kiltz, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity(~~ies~~), and that by his/~~her~~/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

LAUREN MARY MORTE
Notary Public - California
Contra Costa County
Commission # 2473306
My Comm. Expires Nov 21, 2027

Signature: Lauren Mary Morte (Seal)

EXHIBIT A

(Property Description)

ALL THAT REAL PROPERTY SITUATE IN THE CITY OF TRACY, COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS: ALL OF LOTS 1 THROUGH 89, LOTS A AND B, AND ALL OF WHITE HART AVENUE, PUNJYA BROTHERS DRIVE, ALTHORP LANE, CHAUNCY STREET, DAPPER STREET, AND FROST STREET AS SHOWN ON THE FINAL SUBDIVISION MAP OF TRACT NO. 4136, TRACY HILLS VILLAGE 8, FILED ON _____, 2024, IN BOOK _____ OF MAPS AND PLATS, AT PAGE _____, RECORDERS SERIES NO. 2024-_____, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, CALIFORNIA.

EXHIBIT B
(Project Area)

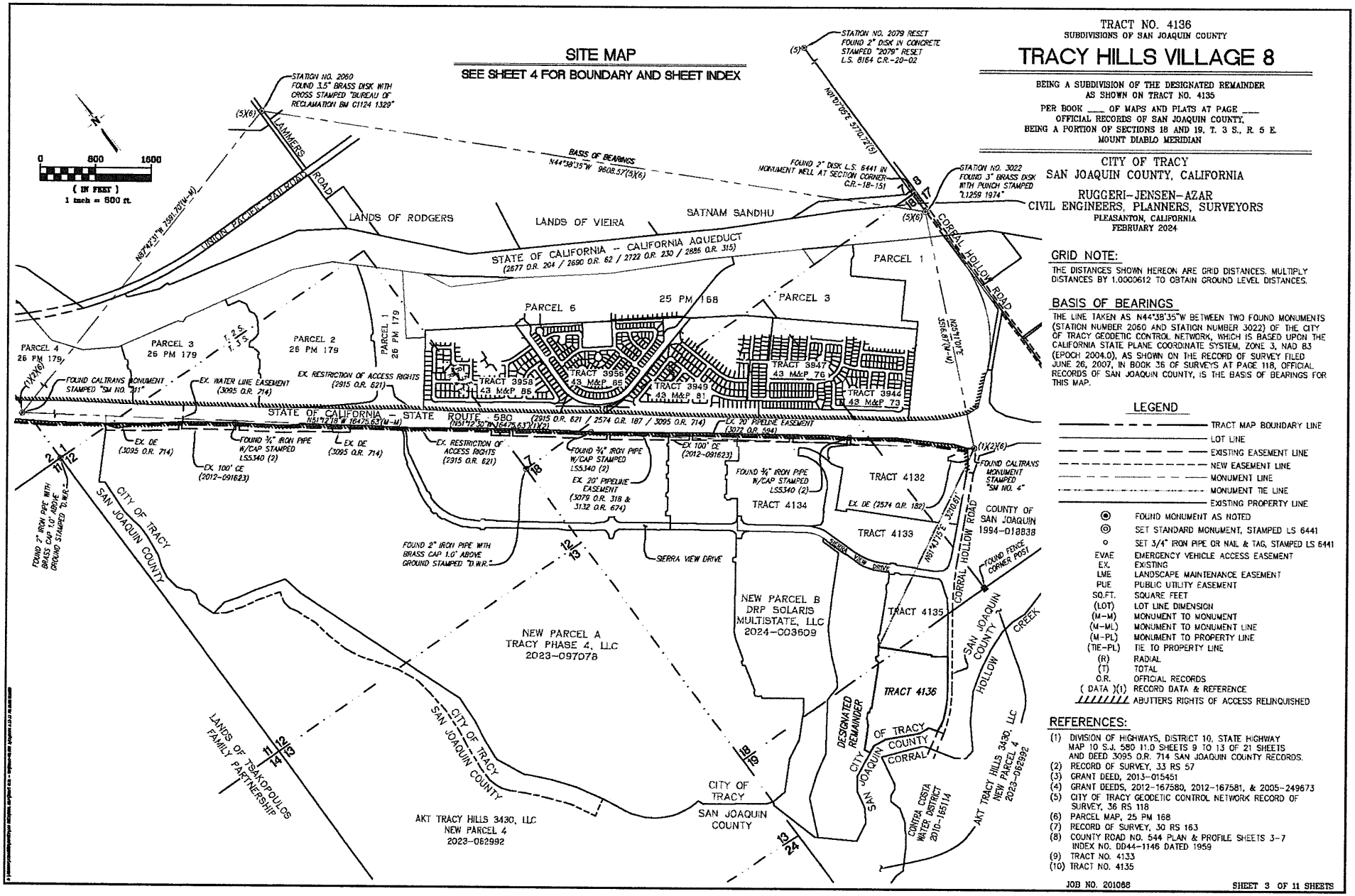

SITE MAP
SEE SHEET 4 FOR BOUNDARY AND SHEET INDEX
TRACT NO. 4136
SUBDIVISIONS OF SAN JOAQUIN COUNTY
TRACY HILLS VILLAGE 8
BEING A SUBDIVISION OF THE DESIGNATED REMAINDER AS SHOWN ON TRACT NO. 4135
PER BOOK ___ OF MAPS AND PLATS AT PAGE ___
OFFICIAL RECORDS OF SAN JOAQUIN COUNTY,
BEING A PORTION OF SECTIONS 18 AND 19, T. 3 S., R. 5 E.
MOUNT DIABLO MERIDIAN
CITY OF TRACY
SAN JOAQUIN COUNTY, CALIFORNIA
RUGGERI-JENSEN-AZAR
CIVIL ENGINEERS, PLANNERS, SURVEYORS
PLEASANTON, CALIFORNIA
FEBRUARY 2024
GRID NOTE:
THE DISTANCES SHOWN HEREON ARE GRID DISTANCES. MULTIPLY DISTANCES BY 1.0000612 TO OBTAIN GROUND LEVEL DISTANCES.
BASIS OF BEARINGS
THE LINE TAKEN AS N44°38'35"W BETWEEN TWO FOUND MONUMENTS (STATION NUMBER 2060 AND STATION NUMBER 3022) OF THE CITY OF TRACY GEODETIC CONTROL NETWORK, WHICH IS BASED UPON THE CALIFORNIA STATE PLANE COORDINATE SYSTEM, ZONE 3, NAD 83 (EPOCH 2004.0), AS SHOWN ON THE RECORD OF SURVEY FILED JUNE 26, 2007, IN BOOK 36 OF SURVEYS AT PAGE 118, OFFICIAL RECORDS OF SAN JOAQUIN COUNTY, IS THE BASIS OF BEARINGS FOR THIS MAP.
LEGEND
TRACT MAP BOUNDARY LINE
LOT LINE
EXISTING EASEMENT LINE
NEW EASEMENT LINE
MONUMENT LINE
MONUMENT TIE LINE
EXISTING PROPERTY LINE
FOUND MONUMENT AS NOTED
SET STANDARD MONUMENT, STAMPED LS 6441
SET 3/4" IRON PIPE OR NAIL & TAG, STAMPED LS 6441
EVAE EMERGENCY VEHICLE ACCESS EASEMENT
EX. EXISTING
LME LANDSCAPE MAINTENANCE EASEMENT
PUE PUBLIC UTILITY EASEMENT
SQ.FT. SQUARE FEET
(LOT) LOT LINE DIMENSION
(M-M) MONUMENT TO MONUMENT
(M-ML) MONUMENT TO MONUMENT LINE
(M-PL) MONUMENT TO PROPERTY LINE
(TIE-PL) TIE TO PROPERTY LINE
(R) RADIAL
(T) TOTAL
O.R. OFFICIAL RECORDS
(DATA)(1) RECORD DATA & REFERENCE
ABUTTERS RIGHTS OF ACCESS RELINQUISHED
REFERENCES:
(1) DIVISION OF HIGHWAYS, DISTRICT 10, STATE HIGHWAY MAP 10 S.J. 580 11.0 SHEETS 9 TO 13 OF 21 SHEETS AND DEED 3095 O.R. 714 SAN JOAQUIN COUNTY RECORDS.
(2) RECORD OF SURVEY, 33 RS 57
(3) GRANT DEED, 2013-015451
(4) GRANT DEEDS, 2012-167580, 2012-167581, & 2005-249673
(5) CITY OF TRACY GEODETIC CONTROL NETWORK RECORD OF SURVEY, 36 RS 118
(6) PARCEL MAP, 25 PM 168
(7) RECORD OF SURVEY, 30 RS 163
(8) COUNTY ROAD NO. 544 PLAN & PROFILE SHEETS 3-7 INDEX NO. DD44-1146 DATED 1959
(9) TRACT NO. 4133
(10) TRACT NO. 4135
JOB NO. 201068
SHEET 3 OF 11 SHEETS
STATION NO. 2060 FOUND 3.5" BRASS DISK WITH CROSS STAMPED "BUREAU OF RECLAMATION BM C1124 1329"
STATION NO. 2079 RESET FOUND 2" DISK IN CONCRETE STAMPED "2079" RESET L.S. 8164 C.R.-20-02
STATION NO. 3022 FOUND 3" BRASS DISK WITH PUNCH STAMPED 7.1259 1974"
FOUND 2" DISK L.S. 6441 IN MONUMENT WELL AT SECTION CORNER C.R.-18-151
BASIS OF BEARINGS N44°38'35"W 9608.57'(5)(6)
N01°07'09"E 5710.72'(5)
N82°42'37"W 7591.70'(M-M)
N25°58'18"W 3424.10'(M-M)
LAMMERS ROAD
UNION PACIFIC RAILROAD
LANDS OF RODGERS
LANDS OF VIEIRA
SATNAM SANDHU
CORRAL HOLLOW ROAD
STATE OF CALIFORNIA - CALIFORNIA AQUEDUCT (2677 O.R. 204 / 2690 O.R. 62 / 2722 O.R. 230 / 2885 O.R. 315)
PARCEL 1
PARCEL 2
PARCEL 3
PARCEL 4
PARCEL 6
25 PM 168
26 PM 179
TRACT 3958 43 M&P 85
TRACT 3956 43 M&P 85
TRACT 3949 43 M&P 81
TRACT 3947 43 M&P 76
TRACT 3944 43 M&P 73
STATE OF CALIFORNIA - STATE ROUTE 580 (2915 O.R. 621 / 2574 O.R. 187 / 3095 O.R. 714)
N51°27'18"E 16475.63'(M-M)
N51°27'18"E 16475.63'(1)(2)
FOUND CALTRANS MONUMENT STAMPED "SM NO. 211"
EX. WATER LINE EASEMENT (3095 O.R. 714)
EX. RESTRICTION OF ACCESS RIGHTS (2915 O.R. 621)
EX. OE (3095 O.R. 714)
FOUND 3/4" IRON PIPE W/CAP STAMPED LS5340 (2)
EX. 100' OE (2012-091623)
EX. 20' PIPELINE EASEMENT (3079 O.R. 318 & 312 O.R. 674)
EX. 70' PIPELINE EASEMENT (3072 O.R. 594)
FOUND CALTRANS MONUMENT STAMPED "SM NO. 4"
EX. OE (2574 O.R. 182)
TRACT 4132
TRACT 4133
TRACT 4134
TRACT 4135
TRACT 4136
COUNTY OF SAN JOAQUIN 1994-018838
SIERRA VIEW DRIVE
FOUND FENCE CORNER POST
FOUND 2" IRON PIPE WITH BRASS CAP 1.0' ABOVE GROUND STAMPED "D.W.R."
CITY OF TRACY SAN JOAQUIN COUNTY
NEW PARCEL A TRACY PHASE 4, LLC 2023-097078
NEW PARCEL B DRP SOLARIS MULTISTATE, LLC 2024-003609
LANDS OF TSAKOPOULOS FAMILY PARTNERSHIP
AKT TRACY HILLS 3430, LLC NEW PARCEL 4 2023-062992
AKT TRACY HILLS 3430, LLC NEW PARCEL 4 2023-062992
DESIGNATED REMAINDER
CONTRA COSTA WATER DISTRICT 2010-165114
SAN JOAQUIN COUNTY HOLLOW CREEK
0 800 1600
(IN FEET)
1 inch = 800 ft.

EXHIBIT "C"

Subdivider's Authorized Representative Information

Name of Person	Company Name	Telephone Number
Bridgit Koller	Lennar Homes	925.315.0366
Lisa A. Mikelonis, PE	Integral Communities	925.260.4753

EXHIBIT "D"

(Fee Credits)

Neighborhood Park	Lot	Location	Acres	Number of SFDUs[1]
1	M	Village 8 Tract 4136	5.76	582
2	G	Village 5/6 Tract 4134	2.60	263
3	P	Village 15 Tract 4057	3.34	337
4	Q	Village 16 Tract 4057	3.71	375
		Total	15.41	1,557

Notes:

1) Based on the current Parks Master Plan of 3 acres of neighborhood parks per 1,000 residents and a density of 3.3 residents per single family dwelling unit.

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024-_____

---

1) APPROVING A SUBDIVISION IMPROVEMENT AGREEMENT BETWEEN THE CITY AND LENNAR HOMES OF CALIFORNIA, LLC FOR THE CONSTRUCTION OF THE 1ST NEIGHBORHOOD PARK IN TRACY HILLS PHASE 2 IN TRACT 4136; AND 2) AUTHORIZING THE CITY CLERK TO FILE THE AGREEMENT WITH THE OFFICE OF THE SAN JOAQUIN COUNTY RECORDER.

WHEREAS, on April 5, 2016, the City Council approved the Tracy Hills Specific Plan Final Subsequent Environmental Impact Report (Resolution No. 2016-062), the Tracy Hills Specific Plan (Resolution No. 2016-063), and the Development Agreement executed between the City of Tracy and the developers of the Tracy Hills Project (Ordinance No. 1213), among other related actions; and

WHEREAS, on November 10, 2020, the City Council approved the First Amendment to the Development Agreement (Ordinance No. 1300); and

WHEREAS, Lennar Homes of California, LLC is the builder (Developer) of the residential development project commonly known as Tracy Hills Phase 2 (Project); and

WHEREAS, on October 19, 2021, the City Council approved a General Plan Amendment, under Application No. GPA21-0001 (Resolution No. 2021-153), the Tracy Hills Specific Plan Amendment for Tracy Hills Phase 2, under Application No. SPA21-0003 (Ordinance No. 1319) and approved various related land use entitlements, including that certain Vesting Tentative Subdivision Map for Tracy Hills Phase 2, Tract 4057, under Application No. TSM20-0003 (Resolution No. 2021-154) for the Project; and

WHEREAS, the VTSM proposes 1,470 single-family residential lots, public park parcels, open space parcels, retention basin parcels, school parcels, a Homeowners Association (HOA) recreation center parcel, and other non-residential parcels; and

WHEREAS, the approval of the VTSM by the City Council was subject to specified Conditions of Approval (COAs) which describe, among other things, improvements that are required for approval of the Final Subdivision Maps (Final Maps) pursuant to the Subdivision Map Act, the Subdivision Ordinance, and applicable City Standards; and

WHEREAS, of relevance to this action, the COA requires Developer to commence construction for the 1st Neighborhood Park within the Project prior to the 125th building permit issuance in the Project; and

WHEREAS, as the park plans have been approved by the City Engineer and the Developer seeks to begin construction now; and

WHEREAS, the City Council's approval of this Subdivision Improvement Agreement that is the subject of this resolution will further the completion of the park improvements that are the obligation of the Developer pursuant to said COAs; and

WHEREAS, the Developer has divided the Project into two phases, with Tracy Hills Phase 2A generally encompassing the eastern portion of the Project, and Tracy Hills Phase 2B generally encompassing the western portion; and

WHEREAS, Tracy Hills Phase 2A consists of seven tracts containing ten villages totaling 726 residential lots and also including two neighborhood park parcels, 26 open space parcels, a future school site parcel, a retention basin parcel, and a recreation center parcel; and

WHEREAS, the City Council's approval of the SIA will allow the recordation of the agreement, will permit the construction of the park improvements and will facilitate the issuance of the building permits to construct the 1st Neighborhood Park within Tracy Hills Phase 2; and

WHEREAS, the City Council's approval of the SIA will authorize the recordation of the SIA; and

WHEREAS, the Developer has executed the SIAs and has posted the required securities to guarantee the future construction of the parks as provided for in the SIAs; and

WHEREAS, there will be no impact to the General Fund associated with this action as the Developer has paid the applicable engineering plan check fees; and

WHEREAS, all public outreach for the Tracy Hills Phase 2 development (notifications, public hearings, etc.) was conducted for the Planning Commission and City Council hearings that were held in October 2021 to consider the General Plan Amendment, Specific Plan Amendment, and Vesting Tentative Subdivision Map for the project; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves a Subdivision Improvement Agreement between the City and Lennar Homes of California, LLC for (a) Tracy Hills - Phase 2 - 1st Neighborhood Park in the form attached as Attachment A; and be it

FURTHER RESOLVED: That the City Council of the City of Tracy hereby authorizes the City Clerk to record the Subdivision Improvement Agreement with the Office of the San Joaquin County Recorder; and be it

FURTHER RESOLVED: That this action is consistent with the Environmental Impact Report (EIR) for the Tracy Hills Specific Plan that was certified by the City Council on April 5, 2016 (SCH#2013102053), and the Addendum to the EIR that was prepared in accordance with the provisions of CEQA (California Environmental Quality Act) Guidelines Section 15162 and 15164 to address the General Plan Amendment, Specific Plan Amendment, and Vesting Tentative Subdivision Map for the Tracy Hills Phase 2 development.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 1.C

RECOMMENDATION

Staff recommends that City Council adopt a Resolution: 1) approving a Master Professional Services Agreement with Associated Right of Way Services, Inc. to provide On-Call Right-of-Way Acquisition Services for the Engineering Division, for an initial term of three years, for a not to exceed amount of $300,000 per fiscal year, and 2) authorizing the City Manager to administratively extend the length of the contract for up to two additional years.

EXECUTIVE SUMMARY

This agenda seeks approval of a Master Professional Services Agreement (MPSA) for three years (June 18, 2024 to June 30, 2027) with Associated Right of Way Services, Inc. (AR/WS) to provide on-call right-of-way acquisition services, which includes project management, project initiation and coordination, appraisal services, acquisition and negotiation, escrow and title, including legal support services for Engineering projects. The City's consultant committee has reviewed the proposal received from AR/WS and has determined they possess the skills, experience, competence, professional qualifications, and certifications required to provide one or more of the right-of-way services requested by the City.

BACKGROUND AND LEGISLATIVE HISTORY

On April 17, 2024, Engineering Division staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call right-of-way acquisition services for Engineering projects. The requested services are for the Capital Improvement Projects (CIP), Land Development (LD), and Traffic Engineering (TE) divisions and include, but are not limited to, project management, project initiation and coordination, appraisal services, acquisition and negotiation, escrow and title, and legal support services for projects. Right-of-way acquisition services are essential in the design process and require a timely response to ensure the project does not result in unnecessary delays. Utilizing consultant expertise to facilitate these services facilitates smooth and efficient transactions that benefit the City.

On May 10, 2024, the City received four proposals from Associated Right of Way Services, Inc. (AR/WS), Bender Rosenthal Inc., Paragon Partners Consultants, Inc., and Universal Field Services, Inc. The City's consultant selection committee, Sharat Bandugula, Senior Civil Engineer, Habibullah Habib, Associate Engineer, and Lauren Gonzalez, Management Analyst II, carefully evaluated the received proposals based on the criteria described in the RFP. The committee has reviewed and determined that the recommended consultant AR/WS possesses the skills, experience, competence, professional qualifications, and certifications required to provide one or more of the right-of-way services requested by the City.

This on-call Master Professional Service Agreement is for a three-year term with an option to extend the term up to two (2) consecutive one (1) year terms based on performance. The On-Call MPSA, including the two-year term extension option, would have a contract not to exceed amount of up to $1,500,000.

On-Call services is the practice of prequalifying consultants for specific expertise areas, so that the City may utilize them on an as-needed basis. Here, as only one of the four proposals received in the RFP was an existing consultant requiring minimal negotiations to continue providing services, staff also recommends the City Council authorize by the terms outlined in the execution of the City's standard form of an MPSA between the City of Tracy and AR/WS.

ANALYSIS

The City of Tracy Engineering Division consists of CIP, LD, and TE, which, collectively, oversee various projects. The proposed projects require at least one of the right-of-way services outlined in the RFP. The proposed Master Professional Services Agreement will allow staff to increase their current workload capacity to keep up with the demand for delivering projects in a timely fashion.

Staff has completed an extensive review of the proposal received and is recommending that AR/WS be renewed as an on-call consultant with a Master Professional Services Agreement with the City.

The City will utilize these services on an on-call basis in accordance with the terms outlined in the Master Professional Services Agreement between the City and AR/WS. The City will issue a Task Order specifying the scope of work needed, and Consultant will invoice the City based on the scope of work for each Task Order.

FISCAL IMPACT

The cost of the work performed by consultants is appropriated through the department's annual budget. Funding for the contract comes from the Developer's contributions or cost recovery agreements, capital improvement project budgets, or Federal and State grant funds. By the terms of the MPSA, the City can only issue a Task Order if there is sufficient funding to cover the requested services.

CEQA DETERMINATION

The approval of the Master Professional Services Agreements will not result in a physical change in the environment and, therefore, is not considered a project as defined by Section 21065 of the Public Resources Code.

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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt a Resolution: 1) approve a Master Professional Services Agreement with Associated Right of Way Services, Inc. to provide On-Call Right-of-Way Acquisition Services for the Engineering Division, for an initial term of three years, for a not

to exceed amount of $300,000 per fiscal year, and 2) authorize the City Manager to administratively extend the length of the contract for up to two additional years.

Prepared by: Sharat Bandugula, PE, Senior Civil Engineer
Lauren Gonzalez, Management Analyst II

Reviewed by: Koosun Kim, PE, City Engineer
Sara Cowell, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:
Attachment A – Master Professional Service Agreement (MPSA) with Associated Right of Way Services, Inc.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
ASSOCIATED RIGHT OF WAY SERVICES, INC.
ON-CALL RIGHT-OF-WAY ACQUISITION SERVICES FOR THE ENGINEERING DIVISION

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Associated Right of Way Services, Inc., a California corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to perform Right-of-way Acquisition services for Engineering projects to include services for Capital Improvement Projects (CIP), Land Development Projects, and Traffic Engineering Projects as further described herein and in Exhibit A.

B. On April 18, 2024, the City issued a Formal Request for Proposals (RFP) for certain Right-of-way Acquisition services. On May 10, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(3) and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Larry Castellanos. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Public Works ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on June 18, 2024 and expire and terminate automatically on June 30, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of 2 year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $300,000.00 (three hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, may be annually increased in January of each year to the lesser of 3% or the annual increase in the Cost of Living Index – All items, for the Sacramento Metropolitan Region.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's negligent performance willful misconduct or failure to comply with obligations under this Agreement, except to the extent caused by the, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, and employees; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim, PE
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

William Tannenbaum
Associated Right of Way Services, Inc.
1255 Treat Blvd., Suite 815
Walnut Creek, CA 94597

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax

Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy Young
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Consultant

Associated Right of Way Services, Inc., a California corporation

DocuSigned by:
Bill Tannenbaum
2CC30B613F19481...
By: William Tannenbaum
Title: President
Date: 5/22/2024 | 4:14 PM PDT

Federal Employer Tax ID No. 94-3096127

DocuSigned by:
Larry Castellanos
04098413BBDE740E...
By: Larry Castellanos
Title: Secretary
Date: 5/22/2024 | 4:24 PM PDT

Exhibits:

A	Services
B	Compensation
C	Task Order Form

EXHIBIT A

Services

The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services:
On-call right-of-way Acquisition services for the Engineering Division to include Capital Improvement Projects (CIP), Land Development Projects, and Traffic Engineering projects.

General Description of Services the Consultant will Provide:

On-call Right of Way Acquisition Services under this agreement may include, but are not limited to, the following activities conducted to the industry standards:

I. APPRAISAL SERVICES:

- Appraise Properties.
- Prepare Appraisal Report

II. NEGOTIATION SERVICES:

- Negotiate for the purchase of partial/full properties.
- Prepare all letters and documents required for the proposed acquisitions, including but not limited to the following:

    1. Offer letter(s)
    2. Appraisal Summary Statement
    3. Agreement for purchase
    4. Deeds
    5. Other documents as required

- Present the offer in person and handle all discussions with owners.
- Keep City advised as to the status of negotiations.

III. ESCROW AND TITLE COORDINATION SERVICES:

- Assist the City in handling the escrow and title work.

IV. PROJECT MANAGEMENT SERVICES:

- Attend meetings, provide general consultations or right-of-way matters pertaining to the project, and provide meeting minutes.

V. PROJECT TRACKING AND CLERICAL SERVICES:

- Provide the necessary tracking and clerical work for the right of way acquisition work for the project.

EXHIBIT B

Compensation

AR/WS Fee Schedule

Consulting Category	Rate
Principal Consultant	$285.00
Managing Consultant	$230.00
Consultant III	$175.00
Consultant II	$155.00
Consultant I	$135.00
Right of Way Technician	$110.00
Administrative Support	$95.00
Appraisal Reports	Lump Sum
Appraiser III (MAI) (Hourly)	$230.00
Appraiser II (Hourly)	$210.00
Appraiser I (Hourly)	$185.00
Subcontractors	Cost + 10%
Preparation for Expert Witness Testimony & Court Appearances	$300.00
Court Attendance and Testimony at Depositions, Arbitrations, Mediations, Hearings, and Trial	$400.00

Note: Fees include direct and indirect expenses and profit. A budget will be prepared for each Task Order request with a not-to-exceed budget.

Compensation may be annually increased in January of each year to the lesser of 3% or the annual increase in the Cost of Living Index – All items, for the Sacramento Metropolitan Region.

DocuSign Envelope ID: 92926266-1795-45AB-B47D-D815B97923D5

EXHIBIT C

Task Order Form

(See Attached)

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project: _____

Consultant: _____

_____

Project Task Order Number: [X of X]

Description of Task and Services: _____

_____

_____

Maximum Compensation for Task: $_____.00

Task Completion Time: The Consultant must complete the services and deliverable for this task in
On or before: [DATE]

Year-to-Date Total Authorized Task Order Compensation: $_____.00

Remaining Total Not to Exceed Amount upon completion of this Task: $_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

---

1) APPROVING A MASTER PROFESSIONAL SERVICES AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. TO PROVIDE ON-CALL RIGHT-OF-WAY ACQUISITION SERVICES FOR THE ENGINEERING DIVISION, FOR AN INITIAL TERM OF THREE YEARS, FOR A NOT TO EXCEED AMOUNT OF $300,000 PER FISCAL YEAR, AND 2) AUTHORIZING THE CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH OF THE CONTRACT FOR UP TO TWO ADDITIONAL YEARS.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP), Land Development (LD) projects, and Traffic Engineering (TE) projects requiring professional right-of-way acquisition services; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on April 17, 2024, Engineering staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call right-of-way acquisition services for Engineering projects on the City's website; and

WHEREAS, the requested on-call right-of-way acquisition services include, but are not limited to, project management, project initiation and coordination, appraisal services, acquisition and negotiation, escrow and title, and legal support services for projects; and

WHEREAS, right-of-way acquisition services are essential in the design process and require a timely response to ensure the project does not result in unnecessary delays; and

WHEREAS, utilizing consultant expertise to facilitate these services facilitates smooth and efficient transactions that benefit the City; and

WHEREAS, the City received four proposals in response to the RFP from Associated Right of Way Services, Inc. (AR/WS), Bender Rosenthal Inc., Paragon Partners Consultants, Inc., and Universal Field Services, Inc. to provide the required right-of-way services; and

WHEREAS, after extensive review by the City's consultant selection committee, it was determined that AR/WS possesses the skills, experience, competence, professional qualifications, and certifications required to provide one or more of the right-of-way services; and

WHEREAS, AR/WS was the only proposal received in the RFP that was an existing consultant requiring minimal negotiations to continue providing services; and

WHEREAS, the City will utilize these services on an on-call basis in accordance with the terms outlined in the proposed Master Professional Services Agreements (MPSA) between the City and Consultant; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and the Consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the cost of these services is appropriated through the department's annual budget, and funding for the contract comes from Developer's contributions, cost recovery agreements, capital improvement project budgets, or Federal and State grant funds, and per the terms of the MPSA, the Task Order will only be issued if there is sufficient funding; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby approves the Master Professional Service Agreements to provide on-call right-of-way acquisition services for the Engineering Division with Associated Right of Way Services, Inc., for an initial term of three years for a not-to-exceed budget of $300,000 per fiscal year, subject to annual budgetary appropriation by the City Council, through the budget approval process, supporting the funding for such annual extensions; and be it

FURTHER RESOLVED: That the City Council authorizes the City Manager to administratively extend the length of the contract for up to two additional years, following a written determination that the Consultant has satisfactorily met all the requirements of the MPSA; and be it

FURTHER RESOLVED: That the City Council approves that this action is not considered a project as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024- was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 1.D

RECOMMENDATION

Staff recommends that the City Council 1) declare certain vehicles and equipment as surplus pursuant to Tracy Municipal Code Section 2.20.310, and 2) approve the sale of such surplus property at public auction to the highest bidder.

EXECUTIVE SUMMARY

The City periodically declares equipment and commodities that have been used beyond their economical and/or useful life as surplus for sale at public auction. This request seeks authorization to declare and approve the list of surplus equipment and commodities, pursuant to Tracy Municipal Code Section 2.20.310, and authorize the sale of these items at public auction to the highest bidder.

BACKGROUND AND LEGISLATIVE HISTORY

The Public Works Department is responsible for managing most of the City's vehicle and equipment fleet. This includes the responsibility of determining items that have been used beyond their economical and/or useful life and are no longer needed by the City. These items are removed from service and are declared as surplus property.

The disposal of surplus equipment and commodities or other property no longer needed by any department of the City is governed by Section 2.20.310 of the Tracy Municipal Code which identifies the method of disposition of surplus property. Disposition methods may include abandonment, destruction, or donation to public bodies, charitable, civic or nonprofit organizations and may include City property which has no commercial value or for which the estimated cost of continued care, handling, maintenance or storage would exceed the estimated proceeds of sale. Further, permissible sales procedures include negotiated sales, acceptance of sealed bids or public auction. Staff proposes to dispose of the surplus property at a public auction, to the highest bidder. Items which are not sold at public auction will be reviewed for value, and if appropriate, sold for scrap value.

ANALYSIS

In our effort to streamline operations and allocate resources efficiently, staff harnessed the use of the City's Faster data system to aid in identifying units and assets for surplus and auction based on age, mileage, and condition. Staff focused on older assets that had surpassed their prime years, high-mileage items, and those with significant wear or repair needs were selected. This decision ensures cost-effectiveness and aligns with the City's commitment to responsible resource management while potentially generating revenue. Attachment A lists the surplus vehicles, reason for surplus and replacements purchased.

FISCAL IMPACT

The proceeds from the sale of surplus property will be deposited in the appropriate City fund

from which the property was originally purchased. The estimated value of this surplus property is $30,000.

STRATEGIC PLAN

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

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council 1) declare certain vehicles and equipment as surplus pursuant to Tracy Municipal Code Section 2.20.310, and 2) approve the sale of such surplus property at public auction to the highest bidder.

Prepared by: Adrian Taylor, Fleet Supervisor

Reviewed by: James Thompson, Operations Superintendent
David Murphy, Assistant Director of Operations
Sarah Cowell, Director of Finance
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments: A – Surplus Vehicles and Equipment List

Attachment A

ASSET	YEAR/MAKE	AGE	REASON FOR SURPLUS	NEW ASSET	NEW ASSET DESC.	VIN
2082	2002 F-250	22 YRS.	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	2550	2018 FORD F-350	1FDRF3E61JEB53328
2095	2003 STERLING	21 YRS.	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	2691	2022 FREIGHTLINER	1FVHG3FEXPHNW3561
2140	2005 TAURUS	19 YRS	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	WILL NEED TO REPLACE		
2251	2007 BIG TEX TRL.	16 YRS	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	2707	2023 PJ TRAILER	4P51C3125R1409802
2322	2010 MITSUBISHI FE145	14 YRS	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	WILL NEED TO REPLACE		
2430	2016 HARLEY DAVIDSON	8 YRS	UNIT ACCIDENT, TOTALED	WILL NEED TO REPLACE		
2456	2017 EXPLORER PI	7 YRS	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	5476	2022 FORD EXPLORER PI	1FM5K8ABXNGC36793
2458	2017 EXPLORER PI	7 YRS	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	5477	2022 FORD EXPLORER PI	1FM5K8AB1NGC42613
5404	2018 EXPLORER	6 YRS	UNIT ACCIDENT, TOTALED	WILL NEED TO REPLACE		
5415	2018 EXPLORER PI	6YRS	SURRPASSED OPERATIONAL LIFESPAN IN FASTER	5459	2022 FORD EXPLORER PI	1FM5K8AB0NGB46228
5420	2018 EXPLORER PI	6 YRS	UNIT ACCIDENT, TOTALED	WILL NEED TO REPLACE		
5424	2018 EXPLORER PI	6 YRS	SURRPASSED OPERATIONAL LIFESPAN IN FASTER.	WILL NEED TO REPLACE		

SOLAR PANELS 12”X48” PANELS REMOVED FROM TRANSIT. OLD PANELS NO LONGER WORKING AND NEEDED QTY. OF 24

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

---

1) DECLARING CERTAIN VEHICLES AND EQUIPMENT AS SURPLUS PURSUANT TO TRACY MUNICIPAL CODE SECTION 2.20.310 AND 2) APPROVING THE SALE OF SUCH SURPLUS PROPERTY AT PUBLIC AUCTION TO THE HIGHEST BIDDER

WHEREAS, The Public Works Department is responsible for managing most of the City's vehicle and equipment fleet; and

WHEREAS, The disposal of surplus equipment and commodities or other property no longer needed by any department of the City is governed by Section 2.20.310 of the Tracy Municipal Code which identifies the method of disposition of surplus property; and

WHEREAS, In our effort to streamline operations and allocate resources efficiently, staff harnessed the use of the City's Faster data system to aid in identifying units and assets for surplus and auction based on age, mileage, and condition; and

WHEREAS, Staff focused on older assets that had surpassed their prime years, high-mileage items, and those with significant wear or repair needs were selected ensuring cost-effectiveness and alignment with the City's commitment to responsible resource management while potentially generating revenue; and

WHEREAS, The proceeds from the sale of surplus property will be deposited in the appropriate City fund from which the property was originally purchased. The estimated value of this surplus property is $30,000; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy declares the vehicles and equipment identified in Attachment A as surplus pursuant to Tracy Municipal Code Section 2.20.130; and be it

FURTHER RESOLVED: That the City Council of the City of Tracy approves the sale of such surplus property at public auction to the highest bidder.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on June 18, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 1.E

RECOMMENDATION

Staff recommends that City Council adopt a Resolution approving a General Services Agreement with Karbonous, Inc., a California Corporation, for Tertiary Filters Media Replenishment at the City's Wastewater Treatment Plant in a not-to-exceed amount of $217,052 for a one-year term.

EXECUTIVE SUMMARY

This agenda item seeks City Council approval of a General Services Agreement (GSA) with Karbonous, Inc., a California Corporation for professional services to replenish an estimated sixteen inches of filter media (Anthracite) at the Tracy Wastewater Treatment Plant, due to its failure to perform effectively. These filters provide the tertiary (third) stage of the wastewater treatment process providing further purification of treated wastewater. The funding for this agreement will be accounted for in the FY23-24 annual operations and maintenance budget of the Wastewater Fund (521) once it is approved by Council. Staff is recommending that the City Council approve, by Resolution, a GSA with Karbonous, Inc. in a not-to-exceed amount of $217,052 to provide these services for a one-year term expiring June 17, 2025.

BACKGROUND AND LEGISLATIVE HISTORY

The City of Tracy treats up to 10.8 million gallons per day of residential and commercial wastewater from the City of Tracy. This collected wastewater undergoes treatment processes at primary, secondary, and tertiary stages. At the tertiary stage, the treated, under Activated Sludge process, is filtered to further purify the treated wastewater. This filtration is achieved using media comprised of Anthracite with strict specifications. Periodically, this media needs to be replaced, if degraded beyond use; or replenished, if gradually lost during the cleaning of the filter (backwashing).

The City wishes to engage the professional services of qualified filter media service companies to replenish Anthracite filter media in each of the eight (8) tertiary filters at the City of Tracy Wastewater Treatment Plant. The work will involve purchase, delivery, washing, and installing the Anthracite in the filter in a manner so as not to damage the filter structure or the filter media supports.

The media will meet the specifications of the filter requirement as given in the Scope of Work. The depths of existing media will be assessed in each filter to determine the quantities needed but will not exceed 16". The amount of filter media needed will be estimated, ordered, and delivered to the wastewater plant at 3900 Holly Drive in Tracy. Karbonous, Inc. will mobilize and install new filter media into two filters at a time. After installation and after ensuring that the media is at the correct depth, Karbonous will move to the next two filters until all 8 filters have been satisfactorily serviced by addition of the required amount of anthracite media. The work will be completed in accordance with all applications, rules, and regulations.

ANALYSIS

On February 8, 2024, in accordance with TMC 2.20.180, the City issued a Notice Inviting Bids

for the project and published it on the City's website. A total of two proposals were received by the City, prior to the deadline. Both proposals were reviewed by an internal committee consisting of the Wastewater Operations Superintendent and three (3) staff members. The committee determined that both vendors were qualified; however, Karbonous, Inc. was substantially more cost-effective and competitively bid. Karbonous, Inc. is a qualified and experienced proposer with the lowest cost of services, has good references, and has completed similar work with other agencies in a satisfactory manner, and therefore was selected based on these criteria. Both vendors provided an estimated cost for 8" of anthracite and the labor to install it which is included in their proposals below.

Vendor Name	**Price/8" of media**
Karbonous, Inc.	$115,018.00**
Carbon Activated Corporation	$240,540.50

*** It is estimated that the necessary replenishment level of the media will be more than 8" but less than 16" and therefore the not-to-exceed cost has been elevated for the additional 8" of Anthracite and labor to install it, that is anticipated to be required for a total not-to-exceed amount of $217,052.*

CEQA DETERMINATION

The project is categorically exempt from the California Environmental Quality Act pursuant to CEQA guidelines section 15311 that pertains to construction, or replacement of minor structures accessory to existing commercial, industrial, or institutional facilities, including on-premises signs.

STRATEGIC PLAN

This agenda item is consistent with the City's Quality of Life Strategy and meets the goals to ensure physical infrastructure and systems necessary for the health and safety of the Tracy community through improved water quality.

FISCAL IMPACT

The cost of the goods and services provided by the selected vendor will be accounted for in the FY23-24 annual operations and maintenance budget of the Wastewater Fund (521) once it has been approved by Council. The amount of the media is anticipated to be up to a total of 16 inches for every one of the eight (8) filters therefore doubling the cost of the Anthracite itself for an additional $84,452. Due to the potential increase in Anthracite, labor will be proportionally increased an additional $17,582. The total amount requested includes the additional labor and material costs associated with the added 8" of Anthracite for a total not-to-exceed amount of $217,052.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt a Resolution approving a General Services Agreement with Karbonous, Inc., a California Corporation, for Tertiary Filters Media Replenishment at the City's Wastewater Treatment Plant in a not-to-exceed amount of $217,052 for a one-year term.

Prepared by: Aloke Vaid, Wastewater Operations Superintendent

Reviewed by: Stephanie Reyna-Hiestand, Assistant Director of Utilities
Sara Cowell, Director of Finance
Bijal Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments:

A - GSA with Karbonous Inc.

Attachment A

CITY OF TRACY GENERAL SERVICES AGREEMENT WITH KARBONOUS, INC., FOR TERTIARY FILTERS MEDIA REPLENISHMENT AT THE CITY'S WASTEWATER TREATMENT PLANT

This General Services Agreement (**Agreement**) is entered into between the City of Tracy, a municipal corporation (**City**), and Karbonous, Inc., a California Corporation (**Contractor**). City and Contractor are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Contractor to provide professional services at the City's Wastewater Treatment Plant to replenish tertiary filter media; and

B. In compliance with the public contracting provisions of Tracy Municipal Code Section 2.20.180, on February 8, 2024, the City issued a Notice Inviting Bids (NIB) for Wastewater Treatment Plant Tertiary Filter Media Replenishment **(Project**). On March 14, 2024, Contractor submitted its proposal for the Project to the City. City has determined that Contractor's bid was the lowest and most responsible bid of those received.

C. After negotiations between the City and Contractor, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. City Council approved this Agreement on June 18, 2024, pursuant to Resolution No. 2024-____ Tracy Municipal Code Section 2.20.080.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Scope of Work. Contractor shall perform the services described in Exhibit "A" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: Matthew Low**.** Contractor shall not replace its Authorized Representative, nor shall Contractor replace any of the personnel listed in Exhibit "A," nor shall Contractor use or replace any subcontractors or subconsultants, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor may result in the termination of this Agreement.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Contractor shall begin performance and shall complete all required services no later than one (1) year from authorization of approval of this agreement by City Council. Any services for which times for performance are not specified in this Agreement shall be started and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to the Contractor. Contractor shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall begin on or near June 18, 2024, and end on June 17, 2025, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor on a time and expense basis, at the billing rates set forth in Exhibit "B," attached and incorporated by reference for services performed under this Agreement.

3.1 Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed $217,052 (Two Hundred Seventeen Thousand Fifty-two Dollars and 00/cents). Contractor's billing rates shall cover all costs and expenses for Contractor's performance of this Agreement. No work shall be performed by Contractor in excess of the total compensation amount provided in this section without the City's prior written approval.

3.2 Invoices. Contractor shall submit monthly invoices to the City that describe the services performed, including times, dates, and names of persons performing the services.

3.2.1. Contractor's failure to submit invoices in accordance with these requirements may result in the City rejecting said invoices and thereby delaying payment to Contractor.

3.3 Payment. Within 30 days after the City's receipt of invoice, City shall make payment to the Contractor based upon the services described on the invoice and approved by the City.

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

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

The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Contractor shall, throughout the duration of this Agreement, maintain insurance to cover Contractor, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "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.

5.5 Endorsements. Contractor shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions:

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Contractor's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Contractor 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. Contractor shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Contractor shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Contractor 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.

5.9 Substitute Certificates. Contractor shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Contractor's Obligation. Maintenance of insurance by the Contractor as specified in this Agreement shall in no way be interpreted as relieving the Contractor of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Contractor may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination. The City may terminate this Agreement by giving ten days' written notice to Contractor. Upon termination, Contractor shall give the City all original documents, including preliminary drafts and supporting documents, prepared by Contractor for this Agreement. The City shall pay Contractor for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

7. Dispute Resolution. If any dispute arises between the City and Contractor that cannot be settled after engaging in good faith negotiations, City and Contractor agree to resolve the dispute in accordance with the following:

7.1 Each Party shall designate a senior management or executive level representative to negotiate the dispute;

7.2 The representatives shall attempt, through good faith negotiations, to resolve the dispute by any means within their authority.

7.3 If the issue remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by negotiations between legal counsel. If the aforementioned process fails, the Parties shall resolve any remaining disputes through mediation to expedite the resolution of the dispute.

7.4 The mediation process shall provide for the selection within fifteen (15) days by both Parties of a disinterested third person as mediator, shall be commenced within thirty (30) days and shall be concluded within fifteen (15) days from the commencement of the mediation.

7.5 The Parties shall equally bear the costs of any third party in any alternative dispute resolution process.

7.6 The dispute resolution process is a material condition to this Agreement and must be exhausted prior to either Party initiating legal action. This dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code §§ 900 et seq.

8 Labor Code Compliance. Contractor is aware of the requirements of Chapter 1 of Part 7 of Division 2 of the California Labor Code and applicable regulations which require the payment of prevailing wage rates (§1771, §1774, and §1775); employment of apprentices (§1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. The services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, Contractor agrees to fully comply with such Prevailing Wage Laws.

8.1 Rates. These prevailing wage rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Each Contractor and Subcontractor must pay no less than the specified rates to all workers employed to perform the services described herein. The schedule of per diem

wages is based upon a working day of eight hours. The rate for holiday and overtime work must be at least time and one-half. Contractor assumes all responsibility for such payments and shall defend, indemnify and hold the City harmless from any and all claims made by the State of California, the Department of Industrial Relations, any subcontractor, any worker, or any other third party.

8.2 Registration with DIR. Contractor warrants that it is registered with the Department of Industrial Relations and qualified to perform the services consistent with Labor Code section 1725.5.

8.3 Monitoring. This Agreement will be subject to compliance monitoring and enforcement by the DIR, under Labor Code section 1771.4.

9. Ownership of Work. All original documents prepared by Contractor for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Contractor's services, or upon demand from the City. No such documents shall be revealed or made available by Contractor to any third party without the City's prior written consent.

10. Independent Contractor Status. Contractor is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Contractor is not City's employee and Contractor shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Contractor is free to work for other entities while under contract with the City. Contractor, and its agents or employees, are not entitled to City benefits.

11. Conflicts of Interest. Contractor (including its employees, agents, and subcontractors) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Contractor maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Contractor's conflicting interest.

12. Rebates, Kickbacks, or Other Unlawful Consideration. Contractor warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

13. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Assistant Director – Utilities
3900 Holly Drive
Tracy, CA 95304

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

To Contractor:

Karbonous, Inc.
13095 Temple Ave
City of Industry, CA 91746
Attn: Matthew L

14. Miscellaneous.

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

14.2 Amendments. This Agreement may not be modified orally or in any manner other than by an agreement in writing signed by both Parties.

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

14.4 Assignment and Delegation. Contractor may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

14.6.1 Hazardous Materials. Contractor is responsible for all costs of clean up and/or removal of hazardous and toxic substances spilled as a result of performing their services.

14.6.2 Non-discrimination. Contractor represents and warrants that it is an equal opportunity employer, and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Contractor shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

14.7 Business Entity Status. Contractor is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Contractor. By entering into this Agreement, Contractor represents that it is not a suspended corporation. If Contractor is a suspended corporation at the time it enters this Agreement, City may take steps to have this Agreement declared voidable.

14.8 Business License. Before the City signs this Agreement, Contractor shall obtain a City of Tracy Business License. Contractor shall maintain an active City of Tracy Business License during the term of this Agreement.

14.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

14.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

14.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Contractor's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Contractor's proposal (if any), the Exhibits shall control.

14.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

15. Signatures. The individuals executing this Agreement on behalf of Contractor represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Contractor.

[SIGNATURES ON FOLLOWING PAGE]

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

City of Tracy

By: Nancy D. Young
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Contractor
Karbonous, Inc., a California corporation

Matthew Low
By: Matthew Low
Title: Account Executive
Date: 05/10/2024

Federal Employer Tax ID No. 10-0004324

By: Ky Tran
Title: President /Secretary
Date: 5/10/2024

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)

EXHIBIT A - Scope of Work

Contractor shall provide the following services on eight (8) filters to determine the amount of new filter media required for all filters. In addition, all work details outlined in Anthracite Specifications shall be followed.

1. SERVICES PERFORMED

A. Inspection of all filter beds
B. Measurements of filter beds to identify existing levels of anthracite media
C. Assess filter depth
D. Determine amount of filter required
E. Procure and deliver anthracite required for all filters
F. Perform required testing prior to start of installation
G. Install new filter media into two filters at a time
H. Inspect to ensure media is at correct depth
I. Inspect and verify each filter contains an adequate amount of new material

2. ANTHRACITE SUPPLIERS

Anthracite shall be supplied by one of the following manufacturers:
A. F.B. Leopold Company, Inc.
B. U.S. Filter.
C. Carbonite Filter Co.
D. C.E. Cast Industrial Products.
E. Reading Anthracite Coal Co.
F. Shamokin Filter Co.
G. Carbon Sales.

2.1 ANTHRACITE MEDIA

A. General: Anthracite media and filter media testing methods shall conform to the requirements of AWWA B100, except as otherwise indicated. Anthracite filter media shall consist of a 60-inch layer of uniformly graded anthracite material placed upon the underdrain system to the total depth indicated.
B. Uniformity: The media furnished for use in the Work shall be equal or superior in all respects to the approved samples, and similar samples for test purposes shall be furnished as required by the ENGINEER during the preparation and placing of the filter materials.
C. Material Quality: The anthracite filter media shall be composed of hard and durable grains, and shall be processed from virgin, deep-mined anthracite coal. Average apparent specific gravity shall be determined by the procedure set forth in ASTM C128.
D. The anthracite shall be free from any significant amounts of iron sulfides, clay, shale, dust or other foreign matter.
E. The anthracite solubility in 37 percent concentrated hydrochloric acid shall be less than 2.5 percent. It shall have a hardness of not less than 2.7 on the MOH scale. All test procedures shall be in accordance with the applicable portion of Section 5 of AWWA B100.
F. Particle Size and Gradation: Anthracite to be placed in each filter shall have size and a uniformity coefficient as indicated. The particle size shall be determined by screening through standard sieves calibrated in accordance with ASTM E11. Effective size is defined as the theoretical size of the sieve (in millimeters) that will pass 10 percent of the sample by weight. The uniformity coefficient is defined as the theoretical size of the sieve (in millimeters) that will pass 60 percent of the sample by weight divided by the effective size. No more than 5 percent by weight shall be smaller than the lower designated size limit, and not more than 3 percent by weight shall be larger than the upper designated size limit.

2.2 FILTER MEDIA DESIGN

The anthracite filter media layer of the filter bed shall meet the following requirements:
A. Apparent Specific Gravity: Approximately 1.65 (plus or minus 0.10).
B. Effective Size: 1.4 to 1.5 mm.
C. Uniformity Coefficient: Less than or equal to 1.4.

PART 3 EXECUTION

3. GENERAL

A. The anthracite filter media shall be installed in accordance with the manufacturer's instructions and recommendations.
B. The anthracite shall not be contaminated with dirt or organic matter during transporting and placing. Any anthracite which becomes dirty, either before or after it has been placed in the filters, shall be either washed to the satisfaction of the ENGINEER or removed and replaced by clean anthracite. All anthracite which has been contaminated by organic matter will be rejected.

3.1 PLACING

A. The CONTRACTOR is cautioned that the center walkway between the filter boxes has been designed to the load limit shown on the Drawings. Loads from media or equipment shall not exceed 75 percent of the design capacity.
B. Place the media at least three lifts of roughly equal depth. Conduct three or more cycles of washing and scraping, as described herein, after placing each lift.
C. The final total depth of anthracite filter media, after all placement, washing, and scraping shall be 60 inches. This total depth shall be measured from the top of the support gravel on the underdrain system. This total depth shall not include any anthracite intermixed with support gravel.
D. Great care shall be taken to avoid damaging the filter underdrain system or support gravel during media placement.

3.2 WASHING AND SCRAPING

A. The CONTRACTOR shall conduct all indicated washing and scraping and provide all associated equipment, materials, instrumentation, personnel, etc.
B. After the anthracite has been placed, it shall be backwashed at least three times, with the ENGINEER present. Each of these separate and distinct washings shall be of at least 5 minutes duration at the indicated maximum backwash rate. During each washing, the wash water shall be applied initially at as low a rate as practicable and shall be gradually increased to a maximum of 20 gpm per square foot.
C. The fine-grained materials which accumulate at the surface of the bed shall be scraped off and removed by the CONTRACTOR at the end of each cycle of washing and scraping. The depth of scraping shall be approximately 5 percent, 2.5 percent, and 1.3 percent of the indicated anthracite depth for successive washes. Additional cycles of washing and scraping shall be continued until there is no layer of fines visible at the top of the media after washing.

EXHIBIT B - Compensation

***Compensation Table indicates work for 8" of Anthracite. Total work is anticipated to require up to 16" of Anthracite. Total not to exceed amount is increased to $217,052 which includes the additional 8" of media at $84,452 and additional labor at $17,582, that may be required.*

BID ITEMS	Unit	Estimated Quantity	Unit Rate	Extended Cost
Mob/Demob to job site (For installation)	Each	1	$5,334.00	$5,334.00
Measurement of Required Anthracite Levels for all 8 Filters	Each	1	$7,650.00	$7,650.00
Labor and Equipment for loading/installation required Anthracite into each filter and skimming	Lump sum	1	$17,582.00	$17,582.00
Furnish and supply Anthracite to site (with shipping to the site) - Assumed 8in required, density 52lb/cu.ft	Lump Sum	1	$84,452.00	$84,452.00
			Total	$115,018.00

Prices will remain fixed and firm for the duration of the anticipated period of performance. Karbonous hereby confirms that he/she has the necessary labor, material, equipment, and methods to perform the work as detailed in the statement of work at the prices set forth in this bid. The amount of anthracite will be caculated after the measurements. Hourly service pricing and unit price is provided for anthraicte filter media including shipping to City

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO.

APPROVING A GENERAL SERVICES AGREEMENT WITH KARBONOUS, INC., A CALIFORNIA CORPORATION, FOR TERTIARY FILTERS MEDIA REPLENISHMENT AT THE CITY'S WASTEWATER TREATMENT PLANT IN A NOT-TO-EXCEED AMOUNT OF $217,052 FOR A ONE-YEAR TERM.

WHEREAS, The City of Tracy treats up to 10.8 million gallons per day of residential and commercial wastewater from the City of Tracy; and

WHEREAS, This collected wastewater undergoes treatment processes at primary, secondary, and tertiary stages; and

WHEREAS, At the tertiary stage, the treated, under Activated Sludge process, is filtered to further purify the treated wastewater using media comprised of Anthracite with strict specifications; and

WHEREAS, Periodically, this media needs to be replaced, if degraded beyond use; or replenished, if gradually lost during the cleaning of the filter (backwashing); and

WHEREAS, On February 8, 2024, in accordance with Tracy Municipal Code 2.20.180, the City issued a Notice Inviting Bids for the project and published it on the City's website and a total of two proposals were received by staff prior to the deadline; and

WHEREAS, Both proposals were reviewed by an internal committee consisting of the Wastewater Operations Superintendent and three (3) Utilities staff members; and

WHEREAS, While both vendors were found to be qualified, Karbonous, Inc. (Contractor) was substantially more cost-effective and competitively bid; and

WHEREAS, Both vendors provided an estimated cost for 8" of anthracite which is included in their proposals below,

Vendor Name	Price/8" of media
Karbonous, Inc.	$115,018.00
Carbon Activated Corporation	$240,540.50

WHEREAS, It is estimated that the necessary replenishment level of the media will be more than 8" but less than 16" and therefore the not-to-exceed cost has been elevated for the additional 8" of Anthracite and labor to install it; and

WHEREAS, The amount of the media will be for a total of 16 inches for every one of the eight (8) filters therefore doubling the cost of the Anthracite for an additional $84,452 and labor at an additional $17,582; and

WHEREAS, The City seeks to enter into a General Services Agreement with Contractor attached hereto as Attachment A, for a one-year term commencing on June 18, 2024, and ending on June 17, 2025, for a total not-to-exceed amount of $217,052; and

NOW THEREFORE be it

RESOLVED, That the City Council for the City of Tracy finds the above recitals to be true and correct and incorporate them as findings in further support of the following resolutions, and be it further

RESOLVED, That the City Council for the City of Tracy finds and determines that the actions approved herein are categorically exempt from the California Environmental Quality Act pursuant to CEQA guidelines section 15311 that pertains to construction, or replacement of minor structures accessory to existing commercial, industrial, or institutional facilities, including on-premises signs; and be it further

RESOLVED, That the City Council for the City of Tracy approves the General Services Agreement with Contractor attached hereto as Attachment A, for a term of one year expiring on June 17, 2025, with a total not-to-exceed amount of $217,052.

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

The foregoing Resolution 2024 -_____ was adopted by the Tracy City Council on June 18, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 1.F

RECOMMENDATION

Staff recommends that the City Council adopt a Resolution (1) accepting as complete the construction of the Ammonia Storage-Feed Systems at the Park & Ride Well No. 6 and the Ball Park Well No. 7, Capital Improvement Project 75162, completed by TNT Industrial Contractors, Inc. of Sacramento, California, (2) authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the bonds and retention payment.

EXECUTIVE SUMMARY

Staff has determined that TNT Industrial Contractors, Inc. (Contractor) satisfactorily completed construction of the Ammonia Storage-Feed Systems Project at Well No. 6, known as the Park & Ride Well, and Well No. 7, known as the Ball Park Well, Capital Improvement Project (CIP) 75162 (Project). As a result, staff recommends the City Council approve the standard CIP project completion procedures by adopting a Resolution accepting the work as complete, authorizing the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office, and authorizing the City Engineer to release to Contractor the bonds and retention payment. The final project costs of $1,583,384 did not exceed the approved budget of $1,604,800.

BACKGROUND AND LEGISLATIVE HISTORY

The City supplies its residents with about 17,000 acre-feet per year of surface water from the Central Valley Project (Delta Mendota Canal and the California Aqueduct) and from the Stanislaus River (via Woodward Reservoir and the South San Joaquin Irrigation District). The City augments these surface water supplies with water from eight groundwater wells but only five of these wells (about 600 acre-feet per year) could previously be used to supplement surface water deliveries. Two of the City's wells, Well No. 6 and Well No. 7, were equipped with chlorination facilities to disinfect the water prior to placing it into the distribution system. These two wells could not be used when the City was delivering surface water treated with ammonia to create chloramines for disinfection. Mixing chlorinated water with chloramines creates a chemical reaction that eliminates any residual chlorine content allowing bacteria and viruses to potentially grow in the distribution pipelines.

This Project was designed to add ammonia treatment to the well heads which will allow the wells to be used during droughts to supplement or replace surface water and protect human health by maintaining a chlorine residual in the distribution system as required by the California Drinking Water Standards (Title 22).

The Project consists of the installation of liquid ammonium sulfate storage and feed systems, new programmable logic controller (PLC) hardware, minor upgrades to the existing sodium hypochlorite storage and feed systems, construction of new cast in place vaults for chemical injections, new sample lines and analyzers, electrical work, and associated appurtenances to

provide a functional ammonia storage-feed system at Park & Ride Well No. 6 and Ball Park Well No. 7.

The Project improvement plans, specifications and cost estimates were prepared by Carollo Engineers, Inc. and an Invitation for Bids was advertised for competitive bids on August 11, 2022. Bid openings were conducted on September 26, 2022. On January 17, 2023, pursuant to Resolution 2023-006, a construction contract was awarded to TNT Industrial Contractors, Inc., of Sacramento, California, for the construction of the storage-feed systems, in the amount of $1,086,684.

ANALYSIS

The Contractor has now completed all the work required in accordance with the plans and specifications and City staff is requesting acceptance of the Project. Based on inspections by staff and Carollo Engineers, Inc., as of April 16, 2024, the Contractor has competed all work required in accordance with the plans and specifications.

There were seven (7) approved change orders totaling $100,575. The total construction contract amount with change orders was $1,140,679.79 (Final Contract Price.)

Although all the new equipment and pump systems have been tested, the City's System Control and Data Acquisition System (SCADA) control system consultant needs to correct the radio signal transmissions from the wells to the Water Treatment Plant before final start up testing of the new equipment is able to be completed. The SCADA corrections are not part of the contract work. Any deficiencies discovered during start up testing or over the next year, will be addressed as warranty work. Notwithstanding the final start up testing, City staff is recommending acceptance of the Ammonia Storage-Feed Systems at the Park & Ride Well No. 6 and the Ball Park Well No. 7, CIP 75162.

The Contractor provided a one-year Warranty Bond, a Payment Bond, and a Performance Bond with the contract documents after contract award. Once the Project has been accepted by City Council, the City Engineer will release the Payment Bond and Performance Bond in accordance with State law. The City Engineer will release the Warranty Bond when the warranty period expires one year after Project acceptance, in accordance with State law.

FISCAL IMPACT

The Ammonia Storage-Feed Systems at the Park & Ride Well No. 6 and the Ball Park Well No. 7, CIP 75162 Project was established as a Capital Improvement Project funded from the Water Operations budget, with an approved budget of $1,604,800. The total completed Project cost is $1,583,384 and the remaining balance will be released back into the Water Enterprise Capital Fund (F513)

Final Project costs were within budget as follows:

A.	Construction Contract Award	$	1,086,684
B.	Approved Change Orders	$	100,575
C.	Design, construction management, inspection, testing & miscellaneous project management expenses	$	396,125
	Total Project Costs	$	1,583,384
	Total Budget Amount	$	1,604,800
	Budget Remaining	$	21,416

PUBLIC OUTREACH / INTEREST

Other than public bidding at the outset, no public outreach was conducted or required for this Capital Improvement Project.

COORDINATION

Coordination between the Engineering and Utilities Division of Public Works was conducted.

CEQA DETERMINATION

The Project was determined to be exempt, at the time of the contract award, pursuant to categorical exemptions per CEQA Guidelines §15301(a), Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality-of-Life Strategic Priority.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a Resolution (1) accepting as complete the construction of the Ammonia Storage-Feed Systems at the Park & Ride Well No. 6 and the Ball Park Well No. 7, Capital Improvement Project 75162, completed by TNT Industrial Contractors, Inc. of Sacramento, California, (2) authorizing the City Clerk to file the Notice

of Completion with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the bonds and retention payment.

Prepared by: Ilene Macintire, PE, Senior Civil Engineer, Utilities Division

Reviewed by: Stephanie Reyna-Hiestand, Assistant Director of Utilities
Sara Cowell, Finance Director
Karin Schnaider, Assistant City Manager
Bijal M. Patel, City Attorney

Approved by: Midori Lichtwardt, City Manager

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

---

(1) ACCEPTING AS COMPLETE THE CONSTRUCTION FOR THE AMMONIA STORAGE-FEED SYSTEMS AT THE PARK & RIDE WELL NO. 6 AND THE BALL PARK WELL NO. 7, CAPITAL IMPROVEMENT PROJECT 75162, BY TNT INDUSTRIAL CONTRACTORS, INC. OF SACRAMENTO, CALIFORNIA, (2) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE, AND (3) AUTHORIZING THE CITY ENGINEER TO RELEASE THE BONDS AND RETENTION PAYMENT

WHEREAS, the Ammonia Storage-Feed Systems at the Park & Ride Well No. 6 and the Ball Park Well No. 7, Capital Improvement Project 75162 (Project) was established as a Capital Improvement Project funded from Fund 521 (Water) Operations and Maintenance budget, with an approved not-to-exceed amount of $1,604,800; and

WHEREAS, adding ammonia treatment to the well heads will allow the wells to be used during droughts to supplement or replace surface water and protect human health by maintaining a chlorine residual in the distribution system as required by the California Drinking Water Standards (Title 22); and

WHEREAS, the Project improvement plans, specifications and cost estimates were prepared by Carollo Engineers, Inc. and an Invitation for Bids was advertised for competitive bids on August 11, 2022; and

WHEREAS, bids were received and opened on September 26, 2022, and on January 17, 2023, pursuant to Resolution 2023-006, a construction contract was awarded to TNT Industrial Contractors, Inc., of Sacramento, California (Contractor), for the construction of the storage-feed systems, in the amount of $1,086,684; and

WHEREAS, seven (7) change orders issued during construction activities, totaling $100,575, which is nine (9) percent of the total contract amount; and

WHEREAS, City staff and Carollo Engineers, Inc., have inspected and approved all work, and as of April 16, 2024, the Contractor has competed all work required in accordance with the plans and specifications; and

WHEREAS, the Contractor provided a one-year Warranty Bond, Payment Bond, and a Performance Bond with contract documents after contract award; and

WHEREAS, the total complete cost is $1,583,384 and the remaining budget will be released back into the Water Enterprise Capital Fund (F513); and

WHEREAS, the final Project costs were within budget as follows:

A.	Construction Contract Award	$	1,086,684
B.	Approved Change Orders	$	100,575
C.	Design, construction management, inspection, testing & miscellaneous project management expenses	$	396,125
	Total Project Costs	$	1,583,384
	Total Budget Amount	$	1,604,800
	Budget Remaining	$	21,416

; and

NOW THEREFORE, be it

RESOLVED: That the City Council for the City of Tracy, hereby accepts the construction work completed by TNT Industrial Contractors, Inc., of Sacramento, California, for the Ammonia Storage-Feed Systems at the Park & Ride Well No. 6 and the Ball Park Well No. 7, Capital Improvement Project 75162; and be it

FURTHER RESOLVED: That the City Council authorizes the City Clerk to file the Notice of Completion with the San Joaquin County Recorder's Office; and be it

FURTHER RESOLVED: That the City Council authorizes the City Engineer to release the bonds and retention payment in accordance with State law; and be it

FURTHER RESOLVED: That the City Council finds that the actions taken herein are categorically exempt from CEQA (California Environmental Quality Act) pursuant to CEQA Guidelines §15301(a), Class 1 which pertains to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on June 18, 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 1.G

RECOMMENDATION

Staff recommends that the City Council adopt a resolution (1) accepting the public improvements for Tracy Hills Phase 1B Park hereinafter known as Gene Birk Park, constructed by Lennar Homes of California, LLC, and assuming all future operations and maintenance, (2) authorizing the City Clerk to file the Notice of Completion for Gene Birk Park with the San Joaquin County Recorder's Office, and (3) authorizing the City Engineer to release the Gene Birk Park improvement security in accordance with the terms of the Subdivision Improvement Agreement.

EXECUTIVE SUMMARY

This agenda seeks adoption of a resolution by the City Council accepting the Public Improvements relating to Gene Birk Park by Lennar Homes of California, LLC (Developer) as complete and authorizing the City Clerk to file a Notice of Completion. This would authorize the City Engineer to release the Developer's improvement security in accordance with the terms of the pertaining Subdivision Improvement Agreement (SIA) for Gene Birk Park.

BACKGROUND AND LEGISLATIVE HISTORY

On November 10, 2020, the City Council adopted the Tracy Hills Specific Plan Amendment for Tracy Hills Phase 1B/1C and approved various related land use entitlements, including that certain small-lot Vesting Tentative Subdivision Map for Tracy Hills 1B, Tract 4004, processed under Application No. TSM18- 0006 and approved by Resolution No. 2020-188. The Tentative Map includes 432 single-family residential lots, park parcels, HOA recreation area parcel, retention basin parcel, and numerous other parcels to be owned and maintained by Homeowners Association, Developer or City on approximately 309.9 acres located in the Tracy Hills Specific Plan Area, west of Tracy Hills Phase 1A in the vicinity of Tracy Hills Drive. The Tentative Map is on file with the City Clerk and is incorporated herein by this reference.

On September 19, 2023, by Resolution No. 2023-196, City Council approved a Subdivision Improvement Agreement for Tracy Hills Phase 1B Public Park, establishing the Developer, as the responsible party for the construction of the public park improvements known as Gene Birk Park. The Subdivision Improvement Agreement (SIA) was recorded in San Joaquin County Recorder's Office on October 31, 2023, as Document No. 2023-088895. In accordance with the SIA, Govt. Code Sections 66499 et seq. and Tracy Municipal Code section 12.36.080, the Developer furnished improvement securities in the following amounts:

Bond Type	Amount
Faithful Performance Security	$ 5,192,288
Labor and Material Security	$ 5,192,288
Warranty Security	$ 519,229

ANALYSIS

The City Engineer has inspected the completed work and confirmed that the improvements

conform to the SIA and City specifications and plans, as related to Gene Birk Park. Subject to the City Council's approval, a Notice of Completion for Gene Birk Park would be filed by the City Clerk, to be recorded with the San Joaquin County Recorder's Office. Filing the Notice of Completion by City Clerk will finalize acceptance of the improved Gene Birk Park land pursuant to Tracy Municipal Code section 12.36.110. Gene Birk Park carries a one-year Warranty Bond for all public improvements.

Faithful Performance Bonds may be released upon acceptance of improvements by the City. Labor and Material Bonds may be released thirty (30) days after recordation of the Notice of Completion, as the statute of limitations period expires in accordance with Civil Code § 9356. The Warranty Bond may be released one (1) year after the City accepts the improvements and any warranty work is completed.

A total of 9.74 acres has been offered for dedication for Gene Birk Park, comprised of Parcels J, L, M and a portion of Parcel K on the Final Subdivision Map for Tract 4084 – Tracy Hills Villages 9B , recorded on November 17, 2021, in Book 44 of Maps and Plats on Page 2, San Joaquin County Records, and the Amended Final Map for Tract 4084 – Tracy Hills Village 9B, recorded February 10, 2023, in book 44 of Maps and Plats, on page 60, San Joaquin County Records. Recorder Series No. 2021-191724, Official Records of San Joaquin County, California, and accepted by the City Clerk subject to satisfactory completion of improvements. City Council acceptance and filing of the Notice of Completion will memorialize satisfactory completion of improvements.

FISCAL IMPACT

All improvements were completed by the Developer in accordance with the SIA and there was no fiscal impact to the City for the construction cost. Once accepted, Gene Birk Park will be maintained by the City, with funds collected through the Community Facilities District (CFD) 2021-2 special assessments that are to be paid by residents of each lot within the CFD 2021-2 assessment area. The cost of improvements for Gene Birk Park amounted to $5,192,288.

The Developer shall receive neighborhood park fee credits for all 432 single-family residential lots based on a creditable park acreage of 5.38 acres. The required park acreage for Tract 4084 is 4.28. Developer can apply the additional park acreage of 1.10 to other Neighborhood Park requirements within the Tracy Hills Development pursuant to Tracy Hills Development Agreement Section 3.3d.

COORDINATION

The Engineering Division coordinated with the Parks and Recreation Department and the Public Works Department.

CEQA DETERMINATION

This project is consistent with the Final Subsequent Environmental Impact Report (EIR) for the Tracy Hills Specific Plan Project, State Clearinghouse No. 2013102053, which was certified by the City Council on April 5, 2016, Resolution No. 2016-062. No further environmental review is required.

STRATEGIC PLAN

This agenda item is consistent with the City Council approved Quality of Life strategy by enhancing City amenities and advancing vital infrastructure to provide recreation to our residents.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council by resolution (1) accept the public improvements for Tracy Hills Phase 1B Park hereinafter known as Gene Birk Park, constructed by Lennar Homes of California, LLC, and assuming all future operations and maintenance, (2) authorize the City Clerk to file the Notice of Completion for Gene Birk Park with the San Joaquin County Recorder's Office, and (3) authorize the City Engineer to release the Gene Birk Park improvement security in accordance with the terms of the Subdivision Improvement Agreement.

Prepared by: Miguel Hernandez, Construction Project Manager

Reviewed by: Koosun Kim, PE, City Engineer
Richard Joaquin, Parks Planning & Development Manager
Sara Cowell, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:
Attachment A - SIA Tracy Hills Phase 1B Public Improvements

Recording Requested By:

City of Tracy
Development Services
333 Civic Center Plaza
Tracy, CA 95376

Doc #: 2023-088895
10/31/2023 01:26:10 PM
Page: 1 of 44 Fee: $0
Steve J. Bestolarides
San Joaquin County Recorders
Paid By: SHOWN ON DOCUMENT

And When Recorded Mail To:

City of Tracy
Office of the City Clerk
333 Civic Center Plaza
Tracy, CA 95376
Attn: Adrianne Richardson
(No recording fee under Government Code Section 27383)

SPACE ABOVE THIS LINE FOR RECORDER'S INFORMATION

City of Tracy
SUBDIVISION IMPROVEMENT AGREEMENT
Tracy Hills Phase 1B Public Park

This **Subdivision Improvement Agreement** ("**Agreement**") is entered into between the City of Tracy, a municipal corporation ("**City**"), and **LENNAR HOMES OF CALIFORNIA, LLC**, a California limited liability company ("**Developer**").

Recitals

A. Developer is the party responsible for the construction of the public park improvements, known as Tracy Hills Phase 1B Public Park, situated within an approximately 9.74 acre property comprised of Parcels J, L, M and a portion of Parcel K on the Final Subdivision Map for Tract 4084 - Tracy Hills Village 9B, and being more particularly described in Exhibit "**A**" attached hereto and incorporated herein by reference (hereinafter "**Park Site**").

B. On November 10, 2020, the Tracy City Council ("**City Council**") adopted the Tracy Hills Specific Plan Amendment for Tracy Hills Phase 1B/1C and approved various related land use entitlements, including that certain Small-Lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1B, Tract 4004, processed under Application No. TSM18-0006 and approved by Resolution No. 2020-188 ("**Tentative Map**"). The Tentative Map includes 432 single-family residential lots, park parcels, HOA recreation area parcel, retention basin parcel, and numerous other parcels to be owned and maintained by Homeowners Association, Developer or City on approximately 309.9 acres located in the Tracy Hills Specific Plan Area, west of Tracy Hills Phase 1A in the vicinity of Tracy Hills Drive. The Tentative Map is on file with the City Clerk, and is incorporated herein by this reference.

C. The approval of the Tentative Map by the City Council was subject to specified Conditions of Approval ("**Conditions of Approval**"). The Conditions of Approval, attached hereto as Exhibit "**B**", require, among other things, that the Developer

complete construction of the public park improvements and the public park be accepted by the City before the final inspection or occupancy of the 180th dwelling unit (except for up to 15 model homes) within the boundaries of the Tentative Map.

D. The Final Map for Tract 4084 - Tracy Hills Village 9B, recorded on November 17, 2021, in Book 44 of Maps and Plats, at Page 2, San Joaquin County Records, and the Amended Final Map for Tract 4084 - Tracy Hills Village 9B, recorded Feb. 10, 2023, in Book 44 of Maps and Plats, at Page 60, San Joaquin County Records, include offers of dedication to the City of the parcels comprising the Park Site. Upon completion of the Tracy Hills Phase 1B Public Park improvements, the City will accept the offers of dedication of the Park Site parcels and assume ownership of the park improvements. Council approved the Final Map on October 19, 2021, and as part of the Conditions of the Final Map, the Subdivider is required to execute this Subdivision Improvement Agreement for the public park improvements.

E. In accordance with the Conditions of Approval, Developer has prepared and the City Engineer has approved certain improvement plans and specifications (which incorporate portions of the City's Standard Specifications), which describe the Tracy Hills Phase 1B Public Park improvements that are required to be constructed on the Park Site and are incorporated herein by reference. The approved plans and specifications ("**Plans and Specifications**") are entitled "Tracy Hills Phase 1B Public Park Landscape Improvement Plans, Tracy Hills Phase 1B, Tracy, California" and include: fifty-three (53) sheets of landscape construction plans prepared by FORMA; six (6) sheets of electrical plans prepared by DW Consultants; and ten (10) sheets of civil improvement plans prepared by Ruggeri-Jensen-Azar. The Plans and Specifications are on file with the City Engineer under Tracking No. ENG22-0015.

F. Because the required improvements have not been completed, Developer is required to execute this Agreement as authorized by Government Code section 66462.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. Scope of Work; Location. Developer shall perform, or cause to be performed, the Work described in the Plans and Specifications and the Conditions of Approval (hereinafter "**Work**"), to the satisfaction of the City Engineer. The Work shall be performed, and all materials and labor shall be provided, at Developer's expense, in the manner described in the Plans and Specifications. No change shall be made to the Work unless authorized in writing by the City Engineer. Developer may submit a written request to the City Engineer for a change in the scope of Work, as authorized by Tracy Municipal Code section 12.36.060(f).

Developer shall perform all Work at the locations and grades shown on the Plans and Specifications. Developer (a) has acquired any necessary easement or right-of-way or (b) has entered into a separate Agreement with the City to acquire the necessary easement or right-of-way at Developer's expense.

2. Time of Performance. Time is of the essence in the performance of the Work, and the timing requirements set forth here shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Work shall begin within 60 days after the Effective Date of this Agreement, in compliance with the requirements in Section 2.1. "Effective Date" is defined as the date on which the City executes the Agreement. Developer shall submit all requests for extensions of time to the City, in writing, no later than ten days after the start of the condition that purportedly caused the delay, and not later than the date on which performance is due.

2.1 Commencement of Work. No later than 15 days before the beginning of Work, Developer shall provide written notice to the City Engineer of the date on which Developer will begin Work. Developer shall not begin Work until after the notice required by this section is properly provided, and Developer shall not begin Work before the date specified in the written notice.

2.2 Schedule of Work. Concurrently with the written notice of beginning of Work, Developer shall provide the City with a written schedule of Work, which shall be updated in writing as necessary to accurately reflect Developer's prosecution of the Work.

2.3 Completion of Work. Developer shall complete all Work by no later than 365 days after Developer's submittal of its notice of commencement of Work pursuant to Section 2.1 above. If the Work is not completed by this date, City Engineer may grant an extension of time if (a) Developer submits a written request for extension at least ten (10) days prior to expiring date of completion, (b) the City Engineer determines that Work is progressing satisfactorily and an extension is warranted, and (c) Developer pays all processing fees for such time extension.

2.4 Reversion to Acreage. If Developer fails to begin the Work before the date on which completion is due, Developer shall, upon written request by the City, consent to the reversion to acreage of all real property described by the Final Map, and Developer shall bear the costs of processing and implementing the reversion.

3. Improvement Security. Concurrently with Developer's execution of this Agreement, and before beginning any Work, Developer shall furnish contract security, in a form authorized by the Subdivision Map Act (including Government Code sections 66499 *et seq.*) and Tracy Municipal Code section 12.36.080, in the following amounts:

3.1 Faithful Performance security in the amount of **$5,192,288.00** to secure faithful performance of this Agreement (until the date on which the City Council accepts the Work as complete) under Government Code sections 66499.1, 66499.4, and 66499.9.

3.2 Labor and Material security in the amount of **$5,192,288.00** to secure payment by Developer to laborers and materialmen under Government Code sections 66499.2, 66499.3, and 66499.4.

3.3 Warranty security in the amount of **$519,229.00** to guarantee improvements against any defective work or labor done or defective materials used in performance of Work for one year from the date on which the City

Council accepts the Work as complete, under Government Code sections 66499.1, 66499.4, and 66499.9.

4. Indemnification. Developer shall indemnify, defend, and hold harmless City (including its elected officials, officers, agents and employees) from and against any and all claims, demands, damages, liabilities, costs, and expenses (including court costs and attorney's fees) resulting from the performance of the Work by Developer or Developer's agents, representatives, contractors, subcontractors, or employees, except when caused by the active negligence or willful misconduct of City, until such time as all of the following have occurred: (1) the City Council accepts all of the improvements comprising the Work, (2) the City becomes responsible for the maintenance, operation and repair of all of the improvements comprising the Work, and (3) the one year warranty period set forth in Section 12, below, has expired, at which time the indemnification obligations under this Section 4 shall automatically terminate, with regard to any cause of action arising after such date. For avoidance of doubt, Developer's obligations under this Section 4 are in addition to all other Developer's obligations set forth in this Agreement, and shall not affect Developer's warranty obligations set forth in Section 12, below.

5. Insurance. Concurrently with the execution of this Agreement by Developer, and before beginning any Work, Developer shall furnish evidence to the City that the following insurance requirements have been satisfied. The insurance requirements contained in this Section 5 are material terms of this Agreement. These insurance coverage requirements below may be satisfied by umbrella or excess liability policies upon City approval.

5.1. General. Developer shall, throughout the duration of this Agreement, maintain insurance to cover Developer, its agents, representatives, contractors, subcontractors, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.2. Commercial General Liability (with coverage at least as broad as ISO form CG 00 01) coverage shall be maintained in an amount not less than $4,000,000 per occurrence and $8,000,000 general aggregate for general liability, bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability and coverage for explosion, collapse, and underground property hazards.

5.3. Professional Contracts. Developer shall cause its design professionals to maintain professional liability insurance that insures against professional errors and omissions that may be made in performing services related to the Work to be rendered in connection with this Agreement, in the minimum amount of one million dollars ($1,000,000) per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement, and Developer agrees to cause its design professionals to maintain continuous coverage through a period no less than three years after completion of the services required pursuant to this Agreement.

5.4. Automobile Liability (with coverage at least as broad as ISO form 00 01 07 97 for "any auto" including "hired autos" and "non-owned autos") coverage

shall be maintained in an amount not less than $2,000,000 per accident for bodily injury and property damage.

5.4.1. If Developer has no employees, or does not own automobiles, then "hired autos" and "non-owned autos" coverage shall be maintained in an amount not less than $1,000,000 per accident for bodily injury and property damage.

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

5.6. Endorsements. Developer shall obtain endorsements to the commercial general liability and automobile policies with the following provisions:

5.6.1. The City (including its elected and appointed officials, officers, employees, agents, and volunteers) shall be named as an Additional Insured on Developer's Commercial General Liability policy utilizing endorsement form CG 20 10 (or its equivalent) for ongoing operations and CG 20 37 (or its equivalent) for products/completed operations.

5.6.2. For any claims related to this Agreement, Developer's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of Developer's insurance and shall not contribute with it.

5.6.3. Developer shall require its contractors and subcontractors providing services required by this Agreement (e.g. general contractors, design professionals) to name it and the City as Additional Insureds.

5.7. Notice of Cancellation. Developer shall notify the City of any cancellation of either the commercial general liability policy or automobile insurance policy before the expiration date. For the purpose of this notice requirement, any material change in the policy before the expiration shall be considered a cancellation. Developer shall immediately obtain a replacement policy.

5.8. Authorized Insurers. All insurance companies providing coverage to Developer 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, with an AM Best rating of at least A-:VII.

5.9. Insurance Certificate. Developer shall provide evidence of compliance with the commercial general liability insurance and automobile insurance requirements listed above by providing a certificate of insurance and endorsements, in a form satisfactory to the City Attorney before the City executes this Agreement.

5.10. Substitute Certificates. No later than thirty (30) days before the policy expiration date of any insurance policy required by this Agreement, Developer shall provide a substitute certificate of insurance.

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

6. Independent Contractor Status. Developer is an independent contractor and is solely responsible for the acts of its employees, agents, and subcontractors, including

any negligent acts or omissions. Developer is not City's employee and Developer shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization to Developer.

7. Default.

7.1 Notice. If Developer is in default of this Agreement, as defined in Section 7.2, the City Engineer shall provide written notice to Developer and Developer's surety (if any) describing the default.

7.2 Events of default. Developer shall be in default of this Agreement if the City Engineer determines that any one of the following conditions exist:

7.2.1 Developer is insolvent, bankrupt, or makes a general assignment for the benefit of its creditors.

7.2.2 Developer abandons the Project site.

7.2.3 Developer fails to perform one or more requirements of this Agreement.

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

7.2.5 Developer violates any legal requirement related to the Work.

7.3 If Developer fails to cure the default within thirty (30) calendar days, or provide adequate written assurance to the satisfaction of the City Engineer that the cure will be promptly started and diligently prosecuted to its completion, the City may, in the discretion of the City Engineer, take any or all of the following actions:

7.3.1 Cure the default and charge Developer for the costs, including administrative costs and interest in an amount equal to 7% per annum from the date of default.

7.3.2 Demand Developer complete performance of the Work.

7.3.3 Demand Developer's surety (if any) complete performance of the Work.

8. Ownership of Work. All original documents prepared by Developer for this Agreement are the property of the City, and Developer shall provide them to the City at the completion of Developer's Work, or upon demand from the City.

9. Inspection by the City; Inspection Fees and Fee Credits. In order to permit the City to inspect the Work, Developer shall, at all times, provide to the City proper and safe access to the Project site, and all portions of the Work, and to all shops where portions of the Work are in preparation.

Concurrently with Developer's execution of this Agreement and before the beginning of any Work, Developer shall pay the City Inspection Fees in the amount of 3.5% of the estimated Project costs (as approved by the City Engineer). If the City requires an independent inspection, Developer shall pay all such costs and provide a report directly to the City.

Developer shall be entitled to fee credits consistent with Section 3.3 of that certain Development Agreement by and between the City of Tracy and the Tracy Hills Project Owner, LLC, and Tracy Phase I, LLC, adopted by City of Tracy Ordinance No. 1213 and recorded in the Official Records of San Joaquin County on June 9, 2016, as Document Number 2016-066658, as may be amended from time to time (the "**DA**"), and as provided in greater detail in the Finance and Implementation Plan for the Tracy Hills Specific Plan pursuant to the DA and Tracy Municipal Code Section 10.20.060(b)(3), as may be amended from time to time.

9.1. Neighborhood Park Development Impact Fee Credits. Upon submission of the improvement security, payment of engineering review fees, and City's execution of this Agreement, Developer shall be entitled to receive neighborhood park development impact fee credits for all 432 single-family residential lots, based upon a neighborhood park area of 5.38 acres. The required neighborhood park acreage for Tract 4084 is 4.28. Developer can apply the additional 1.10 acres of neighborhood park to other Neighborhood Park Development Impact Fees within Tracy Hills Development. Developer is responsible for paying the neighborhood park program management fee.

10. Developer's Authorized Representative. At all times during the progress of the Work, Developer shall have a competent foreperson or superintendent (Superintendent) on site with authority to act on behalf of Developer. Developer shall, at all times, keep the City Engineer informed in writing of the names and telephone numbers of: (a) the Superintendent; and (b) all contractors and subcontractors performing the Work.

11. Acceptance of Work. Before the City Council's acceptance of the Work, Developer is solely responsible for maintaining the quality of the Work and maintaining safety at the Project site. Developer's obligation to perform the Work is not satisfied until after the City Engineer has made a written determination that all obligations of the Agreement have been satisfied, all outstanding fees and charges have been paid, and the City Council has accepted the Work as complete.

12. Warranty Period. Developer shall warrant the quality of the Work, in accordance with the terms of the Plans and Specifications, for a period of one year after acceptance of the Work by the City Council. If during the one-year warranty period any portion of the Work is determined by the City Engineer to be defective as a result of an obligation of Developer under this Agreement, Developer shall be in default of this Agreement and shall without delay and without any cost to City repair, replace, or reconstruct any defective improvements.

13. Miscellaneous.

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

To City	To Developer:
City of Tracy 333 Civic Center Plaza Tracy, CA 95376 Attn: City Engineer notice@cityoftracy.org	Lennar Homes of California, LLC 2603 Camino Ramon, Suite 525 San Ramon, CA 94583 Attn: Bridgit Koller bridgit.koller@lennar.com
With a copy to:	With a copy to:
City Attorney 333 Civic Center Plaza Tracy, CA 95376 Attn: City Engineer attorney@cityoftracy.org	AG Essential Housing CA 1, LP c/o AGWIP Asset Management LLC 8585 E. Hartford Drive, Suite 118 Scottsdale, AZ 85255 Attn: Steven S. Benson, Manager steve.benson@agwipam.com

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

13.2 Approvals by City. Any approval or consent by that is to be given by City under this Agreement shall be in writing, and any approval or consent that is not in writing shall not be binding on City.

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

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

13.5 Assignment and Delegation. This Agreement and any portion of it may not be assigned or transferred, nor shall any of Developer's duties be delegated, without the City's prior written consent. Any attempt to assign or delegate this Agreement without the City's written consent shall be void and of no effect. A consent by the City to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

13.7 Permits, Licenses, and Compliance with Law. Developer shall, at Developer's expense, obtain and maintain all necessary permits and licenses for the performance of the Work. Before City signs the Agreement, Developer shall obtain a City of Tracy Business License. Developer shall comply with all local,

state, and federal laws, whether or not those laws are expressly stated in this Agreement.

13.8 Entire Agreement; Severability. This Agreement, including all documents incorporated by reference, comprises the entire integrated understanding between the parties concerning the improvements to be constructed for this Project. This Agreement supersedes all prior negotiations, representations, or agreements. If a term of this Agreement is held invalid by a court of competent jurisdiction, the Agreement shall be construed as not containing that term, and the remainder of this Agreement shall remain in effect.

14. Signatures. The individuals executing this Agreement represent and warrant that they have the right, power, legal capacity and authority to execute this Agreement. This Agreement shall inure to the benefit of and be binding upon the parties and their successors and assigns.

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

City of Tracy

Nancy D. Young, Mayor

Date: 10-24-2023

Approved by City Council on 9/19/2023 by Resolution No. 2023-194.

Attest:

By: Adrianne Richardson, City Clerk

Approved As To Form:

By: Bijal Patel, City Attorney

Developer

LENNAR HOMES OF CALIFORNIA, LLC,
a California limited liability company

By: Bridgit Koller
Title: Vice President

Date: 5/16/23

Federal Employer Tax ID No. 93-1223261

Exhibits

A: Legal Description of Park Site (Recital A)

B: Tentative Map Conditions of Approval (Recital C)

Consent to Recordation

AG Essential Housing CA 1, LP, is the owner in fee simple of the real property described in Exhibit A and hereby consents to the recordation of this Subdivision Improvement Agreement.

AG Essential Housing CA 1 LP
a Delaware Limited Partnership

By: AGWIP Asset Management, LLC
An Arizona Limited Liability Company,
Its Authorized Agent

Wendy Stoeckel
By: Wendy Stoeckel
Title: Authorized Representative
Date: 5/24/23

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of San Joaquin }

On October 24, 2023 (*Date*) before me, Adrianne D. Richardson, Notary Public (*Here Insert Name and Title of the Officer*),

personally appeared Nancy D. Young (*Name(s) of Signer(s)*),

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

ADRIANNE D. RICHARDSON
Notary Public - California
San Joaquin County
Commission # 2352849
My Comm. Expires Mar 24, 2025

Place Notary Seal and/or Stamp Above

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

WITNESS my hand and official seal.

Signature _____
Signature of Notary Public

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: Subdivision Improvement Agreement - Tracy Hills Phase 1B Public Park

Document Date: October 24, 2023 Lennar Homes of California, LLC Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Nancy D. Young	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☒ Other: Mayor	☐ Other: _____
Signer is Representing: City of Tracy	Signer is Representing: _____

©2019 National Notary Association

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF Contra Costa

On May 16, 2023, before me, C. Leon, Notary Public
(here insert name and title of the officer)

personally appeared Bridgit Koller,

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

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

WITNESS my hand and official seal.

Signature

C. LEON
Notary Public - California
Contra Costa County
Commission # 2404735
My Comm. Expires Jun 15, 2026

(SEAL)

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

State of Arizona)
County of Maricopa)

On 5/24/23, before me, Jaime Marie Adams, a Notary Public, personally appeared Wendy Stoeckel, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Jaime Marie Adams
Notary Public
Maricopa County, Arizona
My Comm. Expires 07-01-25
Commission No. 607030

Signature Jaime Marie Adams

EXHIBIT "A"
LEGAL DESCRIPTION OF PARK SITE

All that real property situate in the City of Tracy, County of San Joaquin, State of California, described as follows:

All of Parcels J, L and M as shown on the final subdivision map of Tract 4084 – Tracy Hills Village 9B, recorded on November 17, 2021, in Book 44 of Maps and Plats, at Page 2, Recorders Series No. 2021-191726, Official Records of San Joaquin County, California, and a portion of Parcel K of said Tract 4084 described as follows:

Beginning at the northwestern corner of said Parcel K; thence along the northern line of said Parcel K South 77° 44' 29" East 367.47 feet; thence leaving said northern line South 16° 17' 00" West 337.48 feet to the southern line of said Parcel K; thence along said southern line the following four (4) courses and distances:

1) South 86° 26' 16" West 5.67 feet;
2) along the arc of a tangent curve to the right having a radius of 200 feet, through a central angle of 14° 20' 04", an arc distance of 50.04';
3) North 79° 13' 40" West 231.81' feet, and;
4) North 56° 22' 51" West 138.34 feet to the southwestern corner of said Parcel K;

thence along the western line of said Parcel K N 33° 37' 09" East 196.52'; thence continuing along said western line North 12° 15' 31" East 118.31 feet to the point of beginning.

EXHIBIT "B"
CONDITIONS OF APPROVAL

Conditions of Approval for Tracy Hills Phase 1B
Small-Lot Vesting Tentative Subdivision Map
Application Number TSM18-0006
November 10, 2020

Project: These Conditions of Approval shall apply to the small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1B, Application Number TSM18-0006, including approximately 432 single-family residential lots, a park site, and approximately 70 other parcels.

Property: The property consists of approximately 310 acres located in the Tracy Hills Specific Plan Area, west of Phase 1A in the vicinity of Tracy Hills Drive, Application Number TSM18-0006.

Community Facilities Districts: Certain conditions of approval herein involve the establishment of one or more Community Facilities Districts (CFDs) to implement the Project. The imposition of conditions requiring or involving the establishment of CFDs on the Property shall not limit the City from establishing additional CFDs over the Property, subject to an affirmative vote of the Property owner(s).

A. Definitions; Abbreviations.

The definitions in the City's zoning regulations (Tracy Municipal Code, Title 10, Chapter 10.08) and subdivision ordinance (Tracy Municipal Code, Title 12, Chapter 12.08) apply, and in addition:

1. "Applicant" means any person, or other legal entity, defined as a "Subdivider" by Section 12.08.010 of the City of Tracy Municipal Code.

2. "Development Services Director" means the Development Services Director of the City of Tracy, or any other person designated by the City Manager or the Development Services Director, to perform the duties set forth here. (The Development Services Director is also referred to in the Tracy Municipal Code as the Development and Engineering Services Director.)

3. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Hills Specific Plan, the Tracy Municipal Code, ordinances, resolutions, written policies, written procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).

4. "Conditions of Approval" or "Conditions" means these conditions of approval.

5. "Property" means the approximately 310 acres located in the Tracy Hills Specific Plan Area that is the subject of the small-lot Vesting Tentative Subdivision Map for Tracy Hills Phase 1B, Application Number TSM18-0006.

The following abbreviations may be used in these Conditions:

EIR	Environmental Impact Report	PI&RA	Park Improvement and Reimbursement Agreement
DIA	Deferred Improvement Agreement	PUE	Public Utility Easement
OIA	Offsite Improvement Agreement	TMC	Tracy Municipal Code

B. Planning Division Conditions of Approval

1. Compliance with laws. The Subdivider shall comply with all laws (federal, state, and local) related to the development of real property within the Project boundaries, including, but not limited to: the Planning and Zoning Law (Government Code sections 65000, et seq.), the Subdivision Map Act (Government Code sections 66410, et seq.), the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and the Guidelines for the California Environmental Quality Act (California Administrative Code, title 14, sections 15000, et seq., "CEQA Guidelines").

2. City Regulations. Unless specifically modified by these Conditions of Approval, the Subdivider shall comply with all City Regulations.

3. Mitigation Measures. The Subdivider shall comply with all applicable mitigation measures in the Final Subsequent Environmental Impact Report (EIR) for the Tracy Hills Specific Plan Project (State Clearinghouse No. 2013102053), which was certified by the City Council on April 5, 2016, as it may be amended or modified pursuant to CEQA and the CEQA Guidelines.

4. Notice of protest period. Pursuant to Government Code Section 66020, including Section 66020 (d)(1), the City HEREBY NOTIFIES the Subdivider that the 90-day approval period (in which the Subdivider may protest the imposition of any fees, dedications, reservations, or other exactions that are within the purview of the Mitigation Fee Act [Government Code section 66000 et seq.] ("Exactions") and imposed on this Project by these Conditions of Approval) shall begin on the date of the conditional approval of this Project. If the Subdivider fails to file a protest of the Exactions complying with all of the requirements of Government Code Section 66020 within this 90-day period, the Subdivider will be legally barred from later challenging any of the Exactions. The terms of this paragraph shall not affect any other deadlines or statutes of limitations set forth in the Mitigation Fee Act or other applicable law, or constitute a waiver of any affirmative defenses available to the City.

5. Final Maps for Financing Purposes. For the purpose of these Conditions of Approval, if any Final Map or Parcel Map is filed within the boundaries of the Project solely for financing purposes only, and no permits will be requested pursuant to such map, then the requirements listed in these Conditions of Approval shall not apply to the final map or parcel map for financing purposes only.

6. Conformance with Vesting Tentative Subdivision Map. All Final Maps shall be in substantial conformance with the approved Vesting Tentative Subdivision Map (Application Number TSM18-0006), which was received by the Development Services Department on October 7, 2020, and approved by the City Council on November 10, 2020, unless modified by these Conditions.

7. Maintenance for Project Public Landscaping. Before approval of the first Final Map, the Subdivider shall assure that there will be sufficient funding for the ongoing costs related to public landscaping maintenance. Subdivider shall prepare public landscaping improvement plans and a public landscaping budget analysis (to be reviewed and approved by the City Public Works Director) to establish the scope of and cost estimates for public landscaping maintenance.

   As used in these Conditions of Approval:

   "Public landscaping maintenance costs" include but are not limited to all costs associated with the maintenance, operation, repair and replacement of public landscaping included in the Project. Labor costs shall be based upon and be paid at "prevailing wages," as that term is used in Section 1771 of the California Labor Code.

   "Public landscaping" includes but is not limited to the following public areas and public improvements within or adjacent to the Project: public walls, special public amenities, ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks and public open space areas. It does not include public streets and street sweeping, but may include street lights.

   Before approval of the first Final Map, Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which adopts and implements one or more of the following three options (a., b. or c.), subject to the approval of the City's Finance Director:

   a. CFD or other funding mechanism. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall, at its expense, form a Community Facilities District (CFD) or establish another lawful funding mechanism that is reasonably acceptable to the City for the entire Property for funding or performing the on-going maintenance of public landscaping. Formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien. Upon successful formation, the Property will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment. If funds are needed to pay for such public

landscaping maintenance costs before collection of the first Special Services Tax (the "deficit"), then before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit to the CFD (by submittal to the City's Finance Director) the amount of the deficit;

Or

b. HOA and dormant CFD. If the HOA is the chosen funding mechanism, the Subdivider must do the following:

(1) Form a Homeowner's Association (HOA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going maintenance of all public landscaping areas within the entire tentative subdivision map area;

(2) Cause the HOA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property concurrently with the first Final Map, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) to ensure the long-term maintenance by the HOA of all public landscape areas within the entire tentative subdivision map area;

(3) For each Final Map, make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas within the Final Map area;

(4) Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), annex into a CFD in a "dormant" capacity, to be triggered if the HOA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of public landscape maintenance. The dormant tax or assessment shall be disclosed to all homebuyers and non-residential property owners, even during the dormant period.

Or

c. Direct funding. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full costs of public landscaping maintenance as identified by the approved landscaping budget analysis.

8. Maintenance for Public Landscaping for Major Program Roadways. Before approval of the first Final Map, the Subdivider shall assure that there will be sufficient funding to pay the Subdivider's proportionate share of the ongoing public landscaping maintenance costs associated with major program roadways, by entering into an agreement with the City, which shall be recorded against the Property, which adopts and implements one of the following two options (a. or b.), subject to the approval of the City's Finance Director:

   a. CFD. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), Subdivider shall, at its sole expense, form a Community Facilities District (CFD) for the Property, for funding the Subdivider's proportionate share of the ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. Formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien. Upon successful formation, the Property will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment. If funds are needed to pay for such public landscaping maintenance costs before collection of the first Special Services Tax (the "deficit"), then before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit to the CFD (by submittal to the City's Finance Director) the amount of the deficit;

   Or

   b. Direct Funding. Before final inspection or occupancy of the first dwelling (except for up to fifteen model homes), the Subdivider shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full costs of funding the Subdivider's proportionate share of the ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan.

9. Parks. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the property, which stipulates the following:

   a. Before final inspection or occupancy of the 180th dwelling unit (whichever occurs first, except for up to fifteen model homes), the Phase 1B neighborhood park shall be completed and accepted by the City Council. If the Phase 1B neighborhood park is not completed and accepted by the City Council before final inspection or occupancy of the 180th dwelling unit (whichever occurs first, except for up to fifteen model homes) , no further building permits (except for plumbing only building permits) shall be issued until the neighborhood park is completed and accepted by the City Council.

10. Conservation Easement. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that before issuance of a building permit for the 300th dwelling unit (except for plumbing only building permits), the Subdivider shall plant trees in the 100-foot wide conservation easement adjacent to Interstate 580, as depicted in Appendix C of the Tracy Hills Specific Plan (Figures C-6 and C-7), to the satisfaction of the Development Services Director.

11. Schools. Before issuance of a building permit for each new dwelling (except for plumbing only permits), the Subdivider shall document compliance with all applicable school mitigation requirements and provide to the City a certificate of compliance for such requirements from the Jefferson School District and Tracy Unified School District.

12. Public Services. Before approval of the first Final Map, the Subdivider shall do one of the following, subject to the approval of the City's Finance Director:

    a. CFD or other funding mechanism. The Subdivider shall enter into an agreement with the City, to be signed by the City's Finance Director, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit (except for plumbing only building permits and except for up to fifteen model homes), the Subdivider will form or annex into a Community Facilities District (CFD) or establish another lawful funding mechanism that is reasonably acceptable to the City for funding the on-going operational costs of providing Police services, Public Works services and other City services to serve the Project area. Formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien. The Subdivider shall be responsible for all costs associated with the formation or annexation proceedings. Upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment.

    Or

    b. Direct funding. The Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that prior to issuance of a building permit (except for plumbing only building permits and except for up to fifteen model homes), the Subdivider will fund a fiscal impact study to be conducted and approved by the City to determine the long term on-going operational costs of providing Police services, Public Works services, and other City services to serve the Project area, and deposit with the City an amount necessary, as reasonably determined by the City, to fund the full costs in perpetuity as identified by the approved study.

13. Utilities in Roundabout. The roundabout shown on the approved Vesting Tentative Subdivision Map for Tracy Hills Phase 1B shall be designed and constructed in such a manner that no utility lines intersect a 30-foot radius from the center of the roundabout in order to allow sufficient space for the planting and mature growth of any trees planted within the roundabout, which are conceptually depicted in Appendix C of the Tracy Hills Specific Plan (Figure C-9). The Subdivider shall submit Improvement Plans that demonstrate compliance with this condition, to the satisfaction of the Development Services Director.

14. Phillips 66 Pipeline Easement. A Phillips 66 pipeline easement intersects the Project site. Before approval of the first Final Map, the Subdivider shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates that the Subdivider shall clearly mark and label any plot plan where the location of the 16.25-foot minimum setback line from the edge of the Phillips 66 pipeline easement encroaches into the subject property of the plot plan, prior to issuance of a building permit (except for plumbing only building permits), to the satisfaction of the Development Services Director.

C. Engineering Division Conditions of Approval

C.1. General Conditions

C.1.1. Subdivider shall comply with the applicable requirements of the approved documents, technical analyses/reports prepared for the Project listed as follows:

a) *Tracy Hills Specific Plan,* approved by City Council on April 5, 2016, by Resolution No. 2016-063, and any amendments thereto.

b) *Amendment to the Tracy Hills Specific Plan for Phase 1B and 1C,* approved by City Council by Resolution No. 2020-_____ on November 10, 2020, including the *Transportation Consistency Analysis* prepared for the Amendment by Kimley-Horn and Associates, dated October 1, 2020, and any updates or amendments thereto ("Specific Plan Amendment").

c) *Tracy Hills Specific Plan Final Subsequent Environmental Impact Report,* dated January 2016, certified by City Council by Resolution No. 2016-062 on April 5, 2016, and the *Initial Study for the Proposed Amendment to the Tracy Hills Specific Plan for Phase 1B and 1C* prepared by Kimley-Horn and Associates, dated October 2020, including all mitigation measures incorporated therein (hereinafter referred to together as "EIR").

d) *Tracy Hills Phase 1A/B/C Plus KT Network Analysis Memorandum* prepared by Kimley-Horn and Associates, dated December 23, 2019, and *Tracy Hills Phase 1B Vesting Tentative Map Review Memorandum* prepared by Kimley-Horn and Associates, dated October 6, 2020, and any updates or amendments thereto ("Traffic Study").

e) *Tracy Hills Phase 1B and 1C Sanitary Sewer Study Technical Memorandum* prepared by Black Water Consulting Engineers, to be completed subsequent to the approval of the Vesting Tentative Subdivision Map, and any updates or amendments thereto ("Sanitary Sewer Study").

f) *Peer Review and Hydraulic Evaluation for Tracy Hills Phase 1B and 1C Technical Memorandum* prepared by West Yost Associates, dated May 7, 2020, and any updates or amendments thereto ("*Water Study*").

g) *Tracy Hills Phase 1B Drainage Analysis Technical Memorandum* prepared by Ruggeri-Jensen-Azar, dated August 4, 2020, and any revisions or additions thereto required as a result of the future review of said memorandum performed by the City storm drainage consultant ("Storm Drainage Study").

h) *Citywide Water System Master Plan* prepared by West Yost Associates, dated December 2012.

i) *Plan Line Study – Corral Hollow Road* prepared by Ruggeri-Jensen-Azar ("Corral Hollow Road Plan Line"), dated November 7, 2016.

j) *Pipeline Safety Hazard Assessment, Tracy Hills Specific Plan* prepared by Place Works dated September 2014.

k) *Any Finance Implementation Plan* ("FIP"), as described in Section 10.20.060(b)(3)(B) of the Tracy Municipal Code, that is approved by the City Council for the property described in the Tracy Hills Phase 1B Vesting Tentative Subdivision Map, Application No. TSM18-0006.

l) *Development Agreement,* executed between the City of Tracy and the developers of the Tracy Hills Project, approved by the City Council on April 5, 2016, by Ordinance No. 1213, and any amendments thereto ("Development Agreement").

m) Settlement Agreement, executed between the City of Tracy and the developers of the Tracy Hills Project, having an effective date of December 17, 2019 ("Settlement Agreement").

n) Agreement to Defer Payment of Development Impact Fees on New Residential Development, executed between the City of Tracy and the developers of the Tracy Hills Project, dated November 15, 2016 ("Fee Deferral Agreement").

C.1.2. Timing of Compliance: The Applicant shall satisfy each of the following conditions prior to filing the first Final Map unless a different time for compliance is specifically stated in these Conditions of Approval. Any condition requiring an improvement that has already been designed,

completed or under a City-approved agreement may be considered satisfied at the discretion of the City Engineer.

For the purpose of these Conditions of Approval, if any Final Map or Parcel Map is filed within the boundaries of the Project solely for financing purposes only, and no permits will be requested pursuant to such map, then the requirements listed in these Conditions of Approval shall not apply to the final map or parcel map for financing purposes only.

C.1.3. Revisions to the Vesting Tentative Subdivision Map ("VTSM"): The Subdivider shall incorporate revisions to comply with the recommendations and comments in the Traffic Study prior to signature by the City Engineer on the VTSM.

C.2. Improvement Plans

C.2.1. General

The Subdivider shall complete Improvement Plans to comply with all applicable laws, including the City Regulations (defined above) and these Conditions of Approval. Improvement Plans shall contain the design, construction details and specifications of improvements that are required to serve the Project. The Improvement Plans shall be drawn on a 24" x 36" size 4-mil thick polyester film (mylar) and shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

C.2.2. Signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.

C.2.2. Site Grading

C.2.2.1. Erosion Control

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

C.2.2.2. Grading and Drainage Plans

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

C.2.2.3. When the grade differential between the Project site and the adjacent property(s) exceeds 12 inches, a reinforced or masonry block wall, engineered slope, or engineered retaining wall is required for retaining soil. The Subdivider shall submit Retaining Wall Plans that includes the construction detail(s) and structural calculations of the retaining wall or masonry wall for City's review and approval.

C.2.2.4. If an engineered slope is used to retain soil on adjacent property outside the Project boundary, a slope easement will be necessary from the adjacent property. The Subdivider shall obtain a slope easement from owner(s) of the adjacent and affected property(s) and show the slope easement on the Final Map.

C.2.2.5. If applicable, show existing irrigation structure(s), channel(s) and pipe(s) that are to remain or relocated or to be removed, after coordinating with the irrigation district or owner of the irrigation facilities. If there are irrigation facilities including tile drains, that are required to remain to serve existing adjacent agricultural uses, the Subdivider shall design, coordinate and construct required modifications to the facilities to the reasonable satisfaction of the owner of the irrigation facilities and the City.

C.2.3. Grading Permit

The City will not accept a grading permit application for the Project as complete until the Subdivider has provided all relevant documents related to the grading permit required by the City Regulations and these Conditions of Approval, to the satisfaction of the City Engineer.

C.2.4. Storm Drainage

C.2.4.1. Not used.

C.2.4.2. All permanent underground storm drainage lines, structures and facilities to be maintained by the City shall be located within right-of-way to be dedicated to the City or within an easement. If applicable, interim facilities and storm drain lines and collection basins shall be maintained by the Subdivider.

Provide design and construction details for all storm water intercept points at Project boundary at I-580 showing adequate inlet structures, erosion control features, storm drainage easements and connections to the proposed storm drainage facilities in Tracy Hills Drive.

Prior to acceptance of storm drainage facilities for maintenance by the City, the Subdivider shall revise the locations of the 50' wide openings in the Conservation Easements to align with existing drainage routes and proposed storm drainage intercept points into the Project on-site storm drainage system.

C.2.4.3. Storm drainage plans are to be submitted with the required hydrologic and hydraulic calculations for the sizing of storm drainage pipe(s) and shall comply with the Storm Drainage Study and City Regulations.

C2.4.4. Prior to acceptance of maintenance of any public facilities by the City, the Subdivider shall prepare and obtain approval from the Public Works Department of a maintenance plan for all temporary and permanent storm drainage facilities to be maintained by the Subdivider or the HOA. The maintenance plan shall show the phasing of roadway construction, mass grading, drainage facilities, including collection channels, erosion control and protection of the Phillips 66 pipeline during construction. A SWPPP may be used as the maintenance plan with approval by the City Engineer.

C.2.4.5. Storm water designs shall show facilities needed for the collection and channeling of surface water runoff and off-site flow-thru surface water runoff to underground storm drainage facilities, such as temporary drainage collection channels and sedimentation ponds. These improvements shall be shown on the Grading Plans and be approved by the City Engineer before the issuance of a Grading Permit.

C.2.4.6. Since the Project will construct a terminal retention basin, it has been determined that the Project will be exempt from the Post Construction Stormwater Quality Standards. However, should new Federal or State regulations come into effect during the buildout of the Project that would require future compliance, then the Project would not be exempted from those new requirements.

SWPPP's shall be implemented during project construction. In addition, the Project may implement stormwater control measures such as disconnected roof leaders, non-contiguous street sidewalks (providing landscape strips/parkways), tree planting in parkways and use of drought tolerant landscape with drip irrigation systems and "intelligent" controllers. Similarly, public education measures regarding the damaging effects of pollutants to water quality may also be implemented.

C.2.4.7. All storm water structural and construction details that are not part of the City Standard Plans or City Design Standards shall be provided by the Subdivider and submitted to the City for approval as part of the improvement plans.

C.2.4.8. Storm drainage retention basin, including dual-use recreation facilities, shall be contained within a parcel suitable for dedication to the City of Tracy. The basin shall be provided with appropriate fencing with warning signs, access roadways to and from public roadways and access roadways into the ponds for maintenance purposes as approved by the City Engineer. All storm drainage inlets into this basin shall have inlet structures with design acceptable to the City Engineer. All dual-use recreation facilities located with the retention basin shall be designed in consultation with the Engineering, Public Works, Parks & Recreation, and other applicable City departments and are subject to the final approval of said departments.

C.2.4.9. Fixed vertical sediment depth markers shall be installed near discharge points into the Retention Basin to assist with measurements of sediment deposition over time and future assessments of the need for maintenance activities.

C.2.4.10. Prior to or concurrently with the City's approval of the first Final Map within Project, the Subdivider shall dedicate to the City utility maintenance easements necessary for all storm drainage facilities. All requirements relating to the access and maintenance by the Utilities Department and Public Works Department shall be incorporated into the improvement plans.

C.2.5. Sanitary Sewer

C.2.5.1. All sanitary sewer lines and associated improvements shall be designed and installed per the Sanitary Sewer Study that is to be completed subsequent to the Vesting Tentative Subdivision Map approval and City Regulations. Before approval of Final Map(s) for the Project, Subdivider shall submit improvement plans and obtain approval for the plans for all on-site sewer improvements.

C.2.5.2. No final inspection of any residential building will be performed or certificate of occupancy for commercial building will be issued, with the exception of Model Homes, until all improvements required per the Sanitary Sewer Study and City Regulations are completed and functional, as determined by the City Engineer.

C.2.5.3. Subdivider shall pay impact fees at the time of issuance of building permit or in accordance with the Fee Deferral Agreement.

C.2.5.4. Prior to the City's approval of the first Final Map within Project, the Subdivider shall dedicate to the City utility maintenance easements necessary for all sanitary sewer lines. All requirements relating to the access and maintenance by the Utilities Department and Public Works Department shall be incorporated into the improvement plans.

C.2.5.5. The design for 10" sanitary sewer main shown crossing Lot 24 on the VTSM shall be revised as necessary to address access and maintenance requirements of the Public Works Department. The 10" sanitary sewer line shall be located within a parcel to be dedicated to the City for access and maintenance. A paved access shall be provided for the entire length of the parcel to be created between Lots 23 and 24 as required by the Public Works and Utilities departments.

C.2.6. Water Distribution System

C.2.6.1. All potable and recycled water lines and associated improvements shall be designed and installed per the Water Study and City Regulations.

C.2.6.2. During the construction phases (vertical construction) of the Project, the Subdivider shall be responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure appropriate to the various stages of construction and as approved by the Fire Marshall.

C.2.6.3. Prior to approval of each Final Map, the Subdivider shall submit calculations and improvement plans as required by the Fire Marshall and the City Engineer, and obtain a letter from the Fire Marshall that the fire flow parameters per Tracy Design Standards Section 6.02 are met for the phased construction of water lines to the satisfaction of the Fire Marshal.

C.2.6.4. Subdivider shall install a 12-inch recycled water main in Tracy Hills Drive as required to serve the Project, connected to the existing recycled water main installed for the Tracy Hills Phase 1A project.

Initially, the 12-inch Recycled Water Main will be connected to a potable water supply (with a stub in place to future recycled water) as approved by the City until the program backbone Recycled Water facilities are in place. Once the Recycled

Water system network is online the 12-inch Recycled Water distribution main will be disconnected from the Potable Water system and connected to the Recycled Water System as part of the Recycled Water Project by the City.

C.2.6.5. Domestic and Irrigation Water Services – The HOA will be responsible for the repair and maintenance of all valves, fittings on services related to landscaping on all parcels to be owned by HOA and within HOA easements.

C.2.6.6. Fire Service Line – The Subdivider shall design and install fire hydrants at the locations approved by the Fire Marshall. Before the approval of the Improvement Plans, the Subdivider shall obtain written approval from the Fire Marshall for the design, location and construction details of the fire service connections to the Project, and for the location and spacing of fire hydrants that are to be installed to serve the Project.

C.2.7. Street Improvements

C.2.7.1. Subdivider is required to design and construct all applicable on-site, frontage and off-site roadway improvements to serve the Project as identified in the Traffic Study, EIR and these Conditions of Approval. All improvements shall comply with City Regulations, Tracy Hills Design Standards and Specific Plan Amendment. Such improvements shall include, but are not limited to, roadways, water distribution system, sewer system, storm drainage systems, curb and gutter, sidewalks, street lighting system, traffic signals, ITS systems, pavement and crosswalk striping, bicycle lanes and trails, roadway signage and street signs, median islands, turn lanes, landscaping, and all necessary related improvements as required by the City. Timing of completion of street improvements shall comply with these Conditions of Approval.

In the case of a discrepancy between the information shown on the VTSM and the right-of-way and street improvement requirements in the Traffic Study, the Traffic Study shall govern unless determined otherwise by the City Engineer.

Subdivider shall conduct traffic counts as required by the City Engineer once every three months (or at other times if determined by the City Engineer) from the date of approval of the first Final map within the VTSM area. Subdivider shall submit report with the traffic counts to the City Engineer within 10 days from the date of the traffic counts. Where applicable, these traffic counts will be utilized to determine the timing of improvements that have been identified in the Traffic Report and the EIR.

C.2.7.2. Tracy Hills Drive and Other In-tract Streets – Right-of-Way

The Subdivider shall dedicate all rights-of-way that are necessary to construct Tracy Hills Drive and all the in-tract streets, based on their respective cross sections shown on the Vesting Tentative Subdivision Map ("VTSM") and in accordance the Traffic Study, with the Final Map for the respective phase. The width of travel lanes, turn lanes, street median, landscaping strips and sidewalks shall be in accordance with the Vesting Tentative Subdivision Map and the Traffic Study.

C.2.7.3. Tracy Hills Drive and Other In-tract Streets – Improvements

Design and construction details of Tracy Hills Drive and the in-tract streets such as asphalt concrete pavement, curb, gutter, median curb, sidewalks, street lights, fire hydrants, landscaping with automatic irrigation system, storm drains, catch basin and drop inlets, sanitary sewer mains and laterals, water mains, individual water services and meters, pavement marking and striping, traffic signs, driveways, curb ramps and all other street improvements shall comply with City Regulations, and shall be shown on the Improvement Plans.

Improvements along Tracy Hills Drive shall also include Class II bike lanes on both sides of the roadway and an ADA-compliant decomposed granite trail northerly of the north side of the roadway, in accordance with the VTSM and the Traffic Study.

C.2.7.4. Lammers Road South of Tracy Hills Drive – Right-of-Way

The Subdivider shall dedicate the right-of-way necessary to construct the ultimate future Lammers Road improvements (137' right-of-way) between Tracy Hills Drive and I-580, based on the Future Lammers Road (Ultimate) cross section shown on the VTSM and in accordance the Traffic Study, with the Final Map for the respective phase that meets the trigger thresholds identified in the Traffic Study. The ultimate future width and number of travel lanes and turn lanes, and width of street median, landscaping strips and sidewalks shall be in accordance with the Traffic Study.

The Subdivider shall dedicate or cause to be dedicated all right-of-way that is necessary to construct the ultimate future Lammers Road improvements between I-580 and Corral Hollow Road, and that is outside of the boundaries of the Project, in accordance the Traffic Study. Details of the roadway alignment and geometry shall be submitted for

review and approved by the City Engineer. The right-of-way shall be dedicated to the City prior to or concurrently with the Final Map that dedicates the right-of-way for the portion of Lammers Road between Tracy Hills Drive and I-580 as described above. The ultimate future width and number of travel lanes, turn lanes, and width of street median, landscaping strips and sidewalks shall be in accordance with the Traffic Study and roadway alignment and geometry as approved by the City Engineer.

C.2.7.5. Lammers Road South of Tracy Hills Drive – Improvements for Residential Units

A total of 1,347 residential units west of Corral Hollow Road, accessed via Tracy Hills Drive, can be built before triggering the need for the Lammers Road south connection between Tracy Hills Drive and Corral Hollow Road. This trigger equates to approximately 890 westbound and 473 eastbound P.M. peak hour trips along Tracy Hills Drive west of Corral Hollow Road.

Prior to approval of the first Final Map after the trigger threshold has been reached as determined by the traffic counts required by Condition C.2.7.1, the Subdivider shall construct Lammers Road improvements south of Tracy Hills Drive, extending between Tracy Hills Drive and Corral Hollow Road, including undercrossing beneath I-580, consisting of two travel lanes, and a shoulder, landscape strips and sidewalk on the east side as shown on the VTSM and in accordance with the Traffic Study. Subdivider shall obtain approval of encroachment permit and/or agreements from Caltrans for the I-580 undercrossing and related improvements within the Caltrans right-of-way.

C.2.7.6. Lammers Road South of Tracy Hills Drive – Improvements for Commercial Development

Prior to the final inspection of any commercial building developed on the area south of Tracy Hills Drive and east of future Lammers Road and designated as General Highway Commercial in the Specific Plan Amendment (Parcels T and U on the VTSM), the Subdivider shall construct the Interim Lammers Road Improvements south of Tracy Hills Drive, extending between Tracy Hills Drive and Corral Hollow Road, including widened undercrossing beneath I-580, consisting of four travel lanes, shoulders, street median, landscape strips and sidewalks as shown on the VTSM and in accordance with the Traffic Study. The final extent and cross-section geometry of the improvements shall be determined at the time of application for the commercial development.

C.2.7.7. In order to guarantee completion of the portion of the Lammers Road South of Tracy Hills Drive Improvements between I-580 and Corral Hollow Road and that lie outside of the boundaries of the Project, the Subdivider shall enter into an improvement agreement (SIA or OIA) and post an improvement security in the amounts and form in accordance with section 12.36.080 of the TMC and as required by these Conditions of Approval. The Subdivider shall submit the signed and notarized improvement agreement with the necessary improvement security before approval of the Final Map within the Project that meets the trigger thresholds identified in the Traffic Study.

C.2.7.8. Lammers Road North of Tracy Hills Drive – Right-of-Way

The Subdivider shall dedicate the right-of-way necessary to construct the ultimate future Lammers Road improvements (137' right-of-way) between Tracy Hills Drive and the California Aqueduct right-of-way, based on the Future Lammers Road (Ultimate) cross section shown on the VTSM and in accordance the Traffic Study, with the Final Map for the respective phase. The ultimate future width and number of travel lanes and turn lanes, and width of street median, landscaping strips and sidewalks shall be in accordance with the Traffic Study.

C.2.7.9. Lammers Road North of Tracy Hills Drive – Improvements for High Density Residential Development

At the time of approval of the first Final Map for residential development within the area north of Tracy Hills Drive and east of future Lammers Road (designated as High Density Residential in the Specific Plan Amendment and shown as Parcels B and C on the VTSM), the Subdivider shall construct the Interim Lammers Road improvements, extending between Tracy Hills Drive and the California Aqueduct right-of-way, consisting of four travel lanes, shoulders, street median, landscape strips and sidewalks as shown on the VTSM and in accordance with the Traffic Study. The final extent and cross-section geometry of the improvements shall be determined at the time of application for the high density residential development.

In order to guarantee completion of the Lammers Road North of Tracy Hills Drive Improvements, the Subdivider shall enter into an improvement agreement (SIA or OIA) and post an improvement security in the amounts and form in accordance with section 12.36.080 of the TMC and as required by these Conditions of Approval. The Subdivider shall submit the signed and notarized improvement agreement with the

necessary improvement security before approval of the first Final Map within Parcels B and C.

C.2.7.10. Corral Hollow Road at Lammers Road – Right of Way

Per the Citywide Roadway & Transportation Master Plan (CRTMP) that was adopted by City Council on November 26, 2012, pursuant to Resolution 2012-240, amended on November 19, 2013, Corral Hollow Road will be a 4-lane major arterial street with a raised median, sidewalks, bicycle facilities and landscaping, as depicted on the Corral Hollow Road Plan Line.

The Subdivider shall dedicate all rights-of-way necessary for the widening of Corral Hollow Road required at the future intersection of Corral Hollow Road and Lammers Road. The dedication shall include additional right-of-way for turn lanes and transitions where applicable. If required, the Subdivider shall also dedicate right-of-way for construction of intersection improvements as outlined in the Traffic Study, including traffic signal or a roundabout for buildout requirements.

The Subdivider may be eligible for fee Credits and/or reimbursements for right-of-way dedication beyond Project's frontage obligation per the CRTMP requirements. Temporary or interim improvements are not eligible for fee credits or reimbursements.

C.2.7.11. Corral Hollow Road at Lammers Road – Improvements

Concurrent with the construction of improvements on Lammers Road south of Tracy Hills Drive as described above, the Subdivider shall construct the Corral Hollow Road and Lammers Road intersection improvements, consisting of either a roundabout or traffic signal and all associated improvements, in accordance with the Traffic Study.

C.2.7.12. Pavement Repaving/Overlay on Corral Hollow Road

For the first 144 homes within the VTSM area, the Subdivider shall pay $50,000 towards its fair share towards the estimated cost of repaving/overlay from I-580 south right-of-way line to southerly City Limits as directed by the City Engineer. At the time of construction of the intersection of future Lammers Road and Corral Hollow Road the Subdivider shall design and install repaving/overlay from the intersection to I-580 south right-of-way line as directed by the City Engineer. City will make fair share contributions collected

from other projects available to the Subdivider towards the cost of repaving/overlay.

C.2.7.13. Not used.

C.2.7.14. In order to guarantee completion of the Corral Hollow Road Improvements, the Subdivider shall enter into an improvement agreement (SIA or OIA) and post an improvement security in the amounts and form in accordance with section 12.36.080 of the TMC and as required by these Conditions of Approval. The Subdivider shall submit the signed and notarized improvement agreement with the necessary improvement security before approval of the Final Map within the Project that meets the trigger thresholds identified in the Traffic Study.

C.2.7.15. Criseldo Mina Avenue and Palmer Street - Improvements

In accordance with the Traffic Study, all improvements necessary to implement Route No. 1 in the Alternative Routes Analysis contained therein, consisting of the connection of Criseldo Mina Avenue to Palmer Street, shall be completed and said streets shall be accepted by the City Council as public roadways prior to the filing of the Final Map within the Project that meets the trigger thresholds identified in the Traffic Study.

C.2.7.16. Emergency Vehicle Access (EVA)

The existing all-weather emergency vehicle access road constructed per the Conditions of Approval and EIR Mitigation Measures for the Tracy Hills Phase 1A VTSM shall be reconstructed as necessary to conform to the extended Tracy Hills Drive improvements and the proposed Project grading north of Tracy Hills Drive, as generally shown on the VTSM.

Prior to issuance of the first building permit, the Subdivider shall ensure that the existing and reconstructed portions of the all-weather emergency vehicle access road, extending from Tracy Hills Drive northerly to its terminus at South Lammers Road, is fully accessible to Fire Department vehicles and all other necessary emergency responders at all times and to the satisfaction of the Fire Department.

C.2.7.17. Traffic Control Plan

Before starting any work within the project, the Subdivider shall submit a Traffic Control Plan for each phase of work, to show the method and type of construction signs to be used for regulating traffic at the work areas and within existing

streets accessing the work areas. The Traffic Control Plan shall be prepared by a Civil Engineer or Traffic Engineer licensed to practice in the State of California.

C.2.7.18. Encroachment Permit

Before starting any work to be performed and improvements to be constructed within City's right-of-way, the Subdivider shall obtain an Encroachment Permit from the City. The Subdivider or its authorized representative shall submit all documents that are required to process the Encroachment Permit including but not limited to, approved Improvement Plans, Traffic Control Plan, payment of engineering review fees, copy of the Contractor's license, Contractor's Tracy business license, and certificate of insurance naming the City of Tracy as additional insured or as a certificate holder.

C.2.7.19. Dead-End Streets.

A standard barricade and guardrail with appropriate traffic sign will be required at street ends. Alternatively, turnarounds/ hammerheads meeting the requirements of Fire Marshall shall be provided at the dead-end streets.

C.2.7.20. All intersections shall be designed to accommodate fire truck movements as required by the Fire Department.

C.2.7.21. Subdivider must provide and verify sight distances, where applicable, with regard to intersections, reverse lots and fence placements as required by the City Engineer.

C.2.8. EIR Mitigation Measures

The EIR identifies Project impacts that are to be mitigated by the Subdivider. The mitigation measures are summarized in the Mitigation, Monitoring and Reporting Matrix contained in the EIR as referenced under Item C.1.1.c above. Subdivider shall comply with all applicable mitigation measures as outlined in the EIR including, but not limited to, the following:

a. Mitigation Measure HAZ 4.8-2b: Prior to issuance of grading permits, the Project Applicant shall work with Conoco Phillips and Shell to implement and observe a site damage-prevention plan to the satisfaction of the City of Tracy Engineering Division.

b. Mitigation Measure LU 4.10-1: All tentative and final maps within the THSP shall conform to the provisions of the 2009 ALUCP (or the ALUCP in effect at the time of Project Applicant submissions)

c. Mitigation Measure HYDRL 4.9-2: All Project Applicants shall submit and obtain City approval of a drainage plan to the City of Tracy for on-site post-construction BMP drainage improvements consistent with the Tracy Hills Storm Drain Master Plan. Once City approval is received, all Project Applicants shall construct the drainage improvements as necessary and in accordance with the timing described in the Tracy Hills Storm Drain Master Plan.

d. Mitigation Measure NOI 4.11-3e: Prior to the issuance of Grading Permits, any residential development associated with the THSP Buildout (i.e., development other than Phase 1A) located within 260 feet of the Union Pacific Railroad corridor shall have an Acoustical Analysis prepared to fully analyze acoustical impacts and develop measures, if required, to ensure that the City's exterior standards of 70 dBA would be achieved for the proposed land uses that are subject to noise from train pass-bys. The analysis shall conduct detailed train noise modeling to verify that residences are adequately shielded and/or located at an adequate distance from the rail corridor to comply with the City's exterior standards. The analysis shall also ensure that interior noise levels do not exceed 45 dBA.

e. Mitigation Measure PSR 4.12-6: Developers of subsequent phases of the Project (beyond Phase 1A) will be required to prepare SB 221 analysis for each subsequent phase of development.

f. Mitigation Measure PSR 4.12-7a: As part of the development process for each individual site-specific development under the Specific Plan, the City shall review flow monitoring, at the applicant's cost, to determine available capacity.

g. Mitigation Measure TRANS 4.13-2: To achieve compliance with CIR-3 Policy P4 and P6, the bicycle and pedestrian improvement connections from the THSP to the Citywide Network shall be implemented when the roadway infrastructure is required as determined at approval of each final map or issuance of building permits by the City Engineer. The pedestrian and bicycle facilities are included in the City of Tracy's typical cross sections and in the City TIF. Bicycle and pedestrian facilities within the THSP area shall be implemented with each building permit application/final map approval. Widening Corral Hollow Road and constructing and widening Lammers Road shall be in place when the project generates 2,588 AM peak hour trips.

h. Mitigation Measure PSR 4.12-2: Prior to issuance of the first building permit, the developer shall construct an all-whether, emergency vehicle access to all points of the Project site from Lammers Road (including crossings of the Delta Mendota Canal, Union Pacific Railroad, and California Aqueduct). The emergency

vehicle access shall be available to police, fire, and all other necessary and relevant emergency responders. The design, location, and maintenance of the access shall meet City standards to the satisfaction of the Fire Chief. The access shall be continuously maintained by the developer until permanent access is developed and accepted for maintenance by the City

C.2.9. Neighborhood, Linear and Dual-Use Parks

C.2.9.1. The Subdivider shall offer for dedication Parcels "EEE", "DDD", "CCC" and "K" for neighborhood park, linear park, and dual use recreation facility/detention basin purposes, respectively, on the Final Map that corresponds to the timing of completion of respective parks as identified in the Planning~~'s~~ Department's Conditions of Approval. The Subdivider shall design and construct the park improvements consistent with the Tracy Hills Specific Plan, Specific Plan Amendment and City Regulations. The Subdivider shall be eligible for park fee credits in accordance with the Title 13 of the TMC and the Park Improvement and Reimbursement Agreement ("PI&RA").

C.2.9.2. The Subdivider shall submit park improvement plans, signed and notarized improvement agreement PI&RA, and Improvement Security in the amount and type specified in the City Regulations at the time of approval of the Final Map that corresponds to the timing of completion of the park improvements specified in Planning Division's Conditions of Approval.

C.2.10. Public Utility Easements

C.2.10.1. Undergrounding of Overhead Utilities. Any existing overhead lines and poles within the Project boundaries shall be removed or undergrounded.

C.2.10.2. All private utility services to serve the Project such as electric, telephone and cable TV to the building must be installed underground, within right-of-way or a dedicated Public Utility Easement (PUE) and at the location approved by the City and the respective owner(s) of the utilities.

The Subdivider shall submit improvement plans for the installation of electric, gas, telephone and TV cable lines that are to be installed under the sidewalk or within the PUE. Underground utility conduits may be installed under the sidewalks, and underground boxes and structures may be located in the landscaped parkway next to the curb. All above-ground boxes and facilities shall be behind the sidewalk and within the PUE. Pop-outs to provide additional

width of PUE where required to accommodate larger above-ground structures will be permitted subject to review and approval by Public Works Director and the City Engineer. Before approval of the first Final Map, the Subdivider shall complete the necessary coordination work with the respective owner(s) of the utilities to for approval.

C.2.10.3. Public Utility Easements on sideyard lots shall be adjusted or eliminated in final neighborhood designs based on actual joint trench design requirements.

C.3. Final Map

The City will not approve any Final Map until the Subdivider demonstrates, to the satisfaction of the City Engineer, that all the requirements set forth in these Conditions of Approval are completed, including, but not limited to the following:

C.3.1. Subdivider has submitted one reproducible (mylar) copy of the approved tentative subdivision map for the Project after Subdivider's receipt of a notification of approval of the Tentative Subdivision Map. The signature of the owner of the Property on the Tentative Subdivision Map shall indicate the owner's consent to the preparation of the Tentative Subdivision Map and the proposed subdivision of the Property.

C.3.2. Each Final Map is prepared in accordance with the applicable requirements of the Tracy Municipal Code, these Conditions of Approval, all other applicable City Regulations, and in substantial conformance with the Tentative Subdivision Map.

C.3.3. Each Final Map includes and shows offer(s) of dedication of all right(s)-of-way and/or temporary or permanent easement(s) required by the Improvement Plans and Final Map, in accordance with City Regulations and these Conditions. If construction easement(s) is/are shown, it/they shall indicate the termination date of the construction easement(s).

C.3.4. Horizontal and vertical control for the Project shall be based upon the City of Tracy coordinate system and at least three 2nd order Class 1 control points establishing the "Basis of Bearing" and shown as such on the Final Map. The Final Map shall also identify surveyed ties from two of the horizontal control points to a minimum of two separate points adjacent to or within the Property described by the Final Map.

C.3.5. Subdivider has submitted a signed and stamped Engineer's Estimate that show construction cost of subdivision improvements that are described in Conditions C.2 above plus 10% for construction contingencies.

C.3.6. Subdivision Improvement Agreement

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

C.3.7. Final Map Phasing Plan

Prior to Subdivider's submittal to the City of the first Final Map for City approval, Subdivider shall submit for the City Engineer's review and reasonable approval a phasing plan for the submittal of all Final Maps to be filed for this Vesting Tentative Subdivision Map. The phasing plan may be subject to subsequent modifications based on market conditions, the rate of development, and Subdivider's disposition of the parcels created by the Final Maps.

C3.8. Deferred Improvement Agreement

Prior to the City's approval of the first Final Map within the Project, the Subdivider shall execute a Deferred Improvement Agreement, in substantial conformance with the City's standard form agreement, by which (among other things) the Subdivider agrees to complete construction of all remaining public facilities (to the extent the public facilities are not included in the Subdivision Improvement Agreement or other executed agreement(s) with the City) which are required by these Conditions of Approval. The Deferred Improvement Agreement shall identify timing requirements for construction of all remaining public facilities, in conformance with the phasing plan submitted by the Subdivider and approved by the City Engineer.

C.3.9. Improvement Security

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

C.3.9.1 Faithful Performance (100% of the estimated cost of constructing the public facilities).

C.3.9.2 Labor & Material (100% of the estimated cost of constructing the public facilities).

C.3.9.3 Warranty (10% of the estimated cost of constructing the public facilities).

C.3.9.4 Monumentation ($750 multiplied by the total number of street centerline monuments that are shown on the Final Map).

C.3.10. Subdivider has paid engineering review fees including improvement plan checking, final map review, agreement processing, and all other fees required by these Conditions of Approval and City Regulations.

C.3.11. Subdivider has submitted technical or materials specifications, cost estimate, and technical reports related to the design of improvements that are shown on the Improvement Plans and as required by these Conditions.

C.3.12. Subdivider has submitted hydrologic and storm drainage calculations for the design and sizing of in-tract storm drainage pipes located within the Project.

C.3.13. Subdivider has submitted signed and stamped Improvement Plans.

C.3.14. Signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC), and the OIA.

C.3.15. Signed and notarized Deferred Improvement Agreement (DIA) and Improvement Security, to allow deferment of completion of improvements as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with the DIA and Section 12.36.080 of the TMC.

C.4. Grading and Encroachment Permits

No applications for grading and encroachment permits will be accepted by the City as complete until the Subdivider has provided all documents required by these Conditions and City Regulations, to the reasonable satisfaction of the City Engineer, including, but not limited to, the following:

C.4.1. Grading and Drainage Plans prepared on a 24" x 36" size polyester film (mylar). Grading and Drainage Plans shall be prepared under the supervision of and stamped and signed by a Registered Civil Engineer.

C.4.2. Payment of the applicable Grading Permit fees which include grading plan checking and inspection fees, and other applicable fees as required by these Conditions of Approval.

C.4.3. Three sets of the Storm Water Pollution Prevention Plan (SWPPP) identical to the reports submitted to the State Water Quality Control

Board (SWQCB) and any documentation or written approvals from the SWQCB including a copy of the Notice of Intent (NOI) with the state-issued Wastewater Discharge Identification number (WDID). After the completion of the Project, the Subdivider is responsible for filing the Notice of Termination (NOT) required by SWQCB, and shall provide the City, a copy of the completed Notice of Termination.

C.4.4. Cost of preparing the SWPPP, NOI and NOT including the annual storm drainage fees and the filing fees of the NOI and NOT shall be paid by the Subdivider. The Subdivider shall comply with all the requirements of the SWPPP and applicable Best Management Practices (BMPs) and the Storm Water Regulations adopted by the City in 2008 and any subsequent amendment(s), and the City Regulations.

C.4.5. Two sets of the Project's Geotechnical Report signed and stamped by a licensed Geo-technical Engineer licensed to practice in the State of California. The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, percolation rate, roadway section construction recommendations and elevation of the highest observed groundwater level.

C.4.6. A copy of the Approved Fugitive Dust and Emissions Control Plan that meets San Joaquin Valley Air Pollution Control District (SJVAPCD) as required in Mitigation Monitoring and Reporting Program of the Tracy Hills Specific Plan Final Environmental Impact Report (TH-EIR).

C.4.7. Two sets of Hydrologic and Storm Drainage Calculations for the design of the on-site storm drainage system.

C.4.8. Reasonable written permission from irrigation district or affected owner(s), if applicable. The cost of relocating and/or removing irrigation facilities and/or tile drains is the sole responsibility of the Subdivider.

C.4.9. Written approval(s) or permit(s) obtained from San Joaquin County regarding the removal and abandonment of any existing well(s), if applicable. All existing on-site wells, if any, shall be abandoned or removed in accordance with the City and San Joaquin County requirements. The Subdivider shall be responsible for all costs associated with the abandonment or removal of the existing well(s) including the cost of permit(s) and inspection.

C.4.10. Improvement Plans prepared on a 24" x 36" size 4-mil thick polyester film (mylar) that incorporate all the requirements described in these Conditions of Approval. Improvement Plans shall be prepared under the supervision of, and stamped and signed by a Registered Civil, Traffic, Electrical, Mechanical Engineer, and Registered Landscape Architect for the relevant work.

C.4.11. Two sets of structural calculations for drainage structures and retaining walls within street right-of-way and retention basins signed and stamped by a Structural Engineer licensed in the State of California.

C.4.12. Not Used.

C.4.13. Check payment for the applicable engineering review fees which include plan checking, permit and agreement processing, testing, construction inspection, and other applicable fees as required by these Conditions of Approval. The engineering review fees will be calculated based on the current fee rate adopted by the City Council.

C.4.14. Traffic Control Plan for each phase signed and stamped by a Registered Civil Engineer or Traffic Engineer licensed in the State of California.

C.4.15. As required per Mitigation Measure 4.8-2a of the EIR, the Subdivider shall submit, prior to issuance of grading permits, a Phase II ESA focused on soil sampling conducted near the location of the underground crude oil pipelines, as determined by a qualified Phase II/Site Characterization specialist.

C.4.16. As required per Mitigation Measure 4.8-2b of the EIR, prior to issuance of grading permits, the Subdivider shall work with Conoco Phillips to implement and observe a site damage prevention plan to the satisfaction of the City of Tracy Engineering Division.

C.4.17 Signed and notarized Offsite Improvement Agreement (OIA) and Improvement Security, to guarantee completion of the identified public improvements that are necessary to serve the Project as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with Section 12.36.080 of the Tracy Municipal Code (TMC), and the OIA.

C.4.18 Signed and notarized Deferred Improvement Agreement (DIA) and Improvement Security, to allow deferment of completion of improvements as required by these Conditions of Approval. The form and amount of Improvement Security shall be in accordance with the DIA and Section 12.36.080 of the TMC, or pursuant to the terms of the Development Agreement, as appropriate.

C.5. Building Permit

The City will not approve any building permit within the Project boundaries (except for a plumbing permit issued for the purpose of perfecting an RGA) until a Final Map is approved by the City Council and it is recorded at the San Joaquin County Recorder's Office, and the Subdivider demonstrates, to the reasonable satisfaction of the City Engineer, compliance with all the required Conditions of Approval and payment of fees in accordance with the Fee Deferral Agreement including but not limited to the following:

C.5.1. Payment of the applicable current City-Wide Roadway and Traffic, Water, Recycled Water, Wastewater, Storm Drainage, Public Safety, Public Facilities, and Park Development Impact Fees as these relate to the Project and as required by these Conditions of Approval.

C.5.2. Payment of applicable Regional Transportation Impact Fees (RTIF) as required in the Mitigation, Monitoring and Reporting Program of the EIR, these Conditions of Approval, and the Settlement Agreement.

C.5.3. Check payment of any applicable Agricultural Mitigation Fee as required in Chapter 13.28 of the Tracy Municipal Code and Mitigation Measure AG 4.2.1 of the EIR and these Conditions of Approval.

C.5.4. Payment of the San Joaquin County Facilities Fees as required in Chapter 13.24 of the TMC.

C.6. Final Building Inspection

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

C.6.1. The Subdivider has completed construction of all public facilities required to serve the building for which a certificate of occupancy is requested or a final building inspection has to be performed unless otherwise defined herein. Unless specifically provided in these Conditions, or the City Regulations, the Subdivider shall take all actions necessary to construct all public facilities required to serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.7. Temporary or Final Building Certificate of Occupancy

No Final Building Inspection shall be performed or a Temporary or Final Building Certificate of Occupancy will be issued (except for Model Homes) by the City until after the Subdivider provides reasonable documentation which demonstrates, to the satisfaction of the City Engineer, that:

C.7.1 The Subdivider has satisfied all the requirements set forth in these Conditions of Approval.

C.7.2. The Subdivider has completed construction of all required public facilities for the building for which a certificate of occupancy is requested, unless otherwise defined herein. Unless specifically provided in these Conditions of Approval, or some other applicable City Regulations, the Subdivider shall use diligent and good faith efforts in taking all actions necessary to construct all public facilities required to

serve the Project, and the Subdivider shall bear all costs related to construction of the public facilities (including all costs of design, construction, construction management, plan check, inspection, land acquisition, program implementation, and contingency).

C.8. Acceptance of Public Improvements

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

C.8.1. All the public improvements shown on the Improvement Plans are completed and all the deficiencies listed in the deficiency report prepared by the assigned Engineering Inspector are all corrected.

C.8.2. Subdivider has completed the 90-day public landscaping maintenance period.

C.8.3. Subdivider has submitted Certified "As-Built" Improvement Plans (or Record Drawings). Upon completion of the construction by the Subdivider, the City shall temporarily release the originals of the Improvement Plans to the Subdivider so that the Subdivider will be able to document revisions to show the "As Built" configuration of all improvements.

C.8.4. Where applicable, signed and notarized Grant Deed(s) with legal description(s) and plat maps for the offer of dedication of right-of-way, and Grant of Easements as required per these Conditions of Approval and City Regulations, or dedications shown on the Final Map.

C.9. Release of Improvement Security

City will release Improvement Security(s) to the Subdivider after City Council's acceptance of public improvements, both on-site and off-site, in accordance with TMC section 12.36.080, upon written request and submittal of the recorded Notice of Completion.

C.10. Special Conditions

C.10.1. All streets and utilities improvements within City's right-of-way shall be designed and constructed in accordance with City Regulations, except as otherwise specifically approved in the Tracy Hills Specific Plan.

C.10.2. When street cuts are made for installation of utilities, the Subdivider is required to install 2 inches thick asphalt concrete overlay with reinforcing fabric at least 25 feet from all sides and for the entire length of the utility trench. A 2 inches deep grind on the existing asphalt concrete pavement will be required where the asphalt concrete overlay will be applied and shall be uniform thickness in order to maintain current pavement grades, cross and longitudinal slopes. If the utility

trench extends beyond the median island, the limit of asphalt concrete overlay shall be up to the lip of existing gutter located along that side of the street.

C.10.3. All improvement plans shall contain a note stating that the Developer (or Contractor) will be responsible to preserve and protect all existing survey monuments and other survey markers. Any damaged, displaced, obliterated or lost monuments or survey markers shall be re-established or replaced by a licensed Land Surveyor at the Developer's (or Contractor's) sole expense. A corner record must be filed in accordance with the State law for any reset monuments (California Business and Professions Code Section 8871).

C.10.4. Benefit District

The Subdivider may make a written request to the City for the formation of a Benefit District, before the approval of the final map and improvement plans for the public facility(s) considered to be oversized that benefits other property(s) or development(s). Reimbursement request(s) will be processed in accordance with TMC Chapter 12.60.

C.10.5. The CFD or HOA shall include future costs of maintenance including PG&E charges for all new streetlights and new traffic signals to be installed by the Project.

C.10.6. Nothing contained in these Conditions shall be construed to permit any violation of City Regulations. Subject, however, to City Regulations, this Condition does not preclude the City from requiring pertinent revisions and additional requirements to the final map, improvement agreements, and improvement plans, before the City Engineer's signature on the final map and improvement plans, if the City Engineer finds it necessary due to public health and safety reasons. (Government Code section 66498.6.) The Subdivider shall bear all the cost for the inclusion, design, and implementations of such additions and requirements, without reimbursement or any payment from the City.

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. 2024-_____

---

(1) ACCEPTING THE PUBLIC IMPROVEMENTS FOR TRACY HILLS PHASE 1B PARK HEREINAFTER KNOWN AS GENE BIRK PARK, CONSTRUCTED BY LENNAR HOMES OF CALIFORNIA, LLC, AND ASSUMING ALL FUTURE OPERATIONS AND MAINTENANCE, (2) AUTHORIZING THE CITY CLERK TO FILE THE NOTICE OF COMPLETION FOR GENE BIRK PARK WITH THE SAN JOAQUIN COUNTY RECORDER'S OFFICE, AND (3) AUTHORIZING THE CITY ENGINEER TO RELEASE THE GENE BIRK PARK IMPROVEMENT SECURITY IN ACCORDANCE WITH THE TERMS OF THE SUBDIVISION IMPROVEMENT AGREEMENT.

WHEREAS, the Final Subdivision Map for Tract 4084 – Tracy Hills Village 9B, included dedication of an approximately 9.74 acre property comprised of Parcels J, L, M, and a portion of Parcel K for Gene Birk Park; and

WHEREAS, on September 19, 2023, by Resolution No. 2023-196, the City Council approved a Subdivision Improvement Agreement (SIA) for Gene Birk Park with Lennar Homes of California LLC, a California limited liability company (Developer), for the construction of Gene Birk Park in the Final Subdivision Map for Tract 4084 – Tracy Hills Village 9b approved by the City Council pursuant to Resolution 2023-196; and

WHEREAS, Developer has asked the City to accept the completed improvements as related to Gene Birk Park and release to the Developer, the improvement security furnished by the Developer for the Gene Birk Park improvements; and

WHEREAS, the City Engineer has inspected the completed improvements for Gene Birk Park and has determined that the Developer has constructed the Gene Birk Park improvements in conformity with approved plans and specifications and has submitted record drawings of the improvements; and

WHEREAS, pursuant to Tracy Municipal Code section 12.36.110, the City seeks to accept the Gene Birk Park improvements as complete; and

WHEREAS, with the Gene Birk Park improvements complete, the City also seeks to file a Notice of Completion pursuant to Civil Code sections 8184 *et seq*. for the Gene Birk Park improvements with the San Joaquin County Recorder's Office; and

WHEREAS, the City Engineer may release the bonds relating to the Gene Birk Park improvements, once accepted by the City, in accordance with the terms of the Subdivision Improvement Agreement and the California Civil Code; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby accepts the improvements for Gene Birk Park within the Final Subdivision Map for Tract 4084 – Tracy Hills Village 9B, constructed by Lennar Homes of California, LLC, and accepting future maintenance and repair of the Gene Birk Park site; and be it

FURTHER RESOLVED: That the City Council authorizes the City Clerk to file a Notice of Completion for Gene Birk Park and record said Notice with the San Joaquin County Recorder's Office; and be it

FURTHER RESOLVED: That the City Engineer may release the Gene Birk Park improvement security in accordance with the terms of the Subdivision Improvement Agreement and the California Civil Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on 18th day of June 2024 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTENTION:	COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 1.H

RECOMMENDATION

Staff recommends that the City Council adopt the following resolutions: 1) approving an On-Call Professional Services List, for Land Surveying Services, for five years, and 2) authorizing the A) execution of a Master Professional Services Agreement with David W. Enke, L.S., to provide Land Surveying Services for an initial term of three years for a not to exceed amount of $300,000 per fiscal year, and B) City Manager to administratively extend the length of the contract for up to two years.

EXECUTIVE SUMMARY

This agenda seeks approval of an On-Call Professional Services List for land surveying services for five years as well as authorization to execute a Master Professional Services Agreement with David W. Enke, L.S. selected from this On-Call List to provide these services for an initial term of three years and a not to exceed amount of $300,000 per fiscal year. Staff is also seeking authorization for the City Manager to administratively extend the length of contract up to two years.

The City's Selection Committee has reviewed all seven (7) proposals received in the Request for Proposal (RFP) conducted by the Engineering staff to solicit experienced and qualified consultants to provide land surveying services for Engineering projects. The Selection Committee has determined that all seven (7) firms possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City. The Selection Committee is recommending that all seven (7) firms be deemed qualified to remain on the On-Call List.

BACKGROUND AND LEGISLATIVE HISTORY

On-Call Lists entail the practice of prequalifying consultants to be available at specific times for specific expertise areas, so that the City may utilize them on an as-needed basis by the terms outlined in separate agreements between the City of Tracy and qualified consultants.

On April 1, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a RFP to solicit experienced and qualified consultants to provide On-Call Land Surveying Services for Engineering projects. The requested services include but are not limited to, aerial mapping, American Land Title Association surveys, boundary surveys, construction staking, final map review, flood certifications, global positioning surveys, Local Agency Formation Commission mapping, leveling surveys, lot line adjustments, invert elevation surveys, plat and legal descriptions, County Recorder's Office processing, title reports, record of survey mapping, utility research, right-of-way mapping, topographic design surveys, ground penetrating radar (GPR) utility location surveys, Unmanned Aerial Vehicle survey and image data collection, monument preservation surveys, horizontal and vertical control establishment, field topographic and cross-section surveys, engineering design base maps, record map and centerline information retrieval, topographic map preparation, centerline and right-of-way plotting, utility research and plotting, and settlement monitoring.

On April 26, 2024, the City received seven (7) proposals. The City's internal selection committee, consisting of Sharat Bandugula, Senior Civil Engineer, Habibullah Habib, Associate Engineer, and Yemane Haile, Assistant Engineer, carefully evaluated all seven (7) proposals received based on the criteria described in the On-Call RFP. The committee has reviewed and determined that all seven (7) consultant firms possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City and should remain on the On-Call List.

Supplemental topographical survey's for Capital Improvement Projects and final maps requiring City surveyor's approval for Land Development projects are currently pending, staff also recommends that the City Council authorize the execution of a Master Professional Services Agreement (MPSA) with David W. Enke, L.S., which is on the proposed On-Call List, at this time to provide these services. This MPSA is for a three-year term with an option to extend the term, administratively, for up to two years, based on performance.

ANALYSIS

The City of Tracy Engineering Division consists of the following units: Capital Improvement Projects (CIP), Land Development (LD), and Traffic Engineering (TE), which collectively oversee a variety of projects. The proposed projects require at least one of the following land surveying services outlined in the RFP. The proposed On-Call List and Master Professional Service Agreement will allow staff to increase their current workload capacity to keep up with the demand for delivering projects in a timely fashion.

The Selection Committee has completed an extensive review of all seven (7) proposals received and is recommending that all seven (7) On-Call consultants remain on the On-Call List. The table below lists the On-Call consultants and the services they will be providing.

Consultant	Service Provided
Baumbach & Piazza, Inc.	Land Surveying Services
BKF Engineers	Land Surveying Services
David W. Enke, L.S.	Land Surveying Services
GDR Engineering, Inc.	Land Surveying Services
Guida Surveying, Inc.	Land Surveying Services
KIER+WRIGHT	Land Surveying Services
R.E.Y. Engineers, Inc.	Land Surveying Services

This On-Call List of selected consultants creates efficiency and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise. Having previously undertaken the public contracting procedures for each consultant on the list, as project needs arise, the City may more readily move into contracting with one of the consultants on the list, and then return to City Council for approval of a project-specific agreement.

As noted above, staff is also recommending that David W. Enke, L.S. be awarded MPSA with the City to continue to provide services for active and upcoming CIPs.

FISCAL IMPACT

The MPSA agreement with David W. Enke L.S. is granted for an initial term of three years and is within the current budgetary authority granted to the City Manager, pursuant to the budget approval process. This budgetary authority consists of Developer's contributions through cost recovery agreements, approved Capital Improvement Project budgets, Federal and State grant funds, and/or other fees per the City's Master Fee Schedule and the department's operating budget appropriation. Extensions to the MPSA will be granted subject to budget appropriation. As the City adopts an annual budget, the MPSA allows the City to terminate if there is insufficient budgetary authority. Any agreement executed from the approved On-Call List is subject to budget approval.

CEQA DETERMINATION

The approvals requested in this item are for project planning work only and will not result in a physical change in the environment. Therefore, none of the actions are considered as a "project" as defined by Section 21065 of the Public Resources Code.

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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, by resolution: 1) approve an On-Call Professional Services List, for Land Surveying Services, for five years, and 2) authorize the A) execution of a Master Professional Services Agreement with David W. Enke, L.S., to provide Land Surveying Services for an initial term of three years for a not to exceed amount of $300,000 per fiscal year, and B) City Manager to administratively extend the length of the contract for up to two years.

Prepared by: Sharat Bandugula, PE, Senior Civil Engineer

Reviewed by: Koosun Kim, PE, City Engineer
Sara Cowell, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:
Attachment A – Master Professional Service Agreement with David W. Enke, L.S.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
DAVID W. ENKE, L.S.

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and David W. Enke, L.S., a licensed professional land surveyor ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide Land Surveying Services for Capital Improvement Program Projects, Land Development Projects, and Transportation and Traffic projects as further described herein and in Exhibit A.

B. On April 1,2024, the City issued a request for proposal (RFP) for the Land Surveying Services. On April 26,2024 , Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140 (3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: David .W Enke, L.S., Owner. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Owner of David W. Enke, L.S. ("Owner") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on July 1, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $300,000.00 (Three hundred thousand Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

David W. Enke, L.S.
Owner
22968 Los Ranchos Drive
Tracy, CA 95304

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax

Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. <u>Signatures</u>. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: Nancy Young
Title: Mayor
Date: _____

Consultant

David W. Enke
By: David W. Enke, L.S.
Title: Owner
Date: 5/15/24

Federal Employer Tax ID No. XX-XXX-5769

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Exhibits:

A	Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B	Compensation (See Agreement section 3.)
C	Task Order Form

EXHIBIT A Scope of Work

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services Professional Land Surveying Services for Capital Improvement Projects and Land Development Projects, and Transportation and Traffic projects.

General Description of Services the Consultant will Provide: On-call professional land surveying services under this agreement may include, but are not limited to, the following activities conducted to the industry standards:

- Tentative Tract and Tentative Parcel Maps, including non-technical specific plan plotting/site layouts
- Final Tract/Subdivision Maps and Final Parcel Maps
- Legal Description and Plats required for land acquisition and easements
- Act as the “Land Surveyor for the City” to certify necessary recordable documents associated with the assigned projects
- Aerial Mapping and Photogrammetry
- ALTA Survey
- As-Built Surveys
- Boundary Surveys
- Construction Staking or verification of contractor-provided construction staking
- Final Map Review
- Flood Certifications
- Global Positioning System (GPS) Surveys
- LAFCO Mapping/Descriptions
- Leveling Surveys
- Lot Line Adjustments/Lot Mergers
- Invert elevation surveys after Potholing of Existing Utilities
- Preparation of Plat and Legal Descriptions
- Processing with the County Recorder's Office
- Provision of Title Reports
- Record of Survey Mapping/Corner Records
- Research of Existing Utilities Information or Base Maps
- Right-of-Way/Appraisal Mapping
- Topographic Design Surveys

- Ground Penetrating Radar Utility locations (GPR) surveys
- UAV survey and image data collection.
- Monument preservation surveys
- Establish horizontal control based on record data.
- Establish vertical control based on the City of Tracy, and County of San Joaquin benchmarks.
- Perform and provide field topographic, cross-section, survey points, and base maps for engineering design purposes.
- Obtain record maps and centerline information from the County of San Joaquin.
- Reduce field data and prepare a topographic map with one (1) foot contour intervals.
- Plot the location of the centerline and right-of-way based on record maps and assessor's maps.
- Research and plot utilities within the survey area.
- Settlement Monitoring

Additional requirements are as follows:

All work shall be performed under the direction of a Registered Land Surveyor in the State of California. The surveyor shall maintain professional licenses required by the laws of the State of California at all times while under contract with the City of Tracy.
Plans and Maps shall be submitted in AutoCAD Civil 3D format in use by the City at the time of issuance of the task order, and any estimates, schedules, or reports shall be submitted in Microsoft Office format.
The Consultant's survey crew should be available within a 48-hour notice.
The Consultant's survey crew should be experienced with the tasks listed above.
The Consultant's survey party should consist of two or three persons per crew. Ideally, at least one survey party member shall be a Professional Land Surveyor registered in the State of California or a Registered Civil Engineer authorized to practice land surveying in the State of California. Alternatively, the Consultant may propose an experienced but non-licensed surveyor to serve as party chief under the direction and "responsible charge" (as defined in the Professional Land Surveyor's Act) of a Professional Land Surveyor registered in the State of California or a Registered Civil Engineer authorized to practice land surveying in the State of California.
The Consultant's project manager shall be available for periodic meetings to discuss issues related to task orders.

<u>Personnel</u>

David W. Enke, L.S., Owner
Todd A. Enke, Land Surveyor

EXHIBIT B Compensation

EXHIBIT "B"

PER DIEM FEE SCHEDULE

OFFICE, PROFESSIONAL AND TECHNICAL SERVICES

PRINCIPAL	$250.00 PER HOUR
LAND SURVEYOR	$225.00 PER HOUR
PROJECT SURVEYOR	$195.00 PER HOUR
CLERICAL	$80.00 PER HOUR

Court appearances/Depositions (minimum charge) - $2100/half day, $4200/full day: Preparation at applicable hourly rates.

FIELD SURVEY SERVICES

Survey Party (2 Person or 1 Person with Robotic)	$350.00 PER HOUR
3-Man Survey Party (including EDM equipment)	$460.00 PER HOUR

MATERIALS AND SERVICES

Consultants, Special Equipment, Reproductions, Materials and Other Outside Charges	COST PLUS 15%
GPS Receivers	$300/day EACH
Automobile Transportation	$0.85 per mile
Insurance	COST PLUS 15%

OVERTIME FEE IS HOURLY FEE TIMES 1.40.

PAYMENTS ARE TO BE RECIVED WITHIN 30 CALENDAR DAYS OF OUR INVOICE DATE. ALL LATE PAYMENTS ARE SUBJECT TO A LATE FEE AND A SERVICE CHARGE OF 1 1/2% PER MONTH.

SUBJECT TO REVISION ON 01/01/2024 01/01/2023

EXHIBIT C - Task Order Form

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING AN ON-CALL PROFESSIONAL SERVICES LIST, FOR LAND SURVEYING SERVICES, FOR FIVE YEARS.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP), Land Development projects, and Transportation and Traffic projects requiring specialized professional services; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on April 1, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted on the City's website a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide On-Call Land Surveying Services for various engineering projects; and

WHEREAS, the requested On-Call Land Surveying services include, but are not limited to, aerial mapping, American Land Title Association surveys, boundary surveys, construction staking, final map review, flood certifications, global positioning surveys, Local Agency Formation Commission mapping, leveling surveys, lot line adjustments, invert elevation surveys, plat and legal descriptions, County Recorder's Office processing, title reports, record of survey mapping, utility research, right-of-way mapping, topographic design surveys, ground penetrating radar utility location surveys, Unmanned Aerial Vehicle survey and image data collection, monument preservation surveys, horizontal and vertical control establishment, field topographic and cross-section surveys, engineering design base maps, record map and centerline information retrieval, topographic map preparation, centerline and right-of-way plotting, utility research and plotting, and settlement monitoring; and

WHEREAS, the City received seven (7) proposals to provide the required services. The table below lists all seven (7) On-Call consultants and the proposed services:

Consultants	Service Provided
Baumbach & Piazza, Inc.	Land Surveying Services
BKF Engineers	Land Surveying Services
David W. Enke, L.S.	Land Surveying Services
GDR Engineering, Inc.	Land Surveying Services
Guida Surveying, Inc.	Land Surveying Services
KIER+WRIGHT	Land Surveying Services
R.E.Y. Engineers, Inc.	Land Surveying Services

WHEREAS, the City's internal selection committee, consisting of Sharat Bandugula, Senior Civil Engineer, Habibullah Habib, Associate Engineer, and Yemane Haile, Assistant Engineer, carefully evaluated all seven (7) proposals received based on the criteria described in the RFP, and determined that all seven (7) possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City and should remain on the On-Call List; and

WHEREAS, the City will utilize such services on an On-Call basis, and the City will execute Professional Services Agreements with each consultant and issue Task Orders for the scope of work needed, through future City Council action, as may be needed to comply with the Tracy Municipal Code and therefore be it now

RESOLVED: That the City Council of the City of Tracy, hereby approves an On-Call Professional Services List, for five years, for Land Surveying Services.; and be it

FURTHER RESOLVED: That the City Council directs staff to return for future approvals of any specific agreement with any specific firm listed on the foregoing On-Call List, to the extent may be needed for either budgetary or contract authority under the Tracy Municipal Code; and be it

FURTHER RESOLVED: That the approval requested in this item are for project planning work only and will not result in a physical change in the environment and are not considered a "project" as defined by Section 21065 of the Public Resources Code

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

AUTHORIZING THE A) EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH DAVID W. ENKE, L.S., TO PROVIDE LAND SURVEYING SERVICES FOR AN INITIAL TERM OF THREE YEARS FOR A NOT TO EXCEED AMOUNT OF $300,000 PER FISCAL YEAR, AND B) CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH OF THE CONTRACT FOR UP TO TWOYEARS.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP), Land Development projects, and Transportation and Traffic projects requiring specialized professional land surveying services; and

WHEREAS, the City requires the support of professional, technical, and related services from outside consultants to perform these tasks; and

WHEREAS, on April 1, 2024, Engineering staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted on City's website a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide On-Call Land Surveying Services for various Engineering projects; and

WHEREAS, the requested On-Call Land Surveying services include, but are not limited to, aerial mapping, American Land Title Association surveys, boundary surveys, construction staking, final map review, flood certifications, global positioning surveys, Local Agency Formation Commission mapping, leveling surveys, lot line adjustments, invert elevation surveys, plat and legal descriptions, County Recorder's Office processing, title reports, record of survey mapping, utility research, right-of-way mapping, topographic design surveys, ground penetrating radar utility location surveys, Unmanned Aerial Vehicle survey and image data collection, monument preservation surveys, horizontal and vertical control establishment, field topographic and cross-section surveys, engineering design base maps, record map, and centerline information retrieval, topographic map preparation, centerline and right-of-way plotting, utility research and plotting, and settlement monitoring; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an On Call List of qualified consultants to provide land surveying services; and

WHEREAS, David W. Enke, L.S. is on the On-Call List; and

WHEREAS, to provide supplemental topographical surveys for Capital Improvement Projects and final maps requiring City surveyor's approval for Land Development projects are currently pending, staff recommends that the City Council authorize the execution of a Master

Professional Services Agreement (MPSA) for an initial term of three years for a not-to-exceed amount of $300,000 per fiscal year with David W. Enke, L.S.; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and the consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the cost of these services is generally paid from developer contributions, Capital Improvement Project budgets, or Federal and State grant funds; and, therefore, be it now

RESOLVED: That the City Council of the City of Tracy, hereby, approves the execution of the Master Professional Service Agreement, to provide On-Call Land Surveying Services with David W. Enke, L.S., attached hereto as Exhibit 1, with an initial term of three years, and annual not to exceed budget of $300,000; and be it

FURTHER RESOLVED: The City Manager is authorized to administratively extend the initial term of Agreement for up to two additional years following a written determination that the respective Consultant has satisfactorily met all the requirements of the MPSA, and further subject to annual budgetary appropriation by the City Council, through the budget approval process, supporting the funding for such annual extensions; and be it

FURTHER RESOLVED: The approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a “project” as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on 18th day of June, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

EXHIBITS:
Exhibit 1 - Master Professional Service Agreement with David W. Enke, L.S.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
DAVID W. ENKE, L.S.

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and David W. Enke, L.S., a licensed professional land surveyor ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide Land Surveying Services for Capital Improvement Program Projects, Land Development Projects, and Transportation and Traffic projects as further described herein and in Exhibit A.

B. On April 1,2024, the City issued a request for proposal (RFP) for the Land Surveying Services. On April 26,2024 , Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140 (3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: David .W Enke, L.S., Owner. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Owner of David W. Enke, L.S. ("Owner") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on July 1, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $300,000.00 (Three hundred thousand Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

David W. Enke, L.S.
Owner
22968 Los Ranchos Drive
Tracy, CA 95304

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax

Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. <u>Signatures</u>. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

_____
By: Nancy Young
Title: Mayor
Date: _____

Consultant

By: David W. Enke, L.S.
Title: Owner
Date: 5/15/24

Federal Employer Tax ID No. XX-XXX-5769

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)

B Compensation (See Agreement section 3.)

C Task Order Form

EXHIBIT A Scope of Work

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services Professional Land Surveying Services for Capital Improvement Projects and Land Development Projects, and Transportation and Traffic projects.

General Description of Services the Consultant will Provide: On-call professional land surveying services under this agreement may include, but are not limited to, the following activities conducted to the industry standards:

- Tentative Tract and Tentative Parcel Maps, including non-technical specific plan plotting/site layouts
- Final Tract/Subdivision Maps and Final Parcel Maps
- Legal Description and Plats required for land acquisition and easements
- Act as the “Land Surveyor for the City” to certify necessary recordable documents associated with the assigned projects
- Aerial Mapping and Photogrammetry
- ALTA Survey
- As-Built Surveys
- Boundary Surveys
- Construction Staking or verification of contractor-provided construction staking
- Final Map Review
- Flood Certifications
- Global Positioning System (GPS) Surveys
- LAFCO Mapping/Descriptions
- Leveling Surveys
- Lot Line Adjustments/Lot Mergers
- Invert elevation surveys after Potholing of Existing Utilities
- Preparation of Plat and Legal Descriptions
- Processing with the County Recorder's Office
- Provision of Title Reports
- Record of Survey Mapping/Corner Records
- Research of Existing Utilities Information or Base Maps
- Right-of-Way/Appraisal Mapping
- Topographic Design Surveys

- Ground Penetrating Radar Utility locations (GPR) surveys
- UAV survey and image data collection.
- Monument preservation surveys
- Establish horizontal control based on record data.
- Establish vertical control based on the City of Tracy, and County of San Joaquin benchmarks.
- Perform and provide field topographic, cross-section, survey points, and base maps for engineering design purposes.
- Obtain record maps and centerline information from the County of San Joaquin.
- Reduce field data and prepare a topographic map with one (1) foot contour intervals.
- Plot the location of the centerline and right-of-way based on record maps and assessor's maps.
- Research and plot utilities within the survey area.
- Settlement Monitoring

Additional requirements are as follows:

All work shall be performed under the direction of a Registered Land Surveyor in the State of California. The surveyor shall maintain professional licenses required by the laws of the State of California at all times while under contract with the City of Tracy.
Plans and Maps shall be submitted in AutoCAD Civil 3D format in use by the City at the time of issuance of the task order, and any estimates, schedules, or reports shall be submitted in Microsoft Office format.
The Consultant's survey crew should be available within a 48-hour notice.
The Consultant's survey crew should be experienced with the tasks listed above.
The Consultant's survey party should consist of two or three persons per crew. Ideally, at least one survey party member shall be a Professional Land Surveyor registered in the State of California or a Registered Civil Engineer authorized to practice land surveying in the State of California. Alternatively, the Consultant may propose an experienced but non-licensed surveyor to serve as party chief under the direction and "responsible charge" (as defined in the Professional Land Surveyor's Act) of a Professional Land Surveyor registered in the State of California or a Registered Civil Engineer authorized to practice land surveying in the State of California.
The Consultant's project manager shall be available for periodic meetings to discuss issues related to task orders.

<u>Personnel</u>

David W. Enke, L.S., Owner
Todd A. Enke, Land Surveyor

EXHIBIT B Compensation

EXHIBIT "B"

PER DIEM FEE SCHEDULE

OFFICE, PROFESSIONAL AND TECHNICAL SERVICES

PRINCIPAL	$250.00 PER HOUR
LAND SURVEYOR	$225.00 PER HOUR
PROJECT SURVEYOR	$195.00 PER HOUR
CLERICAL	$80.00 PER HOUR

Court appearances/Depositions (minimum charge) - $2100/half day, $4200/full day: Preparation at applicable hourly rates.

FIELD SURVEY SERVICES

Survey Party (2 Person or 1 Person with Robotic)	$350.00 PER HOUR
3-Man Survey Party (including EDM equipment)	$460.00 PER HOUR

MATERIALS AND SERVICES

Consultants, Special Equipment, Reproductions, Materials and Other Outside Charges	COST PLUS 15%
GPS Receivers	$300/day EACH
Automobile Transportation	$0.85 per mile
Insurance	COST PLUS 15%

OVERTIME FEE IS HOURLY FEE TIMES 1.40.

PAYMENTS ARE TO BE RECIVED WITHIN 30 CALENDAR DAYS OF OUR INVOICE DATE. ALL LATE PAYMENTS ARE SUBJECT TO A LATE FEE AND A SERVICE CHARGE OF 1 1/2% PER MONTH.

SUBJECT TO REVISION ON 01/01/2024 01/01/2023

EXHIBIT C - Task Order Form

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

June 18, 2024

Agenda Item 1.I

RECOMMENDATION

Staff recommends that City Council adopt the following Resolutions: 1) approving an On-Call Professional Services List, for Material Testing Services, for five years, and 2) authorizing the A) execution of a Master Professional Services Agreements with BSK Associates, and Terracon Consultants, Inc., each, to provide Material Testing Services for an initial term of three years for a not-to-exceed annual amount of $200,000, and B) City Manager to administratively extend the length of the contract for up to two years.

EXECUTIVE SUMMARY

This agenda seeks 1) approval of an On-Call List for Material Testing Services (On-Call List) for five years and 2) authorization to execute two separate Master Professional Service Agreements (MPSA), with BSK Associates and Terracon Consultants, which are selected from the On-Call List to provide these services for an initial term of three years and for a not-to-exceed amount of $200,000 per fiscal year for each agreement. The staff is also seeking authorization for the City Manager to administratively extend the length of contract for up to two years.

On May 7, 2024, Engineering Division staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide On-Call Material Testing Services for Engineering projects. The City's Selection committee reviewed all seven proposals received in the RFP and determined that only two consultant firms possess the skills, experience, competence, professional qualifications, and certifications required to provide the material testing services requested by the City. The committee is recommending that these two consultants be qualified to remain on the On-Call List.

BACKGROUND AND LEGISLATIVE HISTORY

On-Call services is the practice of prequalifying consultants to be available at specific times for specific -expertise areas, so that the City may utilize them on an as-needed basis by the terms outlined in an MPSA between the City of Tracy and a consultant.

On May 7, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted an RFP process to solicit experienced and qualified consultants to provide On-Call Material Testing Services for engineering projects. The requested On-Call services include but are not limited to, field density testing including method CAL 231, method CAL 216-Drym, ASTM D-2937-tube method, laboratory maximum density, optimum moisture determinations, California 216, dry method, R-Value test, method CAL 301 R-value test., sieve analysis, sand equivalent test per CAL 217-H, percentage of crushed particles per CAL 205, percent of lime-treatment test by titration per CAL 338, concrete compression tests per CAL 521, 539, and 540, specific gravity and weight per cubic foot of compressed bituminous mixture, asphalt testing including extraction (% bitumen) and gradation, asphalt coring, concrete coring per ASTM C-42.

On May 30, 2024, the City received seven (7) Proposals. The City formed an internal selection committee consisting of Sharat Bandugula, Senior Civil Engineer, Miguel Hernandez, Construction Project Manager, Leisser Mazariegos, Associate Engineer. The selection committee has carefully evaluated all the received proposals based on the criteria described in the On-Call Material Testing Services RFP. The committee has determined that only two (2) consultant firms possess the skills, experience, competence, professional qualifications, and certifications required to provide the material testing services requested by the City.

ANALYSIS

The City of Tracy Engineering Division consists of the Capital Improvement Program (CIP), Land Development (LD), and Traffic Engineering (TE), collectively oversee a variety of projects. The proposed projects require at least one of the following material testing services, outlined in the RFP.

The Selection Committee has completed an extensive review of all seven (7) proposals received and recommends that two (2) On-Call consultants remain on the On-Call List. The table below lists the On-Call consultants and the services they will be providing.

Consultant	Service Provided
BSK Associates	Material Testing Services
Terracon Consultants, Inc.	Material Testing Services

The proposed On-Call List will allow the City to quickly contract with qualified consultants, to keep up with the demand for delivering projects in a timely fashion. The City will utilize the qualified consultants on an On-Call basis pursuant to terms outlined in separate Master Professional Services Agreements. The City will issue a Task Order specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each task Order.

This On-Call List of selected consultants creates efficiency and does not bind the City or its budgets to a particular scope of work until it is required as City needs arise. Having previously undertaken the public contracting procedures for each consultant on the list, as project needs arise, the City may more readily move into contracting with one of the consultants on the list, and then return to City Council for approval of a project-specific Professional Services Agreement (PSA).

Further, staff is recommending that BSK Associates and Terracon Consultants, Inc. be awarded MPSAs with the City to continue to provide services for active and upcoming CIPs.

FISCAL IMPACT

The MPSA agreement with BSK Associates and Terracon Consultants, Inc. is granted for an initial term of three years and is within the current budgetary authority granted to the City Manager, pursuant to the budget approval process. This budgetary authority consists of Developers' contributions through cost recovery agreements, approved Capital Improvement Project budgets, Federal and State grant funds, and/or other fees per the City's Master Fee Schedule and the department's operating budget appropriation. The MPSAs allow the City to

terminate if adequate budgetary authority does not exist. Extensions to the MPSA will be granted subject to budget appropriation. Any agreement executed from the approved On-Call List is subject to budget approval.

CEQA DETERMINATION

The approval actions in this item are for planning purposes only, will not result in a physical change in the environment, and not considered as a "project" as defined by Section 21065 of the Public Resources Code.

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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, adopt the following resolutions, 1) approve an On-Call Professional Services List, for Material Testing Services, for five years, and 2) authorize the A) execution of a Master Professional Services Agreements with BSK Associates, and Terracon Consultants, Inc., each, to provide Material Testing Services for an initial term of three years for a not-to-exceed annual amount of $200,000, and B) City Manager to administratively extend the length of the contract for up to two years.

Prepared by: Sharat Bandugula, PE, Senior Civil Engineer

Reviewed by: Koosun Kim, PE, City Engineer
Sara Cowell, Finance Director
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:

Attachment A – Master Professional Service Agreement with BSK Associates.
Attachment B – Master Professional Service Agreement with Terracon Consultants, Inc.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
BSK ASSOCIATES
FOR
MATERIAL TESTING SERVICES

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and BSK Associates, a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic Projects as further described herein and in Exhibit A.

B. On May 7, 2024 the City issued a request for proposal (RFP) for the Material Testing Services. On May 30, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code 2.20.140 (3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Tim Rodriguez Principal-in-Charge/Chief Operating Officer**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of BSK Associates ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement.

The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1,2024 and expire and terminate automatically on July 1,2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 200,000.00 ((Two hundred thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Tim Rodriguez, Principal-in-Charge/Chief Operating Officer
BSK Associates
252 W. Larch Road, Suite H
Tracy, CA 95304

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. <u>Signatures</u>. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant

By: Tim Rodriguez
Title: Principal-in-Charge/COO
Date: June 5, 2024

Federal Employer Tax ID No. 94-1633676

By: Cristiano Melo
Title: Branch Manager
Date: June 5, 2024

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)

B Compensation (See Agreement section 3.)

C Task Order Form

EXHIBIT A Scope of Work

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Professional Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic projects.

General Description of Services the Consultant will Provide: On-call professional Material Testing Services under this agreement may include, but are not limited to, the following activities conducted to the industry standards:

A. Field Density Testing

1. Method CAL 231. This test will not be allowed in trenches and when used, the first five moistures shall be run mechanically (stove or oven) to determine moisture relationship to the nuclear machine. The nuclear machine will then be adjusted for the moisture differentials. If it cannot be adjusted, all moistures shall be run mechanically unless a field examination can prove the accuracy of the moisture determination. Each section tested (structural section) shall not be more than 500 feet in length and do not combine or average 3 separate curve materials or test data.

2. Method CAL 216-Dry. This test will be acceptable in all areas and materials. When nuclear machines are used, one out of every ten tests (or portion thereof) shall be compared with a sand density test, and the two tests shown as such on the report. This test can be an option in trench testing, but because of the costs involved, shall be secondary in trenches. Soil materials shall not be mixed.

3. ASTM D-2937-Tube Method. This test will be acceptable in all materials and areas that can be tube-tested.
4. Laboratory Maximum Density, Optimum Moisture Determinations – California 216, Dry Method.

NOTE:

1. For the field density testing of Public Works projects, (A.1, A.2, & A.3) Consultant shall compensate the field inspectors based on hourly rate established by the Department of Industrial Relations for operating Engineers (Heavy Highway Works): Group 6, Northern California Area 1.
2. For the field density testing of Private work (Subdivision Inspection)

hourly prevailing wage rate is not applicable.

B. R-Value Test
Method CAL 301 - R-Value Test. California State Highway; Untreated
Material and Cement Lime or Other Additives (field or laboratory).

C. Sieve Analysis
Method CAL 202 - Sieve Analysis. This shall consist of course and/or fine with 200 wash.

D. Sand Equivalent Test per CAL 217-H.

E. Percentage of crushed particles per CAL 205.

F. Percent of lime-treatment test by titration per CAL 338.

G. Concrete compression tests per CAL 521, 539 and 540. Tests shall include 7 and 28-day cylinders, molds and one hold cylinder.

H. Cal 308 - Specific gravity and weight per cubic foot of compressed Bituminous mixture. Asphalt testing shall also include extraction (% bitumen) and gradation.

I. Asphalt coring.

J. Concrete coring per ASTM C-42.

Personnel:

Veronica Rager, Project Manager
Tim Rodriguez, Chief Operating Officer/Project Manager
Michael Kibbey, EIT, Construction Services Group Manager
James K. Auser, PE, Senior Materials Engineer/Responsible Engineer
Randy Cortez, Materials Laboratory Manager
Cristiano Melo, PE, GE, Senior Geotechnical Engineer/Branch Manger
Scott Orr, Senior Engineering Technician
David Eckhardt, Senior Engineering Technician
Dennis Ness, Senior Special Inspector
Kenneth (KC) Clark, Engineering Technician

EXHIBIT B

Compensation

ON-CALL MATERIAL TESTING SERVICES

SUMMARY OF COSTS
CITY OF TRACY MATERIALS TESTING SERVICES COST SCHEDULE

ACTIVITY	FEES
Cal 216 Laboratory maximum density (A-4)	$284 per each
R-value test (B)	$473 per each
Sieve analysis (C)	$226 per each
Sand equivalent (D)	$167 per each
Percentage crushed particles (E)	$218 per each
Percent lime by titration (F)	Per quote
Concrete compression tests (G)	$180 per each
Specific gravity/unit weight/gradation/extraction (H)	$210 per each
Asphalt coring (I)	$257 per hour
Concrete coring (includes compression tests on cores (J)	$337 per hour
Cal 216 field density tests – HOURLY RATE PREVAILING WAGE (A.1, A.2, A.3)	$159 per hour
Cal 216 field density tests – HOURLY RATE NON-PREVAILING WAGE (A.1, A.2, A.3)	$142 per hour
Mileage	$40 trip charge
Travel Time (Maximum Two Hours)	1hr round trip

BSK Associates - July 1, 2024 to June 30, 2025 City of Tracy Schedule of Fees

PERSONNEL RATES

Escalation: The prices noted below are subject to an increase of 5% annually, effective July 1 of each year following the initiation of a services agreement.

PROFESSIONAL STAFF

Principal	$	299.00	Seismic GIS	$	231.00
Senior Professional	$	263.00	GIS Specialist	$	200.00
Project Professional II	$	247.00	Information Specialist II	$	189.00
Project Professional I	$	210.00	Information Specialist I	$	168.00
Staff Professional II	$	184.00	CAD	$	126.00
Staff Professional I	$	163.00	Litigation support		1.5x standard rate
Project Administrator	$	116.00	Deposition / Trial		2.0x standard rate
Administrative Assistant / Clerical	$	105.00			

TECHNICAL STAFF - FIELD AND LABORATORY (NON-PREVAILING WAGE)

Non-Destructive Inspection/Testing	$	173.00	BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES		
Special Inspector	$	147.00	Field Work from 0 to 4 hours		Bill actual time
Engineering Technician	$	142.00	Field Work from 4 to 8 hours		Bill actual time
Technician	$	137.00	Field Work over 8 hours / Saturdays		Bill time and a half
Ground Penetrating Radar Scanning Technician	$	331.00	Sundays, holidays and over 12 hours		Bill double time
Core Drilling Technician	$	257.00	Night Shift (Shift commencing after 2pm / before 4am)		Base Rate x 12.5%
Floor Flatness Testing Technician	$	221.00	Show-up time (no work performed)		Bill 2 hours
Sample Pickup / Transportation / Delivery	$	126.00	Sampling or cylinder pickup, minimum charge		Bill 2 hours
Laboratory Technician	$	137.00	Trip Charge		$30.00

NORTHERN CA PREVAILING WAGE LABOR RATES

Group 1 - Special Inspector	$	189.00	BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES		
Group 2 - Special Inspector	$	179.00	Field Work from 0 to 4 hours		Bill actual time
Group 3 - Engineering Technician	$	159.00	Field Work from 4 to 8 hours		Bill actual time
Group 3 - Geotechnical Professional	$	194.00	Field Work over 8 hours / Saturdays		Bill time and a half
Group 3 - Environmental Professional	$	194.00	Sundays, holidays and over 12 hours		Bill double time
Group 4 - Technician	$	139.00	Night Shift (Shift commencing after 2pm / before 4am)		Base Rate x 12.5%
			Show-up time (no work performed)		Bill 2 hours
			Sampling or cylinder pickup, minimum charge		Bill 2 hours

SOUTHERN CA PREVAILING WAGE LABOR RATES

Group 1 - Geotechnical Professional	$	196.00	BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES		
Group 1 - Environmental Professional	$	196.00	Field Work from 0 to 4 hours		Bill actual time
Group 1 - Technician	$	169.00	Field Work from 4 to 8 hours		Bill actual time
Group 2 - Special Inspector	$	179.00	Field Work over 8 hours / Saturdays		Bill time and a half
Group 3 - Non-Destuctive Testing (NDT)	$	189.00	Sundays, holidays and over 12 hours		Bill double time
			Premium Shift (Weekday work before 6am / after 5pm)		Bill time and a half
			Show-up time (no work performed)		Bill 2 hours
			Sampling or cylinder pickup, minimum charge		Bill 2 hours

REIMBURSABLES

Project Administration Fees	7% of Invoice		DIR Administration Fees	3% of Invoice	
Mileage - 2x4 (Portal to Portal)	$	1.00	Certified Payroll / DIR Upload (Monthly)	$	300.00
Mileage - 4x4 (Portal to Portal)	$	2.00	Non-Performance Certified Payroll / DIR Upload (Monthly)	$	100.00
Bridge Toll	Cost + 15%		Subcontractor Management / Compliance Forms (Monthly)	$	100.00
Parking Fees	Cost + 15%		Additional LCP Tracker or Other Compliance Software (Monthly)	$	200.00
Per Diem (as required)	Quote / $250 min.		Additional Special Forms, as required (Monthly)	$	150.00
Subconsultant Services	Cost + 15%		Project Setup (Project)	$	550.00

BSK Associates - July 1, 2024 to June 30, 2025 City of Tracy Schedule of Fees

SOFTWARE AND EQUIPMENT

Escalation: The prices noted below are subject to an increase of 5% annually, effective July 1 of each year following the initiation of a services agreement.

ANALYSIS SOFTWARE USAGE FEES

gINT (software)	$ 68.00	Slide (software)	$ 133.00
LPile (software)	$ 68.00	Settle3D (software)	$ 133.00
APile (software)	$ 68.00	Cpet-IT (software)	$ 68.00
SHAFT (software)	$ 68.00	LiqSVs (software)	$ 68.00
GROUP (software)	$ 133.00	ArcGIS (software)	$ 68.00
Cliq (software)	$ 68.00	Surfer (software)	$ 68.00
LiquefyPro (software)	$ 68.00	Seep/W (software)	$ 133.00
LiqIT (software)	$ 68.00		

EQUIPMENT

Nuclear Gauge (Day)	$ 74.00	10' PVC Blank - 2"(Each)	$ 28.00
Skidmore Wilhelm Calibrator (Day)	$ 74.00	10' PVC Blank - 4: (Each)	$ 65.00
NDT Weld Testing Equipment - UT/MT/PT (Day)	$ 74.00	10' PVC Screen - 2" (Each)	$ 44.00
Proof Load Testing Equipment (Day)	$ 74.00	10' PVC Screen - 4" (Each)	$ 88.00
Torque Wrench (Day)	$ 74.00	5' PVC Blank - 2" (Each)	$ 19.00
GPR Scanning Equipment (Day)	$ 341.00	5' PVC Blank - 4" (Each)	$ 56.00
Rebar Locator/Pachometer (Day)	$ 134.00	5' PVC Screen - 2" (Each)	$ 28.00
Coring Equipment (day)	$ 252.00	5' PVC Screen - 4" (Each)	$ 72.00
Relative Humidity Meter (Day)	$ 74.00	55 Gallon Drum (Each)	$ 131.00
Moisture Emission Test Kit (Each)	$ 50.00	6 "x 5' Steel Monument Cover (Each)	$ 310.00
Wood Moisture Meter (Day)	$ 74.00	Air Indicators (Each)	$ 56.00
Air Meter (Concrete)	$ 74.00	Combustible Gas Indicator (Day)	$ 83.00
Laptop (Day)	$ 79.00	Disposable Bailer (Each)	$ 15.00
Document Scanner (Day)	$ 34.00	HydroPunch Tip (Each)	$ 26.00
Vehicle/Truck Charge (Day)	$ 144.00	Lantec GEM 300 (Day)	$ 271.00
Hand Auger (Day)	$ 158.00	Locking Cap - 2" (Each)	$ 26.00
Seismograph (Day)	$ 333.00	Locking Cap - 4" (Each)	$ 53.00
Hand-held GPS (Day)	$ 102.00	Silicone Tubing (Foot)	$ 9.00
Slope Inclinometer Probe (Each)	$ 525.00	Tedlar Vapor Bags (Each)	$ 32.00
Double Ring Infiltrometer (Day)	$ 158.00	Bottom Cap (Each)	$ 11.00
Drilling Kit - Paint/Stakes/Lath (Each)	$ 36.00	Disposable Purge Pump Tubing (Foot)	$ 2.00
Drilling Supplies (Tubes / Caps)	$ 368.00	Bison Resistivity Meter (Day)	$ 213.00
Sample Sleeve w/ Caps/Teflon 6" (Each)	$ 14.00	Chem Grout Pump (Day)	$ 139.00
Manometer (Day)	$ 259.00	DC Purge Pump (Day)	$ 70.00
Generator	$ 110.00	Development Pump and Controller (Day)	$ 97.00
Power Auger	$ 110.00	Dissolved Oxygen Meter (Day)	$ 84.00
AC Cold Patch (Each)	$ 20.00	Grundfos Converter (Day)	$ 93.00
Bentonite Grout (Bag)	$ 28.00	HydroPunch II (Each)	$ 333.00
Bentonite Medium Chips (Bag)	$ 26.00	Interface Meter (Each)	$ 125.00
Bentonite Pellets (Bucket / Bag)	$ 198.00	Kemmer Sampler (Day)	$ 48.00
Bentonite Powder (Bag)	$ 16.00	ORP Meter (Each)	$ 89.00
Filter Sand (Bag)	$ 15.00	Sample Pump (Day)	$ 133.00
Portland Cement (Bag)	$ 20.00	Scanning Equipment (Day)	$ 134.00
Ready Mix (Bag)	$ 19.00	Water Level Data Logger (Day)	$ 103.00
Padlocks (Each)	$ 28.00	Telescopic Wastewater Sampler (Day)	$ 70.00
pH/EC/Temperature Meter (Day)	$ 79.00	SVE System (Month)	$1,470.00
PID/OVA (Day)	$ 158.00	Combustible Gas Meter (Day)	$ 252.00
Steam Cleaner (Day)	$ 146.00	Water Meter (Day)	$ 68.00
Turbidity Kit (Day)	$ 89.00	Flow Monitoring Equipment (Day)	$ 408.00
Water Sample Filters (Each)	$ 29.00	Liquid Proportional Sampling Equipment (Day)	$ 414.00
Well Sounder (Day)	$ 63.00	Gas Detector Pump (Each)	$ 48.00
Well Vault Traffic Rated Box (Each)	$ 146.00	Landfill Gas Chromatograph (Day)	$ 273.00
Bollards (Each)	$ 125.00	Support Truck (Day)	$ 273.00
Air Compressor (Day)	$ 74.00	Sound Level Meter (Each)	$ 43.00
Continuous Core Sampler (Day)	$ 341.00	Water Level Transducers (Each)	$ 16.00
4" Disposable Bailers (Each)	$ 26.00	Multiparameter Env Water Meter (Day)	$ 179.00

BSK Associates - July 1, 2024 to June 30, 2025 City of Tracy Schedule of Fees

MATERIALS LABORATORY TESTS

Escalation: The prices noted below are subject to an increase of 5% annually, effective July 1 of each year following the initiation of a services agreement. Standard Rate Applies to Normal Testing Schedule. Rush Order Turnaround Time Charged at 1.5 x Standard Unit Rates.

SOILS & AGGREGATES			
Modified or Standard Proctor - 4" or 6" Mold (ASTM / AAS	$ 336.00	% Crushed Particles / Fractured Particles (CT 205/AASHTO T335)	$ 218.00
Proctor with Oversize Material (ASTM / AASHTO)	$ 420.00	% Flat & Elongated (ASTM D4791)	$ 167.00
Proctor Check Point (All Methods)	$ 180.00	Minus 200 Wash/Aggregate (ASTM C117)	$ 110.00
Caltrans Maximum Wet Density (CT 216)	$ 284.00	Sieve Analysis w/ Wash (ASTM C136 / CT 202 / AASHTO T27)	$ 226.00
Minus 200 Wash Soil (ASTM D1140)	$ 110.00	Sieve Analysis - Coarse Only (ASTM C136 / CT 202 / AASHTO T27)	$ 110.00
Moisture Content of Soils (ASTM D2216)	$ 47.00	Coarse Specific Gravity / Absorption (ASTM C127/CT 206/AASHTO T85)	$ 210.00
Plasticity Index (ASTM D4318)	$ 290.00	Fine Specific Gravity / Absorption (ASTM C128/CT 207/AASHTO T84)	$ 210.00
Expansion Index of Soils (UBC No. 29)	$ 311.00	Sand Equivalent (ASTM D2419 / CT 217 / AASHTO T176)	$ 167.00
Collapse Potential of Soils (ASTM D2435)	$ 270.00	Durability Index (CT 229)	$ 331.00
Organic Impurities (ASTM C40 / CT 213)	$ 110.00	Abrasion by LA Rattler, Large Size (ASTM C131/CT 211/AASHTO T96)	$ 378.00
Tube Density & Moisture Content of Soil (ASTM D2216, D:	$ 57.00	Abrasion by LA Rattler, Small Size (ASTM C131/CT 211/AASHTO T96)	$ 311.00
Visual Classification (ASTM D2488)	$ 57.00	Cleanness Value of Aggregate (CT 227)	$ 238.00
Hydrometer (ASTM D422 / CT 203)	$ 315.00	Aggregate Wt pcf Compacted (ASTM C 29)	$ 117.00
Double Hydrometer (ASTM D4221)	$ 414.00	Gradation-Rip Rap - Per Sieve (D5519-Method A)	$ 298.00
Uncompacted Void Content (CT 234 / AASHTO T304)	$ 147.00	Sodium Sulfate Soundness-Min. Charge (ASTM C88/CT 214/AASHTO T1	$ 462.00
Sand Density Calibration (ASTM D1556)	$ 231.00	Sodium Sulfate Soundness-Per Sieve (ASTM C88/CT 214/AASHTO T104	$ 147.00
Minimum Resistivity of Soils (CT 643)	$ 186.00	R-Value of Soils (CT 301)	$ 473.00
Consolidation (ASTM D2435) w/ 2 Time Rates	$ 553.00	Soil Cement Compression - Set (ASTM D1633)	$ 315.00
Consolidation (ASTM D2435) w/ No Time Rates	$ 368.00	CIR / FDR Compressive Strength Testing - Set	$ 315.00
Unconfined Compressive Strength, Soil (ASTM D2166)	$ 147.00	CIR / FDR Sample Preparation / Compaction	$ 289.00
Remolded Consolidation (ASTM D2435)	$ 468.00	CBR (ASTM D1883/AASHTO T-180)	$1,313.00
Minimum Index Density Soils (ASTM D4254)	$ 91.00	Preparation of Soil-Cement Samples	$ 994.00
Direct Shear Remolded (ASTM D3080)	$ 347.00	Soluble Sulfate Chloride & Sulfide	$ 172.00
Direct Shear (ASTM D3080)	$ 290.00	pH Sulfate & Chloride	$ 87.00
Remolded Direct Shear (ASTM D3080)	$ 347.00	% Lumps/Friable Particles (ASTM C142)	$ 107.00
Remolded Flexwall Perm (ASTM D5084)	$ 739.00	% Organics in Soil (ASTM D2974)	$ 181.00

HOT MIX ASPHALT			
JMF Mix Design, Superpave / Caltrans	$11,838.00	Bitumen Content - Ignition (ASTM D6307 / CT382 / AASHTO T308)	$ 296.00
JMF Verification - HMA - Superpave / Caltrans	$6,860.00	Oil Content Correction Factor (ASTM D6307 / CT 382 / AASHTO T308)	$ 689.00
JMF Production Startup - Superpave / Caltrans	$6,382.00	Gradation from Extraction (ASTM D5444 / AASHTO T30)	$ 180.00
RAP Material Testing - Additional Fee	$ 830.00	Bulk Specific Gravity (CT308 / AASHTO T275 / ASTM D2726)	$ 84.00
Rubberized RHMA Material - Additional Fee	$1,915.00	HMA Theo. Max Density Rice Method (ASTM D2041 / CT 309 / AASHTC	$ 331.00
JMF Mix Design, HVEEM	$4,095.00	Volumetric Calculations (VMA, VFA, DP, AV, Eff. Calcs)	$ 70.00
JMF Mix Design, Marshall	$4,858.00	Moisture Content of Asphalt (CT 370 / AASHTO T329)	$ 87.00
Open Graded Asphalt Optimum Bitumen Content (CT 368	$2,924.00	Film Stripping	$ 117.00
Gyratory Compaction - Set of 3 (AASHTO T312)	$ 442.00	Compaction/Preparation of HMA Briquette (CT 304)	$ 290.00
Hamburg Wheel Track (AASHTO T324)	$2,625.00	Stabilometer Value - Set of 3 (CT366)	$ 368.00
Tensile Strength Ratio (CT 371 / AASHTO T283)	$1,449.00	Lab Mixed TSR - Moisture Induced Damage (AASHTO T283 / CT 371)	$1,943.00
Marshall Maximum Density (ASTM D6926)	$ 386.00	Calculated AC Maximum Density (CT 367)	$ 131.00
Marshall Stability & Flow (ASTM D6927)	$ 331.00	Thickness Determination of AC Cores	$ 28.00

CONCRETE & MASONRY			
Compression Test Concrete - Per Cylinder (ASTM C39)	$ 37.00	Flexural Test per Beam (ASTM C78 / CT 523)	$ 118.00
Compression Test Concrete - Set of 4/5 (ASTM C39)	$ 180.00	Linear Shrinkage - Set of 3 (ASTM C157)	$ 525.00
Compression Test of Core (ASTM C42)	$ 80.00	Unit Weight Lt Wt Concrete (ASTM C567)	$ 74.00
Compressive Strength of Shotcrete Panel	$ 420.00	Splitting Tensile Strength of Concrete (ASTM C496)	$ 158.00
Compression Test Composite CMU Prism (1)	$ 218.00	Compressive Strength CMU Block (ASTM C140)	$ 252.00
Compression Test Grout (Set of 4)	$ 159.00	Comp. Strength, SG, & Abs. of CMU - Per Block (ASTM C140)	$ 290.00
Compression Test Mortar (Set of 3)	$ 145.00	Masonry Linear Shrinkage (ASTM C426)	$ 532.00
		Masonry Core Shear Test (Title 24)	$ 248.00

METALS & FIREPROOFING			
Tensile & Bend of Rebar #3-11	$ 195.00	Brinell Hardness of Steel (ASTM E10)	$ 131.00
Slip and Tensile Rebar Couplers (CT 670)	$ 284.00	Rockwell Hardness of Steel (ASTM E18)	$ 131.00
Bolt Proof & Ultimate Load	$ 187.00	Face Bend of Steel Coupon	$ 80.00
Bolt Hardness - Set of 3	$ 131.00	Root Bend of Weld Coupon	$ 80.00
Nut Proof Load - Set of 3	$ 187.00	Side Bend of Weld Coupon	$ 80.00
Nut Hardness - Set of 3	$ 131.00	Tensile Test of Steel Coupon	$ 110.00
Washer Hardness - Set of 3	$ 131.00	Bend Test of Steel Coupon	$ 95.00
Dry Density Fireproofing (ASTM E605)	$ 125.00	Adhesion / Cohesion Fireproofing Materials	$ 167.00

EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Terracon Consultants, Inc.
FOR
MATERIAL TESTING SERVICES

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Terracon Consultants, Inc., a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic Projects as further described herein and in Exhibit A.

B. On May 7, 2024 the City issued a request for proposal (RFP) for the Material Testing Services. On May 30, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code 2.20.140 (3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Troy Schiess, PE, Contract Manager. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Terracon Consultants, Inc. ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum

compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1,2024 and expire and terminate automatically on July 1,2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 200,000.00 ((Two hundred thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Troy Schiess, PE, Contract Manager
Terracon Consultants, Inc.
902 Industrial Way
Lodi, CA 95240

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers,

employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant

By: Troy Schiess, PE
Title: Contract Manager
Date: 06/05/2024

Federal Employer Tax ID No. 46-5432694

Joseph Aldern

By: Joseph Aldern
Title: Senior Vice President
Date: 06/05/2024

Exhibits:

A	Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B	Compensation (See Agreement section 3.)
C	Task Order Form

EXHIBIT A Scope of Work

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Professional Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic projects.

General Description of Services the Consultant will Provide: On-call professional Material Testing Services under this agreement may include, but are not limited to, the following activities conducted to the industry standards:

A. Field Density Testing

1. Method CAL 231. This test will not be allowed in trenches and when used, the first five moistures shall be run mechanically (stove or oven) to determine moisture relationship to the nuclear machine. The nuclear machine will then be adjusted for the moisture differentials. If it cannot be adjusted, all moistures shall be run mechanically unless a field examination can prove the accuracy of the moisture determination. Each section tested (structural section) shall not be more than 500 feet in length and do not combine or average 3 separate curve materials or test data.

2. Method CAL 216-Dry. This test will be acceptable in all areas and materials. When nuclear machines are used, one out of every ten tests (or portion thereof) shall be compared with a sand density test, and the two tests shown as such on the report. This test can be an option in trench testing, but because of the costs involved, shall be secondary in trenches. Soil materials shall not be mixed.

3. ASTM D-2937-Tube Method. This test will be acceptable in all materials and areas that can be tube-tested.
4. Laboratory Maximum Density, Optimum Moisture Determinations – California 216, Dry Method.

NOTE:

1. For the field density testing of Public Works projects, (A.1, A.2, & A.3) Consultant shall compensate the field inspectors based on hourly rate established by the Department of Industrial Relations for operating Engineers (Heavy Highway Works): Group 6, Northern California Area 1.
2. For the field density testing of Private work (Subdivision Inspection)

hourly prevailing wage rate is not applicable.

B. R-Value Test
Method CAL 301 - R-Value Test. California State Highway; Untreated Material and Cement Lime or Other Additives (field or laboratory).

C. Sieve Analysis
Method CAL 202 - Sieve Analysis. This shall consist of course and/or fine with 200 wash.

D. Sand Equivalent Test per CAL 217-H.

E. Percentage of crushed particles per CAL 205.

F. Percent of lime-treatment test by titration per CAL 338.

G. Concrete compression tests per CAL 521, 539 and 540. Tests shall include 7 and 28-day cylinders, molds and one hold cylinder.

H. Cal 308 - Specific gravity and weight per cubic foot of compressed Bituminous mixture. Asphalt testing shall also include extraction (% bitumen) and gradation.

I. Asphalt coring.

J. Concrete coring per ASTM C-42.

Personnel:

Troy Schiess, PE, Contract Manager
Joe Edwards, Project Manager
George Ogas, Assistant Project Manager
Paula Arends, Laboratory Manager
Eric Allen, Construction Inspector / Materials Testing Engineer
Bobby Edger, Construction Inspector / Materials Testing Engineer
Ben Saptang, Construction Inspector / Materials Testing Engineer
Tom Solomon, Construction Inspector / Materials Testing Engineer
Sam Bone, Construction Inspector / Materials Testing Engineer

EXHIBIT B

Compensation

ON-CALL MATERIAL TESTING SERVICES

SUMMARY OF COSTS
CITY OF TRACY MATERIALS TESTING SERVICES COST SCHEDULE

ACTIVITY	FEES
Cal 216 Laboratory maximum density (A-4)	$225.00
R-value test (B)	$320.00
Sieve analysis (C)	$165.00
Sand equivalent (D)	$120.00
Percentage crushed particles (E)	$185.00
Lime determination by titration (F)	Do not perform
Concrete compression tests (G)	$28.00/cyl
Specific gravity/unit weight/gradation/extraction(ignition) (H)	$375.00
Asphalt coring (I)	$180.00/hr
Concrete coring (includes compression tests on cores (J)	$180.00/hr, $60.00/core
Cal 216 field density tests – HOURLY RATE PREVAILING WAGE (A.1, A.2, A.3)	$145.00/hr
Cal 216 field density tests – HOURLY RATE NON-PREVAILING WAGE (A.1, A.2, A.3)	$105.00/hr
Mileage	$1.00/mile
Travel Time (Maximum Two Hours)	90 mins round trip

Terracon's Hourly Rate Schedule

Construction Material Testing & Special Inspection Services	
Principal Engineer	$ 280/Hour
Senior Engineer	$ 255/Hour
Project Engineer/Project Manager/Project Geologist	$ 225/Hour
Staff Engineer/Geologist/Scientist	$ 155/Hour
Field Engineer/Geologist/Scientist	$ 140/Hour
Staff/Field Engineer - Prevailing Wage	$ 180/Hour
AC/Soils Inspector - Prevailing Wage	$ 145/Hour
ACI Inspector - Prevailing Wage	$ 145/Hour
ICC Inspector - Prevailing Wage	$ 150/Hour
AWS Welding Inspector - Prevailing Wage	$ 185/Hour
Field Report Preparation	$ 95/Each
Pad Certification Report	$ 400/Each
Final Letter	$ 400/Each
Hot Mix Asphalt (HMA) Services	
HMA Design Review	$ 250/Each
Quality Control Manager	$ 185/Hour
Quality Control Plan	$ 840/Each
Non-Destructive Testing	
High Strength Bolt (HSB) Testing (Calibrated Torque Method)	$ 185/Hour
Bolt Pull/Load Testing	$ 170/Hour
Rebar Pull Testing	$ 170/Hour
Ceiling Wire Pull Testing	$ 170/Hour
NDT GPR	$ 170/Hour
Pachometer	$ 150/Hour
Soils	
Atterberg Limit D4318	$ 175/Each
Permeability Falling Head	$ 300/Each
Specific Gravity Determination ASTM D854	$ 100/Each
C136 Sieve Analysis Fine	$ 165/Each
Wash 200 D1140	$ 115/Each
Hydrometer ASTM D422	$ 275/Each
4" mold AASHTO T99, ASTM D698	$ 285/Each
6" mold AASHTO T99, ASTM D698	$ 285/Each
4" mold AASHTO T180, ASTM D1557	$ 285/Each
6" mold AASHTO T180, ASTM D1557	$ 285/Each
CTM 216 Relative Compaction, Untreated and Treated Soils	$ 225/Each
CTM 301 R-Value Untreated Samples	$ 320/Each
CTM 301 R-Value Treated Samples	$ 380/Each
pH Test	$ 80/Each
pH-Lime Determination Test	$ 650/Each
Resistivity and pH Test CTM 643	$ 240/Each
Swell Test (Expansion Index) ASTM D4829	$ 445/Each
CTM 373 Unconfined Compressive Lime treated Specimen	$ 340/Each
Compressive Strength Cement	$ 340/Each
Compressive Strength Lime	$ 340/Each



Percent Lime/Cement Design, based on compressive strength (includes pH Lime Determination and Unconfined Compressive Strength)	$ 5,200/Each
Unconfined Compression Test ASTM D2166	$ 150/Each
Masonry Brick/Block/Tile	
Compression Tests on Core Specimens (includes prep) ASTM C42	$ 85/Each
Shear Tests Masonry Core	$ 155/Each
Compression Test Grout Molds	$ 40/Each
Compression Test Mortar Cylinder	$ 40/Each
Compression 2"x4" Cylinder Molds	$ 50/Each
Compression Masonry Prism (2-block, mortared & grouted)	$ 230/Each
Compression Test Masonry Unit 8"x8"x16"	$ 230/Each
Masonry Absorption Tests ASTM C140	$ 150/Each
Masonry Shrinkage (Volume Change)	$ 220/Each
Masonry Lineal Shrinkage with Absorption	$ 300/Each
Masonry Shrinkage with Absorption and Compression	$ 460/Each
Concrete	
Concrete Mix Design Review	$ 250/Each
Additional Concrete Mix Design (using same materials)	$ 245/Each
Concrete Mix Design with Trial Batch & Concrete Cylinder Compression Tests	Request Quote
Floor Flatness Testing	$ 175/Hour
Floor Flatness Report	$ 450/Each
Unit Weight Fireproofing	$ 100/Each
Compression Test Concrete Cylinders (same price for untested "hold" specimens)	$ 28/Each
Flexural Strength, Concrete Beams, 6"x6"x24 ASTM C78	$ 155/Each
Cylinder Molds	$ 2/Each
Cement Content of Hardened Portland Cement Concrete ASTM C85	Request Quote
Shrink Bar Testing (3 bars per set) ASTM C157	$ 460/Set
Compression Tests on Core Specimens (includes prep) ASTM C42	$ 120/Each
Calcium Chloride Moisture Test Kit (includes calculations)	$ 100/Each
Hot Mix Asphalt (HMA)	
Job Mix Formula (Reduced Rate for Multiple JMF's)	Request Quote
CTM 202 Sieve Course Agg	$ 165/Each
CTM 202 Sieve Fine Agg	$ 165/Each
CTM 202 Sieve Ignition Sample	$ 185/Each
CTM 202 Batch Plant Gradation Report	$ 180/Each
CTM 204 Plasticity Index	$ 205/Each
CTM 205 Determining % Crushed Particles	$ 230/Each
CTM 206 Bulk SpG & Absor Coarse Agg	$ 180/Each
CTM 207 Bulk SpG (SDD) Fine Agg	$ 180/Each
CTM 211 LA Rattler	$ 240/Each
CTM 214 Sodium Sulfate Soundness (per Sieve)	$ 180/Each
CTM 217 Sand Equivalent	$ 120/Each
CTM 226 Moisture Content of Aggregates by oven drying	$ 80/Each
CTM 227 Cleanness Coarse Agg	$ 180/Each
CTM 229 Durability Index	$ 195/Each
CTM 234 - AASHTO T304 Fine Angularity	$ 240/Each
CTM 235 - ASTM D4791 Flat and Elongated Particles	$ 220/Each
CTM 303 Kc & Kf determination	$ 340/Each
CTM 304 AC Sample Preparation	$ 130/Each
CTM 304 AC Sample Preparation with Lime Treat	$ 155/Each

CTM 308 Bulk Spec Grav Bit Mix (Cores and Briquettes)	$ 50/Each
CTM 309 Theo Spec Gav Bit Mix	$ 185/Each
CTM 366 Stabilometer Value (Set of 3)	$ 340/Each
CTM 370 Moisture Content of Bit. Mix by Microwave	$ 80/Each
CTM 371 Tensile Strength Ratio Lab Mix	$ 2,200/Each
CTM 371 Tensile Strength Ratio Lab Mix with Lime Treat	$ 2,300/Each
CTM 371 Tensile Strength Ratio Field Mix	$ 1,800/Each
CTM 382 Ignition Furnace Asphalt Content	$ 190/Each
CTM 382 Ignition Furnace Calibration (1 per new source)	$ 600/Each
CTM 382 Ignition Furnace Calibration with lime	$ 750/Each
LP-1 Theo Max SpG Mix with Dif AC Cont	$ 190/Each
LP-2, 3, & 4 - HMA Volumetrics (VMA, VFA, DP) Calculations Report	$ 120/Each
LP-10 Sampling and Testing CRM	$ 240/Each
ASTM D2974 Organic Matter	$ 110/Each
ASTM D5334 Thermal Resistivity	$ 660/Each
Marshall Mix Design	
Marshall Mix Design	Request Quote
ASTM D1559 Stability & Flow	$ 140/Each
ASTM D1075 Immersion & Compression Retained Strength	$ 140/Each
ASTM D2726 Unit Weight	$ 90/Each
ASTM D2172 Extraction	$ 340/Each
ASTM D2172 Extraction with Gradation	$ 390/Each
ASTM D2041, D2172 Max. Specific Gravity of Bituminous Mix.	$ 180/Each
Aggregates	
ASTM C88 Sodium or Magnesium Sulphate Soundness (per sieve size)	$ 180/Each
ASTM C40 Injurious Impurity Matter	$ 105/Each
ASTM C29 Unit Weight (aggregate)	$ 110/Each
CTM 212 Unit Weight (aggregates)	$ 110/Each
CTM 217 Sand Equivalent Test	$ 150/Each
C128 Specific Gravity, Fine	$ 150/Each
C127 Specific Gravity, Coarse	$ 120/Each
AASHTO T335 Percent Crushed Particles	$185.00
CTM 227 Cleanness Value, Coarse Aggregate	$ 240/Each
CTM 229 Durability Index: *Fine & Coarse Aggregate*	$ 195/Each
C142 Percent Friable Particles	$ 195/Each
Cal Trans Class II Aggregate Base Conformance Test (R-Value, Gradation, SE, Durability)	$ 975/Each
Structural Steel	
Tensile & Bend Tests:	
Reinforcement Steel Tensile & Bend <5	$ 165/Each
Reinforcement Steel Tensile & Bend 6 to 9	$ 195/Each
Reinforcement Steel No. 10 and larger	$ 235/Each
High-strength Bolt, Nut & Washer Testing	$ 420/Set
Rockwell Hardness Test	$ 120/Each
Welder Qualification & Weld Procedure Qualifications	
Weld Procedure Qualifications	$ 1050/Each
Welder Qualification Plate Groove Weld- 1G, 2G, 3G, 4G	$ 160/Each
Welder Qualification Pipe Groove Weld - 1G, 2G, 5G, 6G, 6GR	$ 265/Each
Welder Qualification Plate Fillet Weld - 1F, 2F, 3F, 4F	$ 105/Each

Welder Qualification Pipe Fillet Weld - 1F, 2F, 4F, 5F	$ 125/Each
WPS Test Plate (set)	$ 125/Each
WPS Test Pipe (set)	$ 135/Each
Geotechnical Soils & Aggregates	
Direct Shear Test:	
FAST (Cohesionless)	$ 300/Point
SLOW (Cohesive)	$ 375/Point
Triaxial Compression Test	
Unconsolidated Undrained Triax D2850	$ 210/Each
Consolidated Undrained Triax D4767	$ 410/Each
Consolidated - Drained	$ 450/Each
Consolidated - Undrained with Pore Pressure Measurements	Request Quote
Consolidation Test:	
Swell Only	$ 275/Each
Consolidation without Time Rate	$ 650/Each
Consolidation with Time Rate, per load increment (additional charge)	$ 130/Each
Additional Fees	
Mileage*	$1.00/Mile
Rental Equipment	Cost + 15%
Miscellaneous	Cost + 15%

* Mileage only. Personnel time will be charged from portal to portal.

- Support Services, Equipment Rental, Supplies, Per Diem, and Subcontractor Costs will be billed as direct cost plus 15% profit.
- Time will be charged in 2, 4, and 8-hour increments, including portal-to-portal travel from our Lodi, CA office and laboratory. Time worked more than 8 hours per day, night shifts, and Saturdays will be charged at 1.5 times the hourly rate. Time worked on Holidays, Sundays, Saturdays after 8 hours, and weekdays after 12 hours will be charged at two (2) times the hourly rate.
- We assume all fieldwork performed will be subject to prevailing wage rates.

EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING AN ON-CALL PROFESSIONAL SERVICES LIST, FOR MATERIAL TESTING SERVICES, FOR FIVE YEARS.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP), Land Development projects, and Transportation and Traffic projects requiring specialized professional services; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on May 7, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide On-Call Material Testing Services for Engineering projects on the City's website; and

WHEREAS, the requested On-Call services include but are not limited to, field density testing including method CAL 231, method CAL 216-Drym, ASTM D-2937-tube method, laboratory maximum density, optimum moisture determinations, California 216, dry method, R-Value test, method CAL 301 R-value test., sieve analysis, sand equivalent test per CAL 217-H, percentage of crushed particles per CAL 205, percent of lime-treatment test by titration per CAL 338, concrete compression tests per CAL 521, 539, and 540, specific gravity and weight per cubic foot of compressed bituminous mixture, asphalt testing including extraction (% bitumen) and gradation, asphalt coring, concrete coring per ASTM C-42; and

WHEREAS, the City received seven (7) proposals to provide the required services; and

WHEREAS, the City's internal Selection Committee, carefully evaluated all seven (7) proposals received based on the criteria described in the RFP, and determined that only two of them possess the skills, experience, competence, professional qualifications, and certifications required to provide the services required by the City; and

WHEREAS, the table below lists the two consultants deemed by the committee as qualified to remain on the On-Call List and the services they will be providing:

Consultant	Service Provided
BSK Associates	Material Testing Services
Terracon Consultants, Inc	Material Testing Services

;and

WHEREAS, the City will utilize such services on an On-Call basis, and the City will execute Professional Services Agreements with each consultant and issue Task Orders for the scope of work needed, through future City Council action, as may be needed to comply with the Tracy Municipal Code; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby, approves an On-Call Professional Services list for the material testing services, to include BSK Associates and Terracon Consultants, Inc. for five years; and be it further

RESOLVED: That the City Council directs staff to return for future approvals of any specific agreement with any specific firm listed on the foregoing On-Call List, to the extent may be needed for either budgetary or contract authority under the Tracy Municipal Code; and be it further

RESOLVED: That the approval requested in this item are for project planning work only and will not result in a physical change in the environment and are not considered a "project" as defined by Section 21065 of the Public Resources Code

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

! The foregoing Resolution 2024-_____ was adopted by the Tracy!City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

AUTHORIZING THE A) EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENTS WITH BSK ASSOCIATES TO PROVIDE MATERIAL TESTING SERVICES FOR AN INITIAL TERM OF THREE YEARS FOR A NOT-TO-EXCEED ANNUAL AMOUNT OF $200,000, AND B) CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH OF THE CONTRACT FOR UP TO TWO YEARS.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP), Land Development (LD) projects, Traffic Engineering (TE) projects requiring material testing services; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on May 7, 2024, Engineering staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide On-Call Material Testing Services for Engineering projects on the City's website; and

WHEREAS, the requested On-Call services include but are not limited to, field density testing including method CAL 231, method CAL 216-Drym, ASTM D-2937-tube method, laboratory maximum density, optimum moisture determinations, California 216, dry method, R-Value test, method CAL 301 R-value test., sieve analysis, sand equivalent test per CAL 217-H, percentage of crushed particles per CAL 205, percent of lime-treatment test by titration per CAL 338, concrete compression tests per CAL 521, 539, and 540, specific gravity and weight per cubic foot of compressed bituminous mixture, asphalt testing including extraction (% bitumen) and gradation, asphalt coring, concrete coring per ASTM C-42; and

WHEREAS, the City received seven (7) proposals to provide the required material testing services, and the City selected two (2) firms to provide these services. The table below lists two (2) On-Call consultants and the services they will be providing; and

Consultant	Service Provided
BSK Associates	Material Testing Services
Terracon Consultants, Inc	Material Testing Services

and;

WHEREAS, the City has elected to enter into an MPSA with BSK Associates for an initial term of three years for an annual not-to-exceed budget of $200,000 for each agreement; and

WHEREAS, the City will utilize these services on an On-Call basis and terms outlined in the Master Professional Services Agreements (MPSA) between the City and Consultants; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the cost of these services is generally paid from developer contributions, Capital Improvement Project budgets, or Federal and State grant funds; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby approves the Master Professional Service Agreement to provide On-Call Material Testing Services with; BSK Associates attached hereto as Exhibit 1; and be it

FURTHER RESOLVED: That the City Manager is authorized to administratively extend the initial term of the Agreement attached hereto as Exhibit 1 for one additional two-year term, following a written determination that the respective Consultant has satisfactorily met all the requirements of the MPSA, and further subject to annual budgetary appropriation by the City Council, through the budget approval process, supporting the funding for such annual extensions; and be it

FURTHER RESOLVED: Compliance with the California Environmental Quality Act is met because this action is not considered a project as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

EXHIBITS:
Exhibit 1 – Master Professional Service Agreement with BSK Associates.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
BSK ASSOCIATES
FOR
MATERIAL TESTING SERVICES

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and BSK Associates, a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic Projects as further described herein and in Exhibit A.

B. On May 7, 2024 the City issued a request for proposal (RFP) for the Material Testing Services. On May 30, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code 2.20.140 (3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Tim Rodriguez Principal-in-Charge/Chief Operating Officer**.** Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of BSK Associates ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement.

The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1,2024 and expire and terminate automatically on July 1,2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 200,000.00 ((Two hundred thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Tim Rodriguez, Principal-in-Charge/Chief Operating Officer
BSK Associates
252 W. Larch Road, Suite H
Tracy, CA 95304

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. <u>Signatures</u>. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant

By: Tim Rodriguez
Title: Principal-in-Charge/COO
Date: June 5, 2024

Federal Employer Tax ID No. 94-1633676

By: Cristiano Melo
Title: Branch Manager
Date: June 5, 2024

Exhibits:

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)

B Compensation (See Agreement section 3.)

C Task Order Form

EXHIBIT A Scope of Work

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Professional Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic projects.

General Description of Services the Consultant will Provide: On-call professional Material Testing Services under this agreement may include, but are not limited to, the following activities conducted to the industry standards:

A. Field Density Testing

1. Method CAL 231. This test will not be allowed in trenches and when used, the first five moistures shall be run mechanically (stove or oven) to determine moisture relationship to the nuclear machine. The nuclear machine will then be adjusted for the moisture differentials. If it cannot be adjusted, all moistures shall be run mechanically unless a field examination can prove the accuracy of the moisture determination. Each section tested (structural section) shall not be more than 500 feet in length and do not combine or average 3 separate curve materials or test data.

2. Method CAL 216-Dry. This test will be acceptable in all areas and materials. When nuclear machines are used, one out of every ten tests (or portion thereof) shall be compared with a sand density test, and the two tests shown as such on the report. This test can be an option in trench testing, but because of the costs involved, shall be secondary in trenches. Soil materials shall not be mixed.

3. ASTM D-2937-Tube Method. This test will be acceptable in all materials and areas that can be tube-tested.
4. Laboratory Maximum Density, Optimum Moisture Determinations – California 216, Dry Method.

NOTE:

1. For the field density testing of Public Works projects, (A.1, A.2, & A.3) Consultant shall compensate the field inspectors based on hourly rate established by the Department of Industrial Relations for operating Engineers (Heavy Highway Works): Group 6, Northern California Area 1.
2. For the field density testing of Private work (Subdivision Inspection)

hourly prevailing wage rate is not applicable.

B. R-Value Test
Method CAL 301 - R-Value Test. California State Highway; Untreated
Material and Cement Lime or Other Additives (field or laboratory).

C. Sieve Analysis
Method CAL 202 - Sieve Analysis. This shall consist of course and/or fine with 200 wash.

D. Sand Equivalent Test per CAL 217-H.

E. Percentage of crushed particles per CAL 205.

F. Percent of lime-treatment test by titration per CAL 338.

G. Concrete compression tests per CAL 521, 539 and 540. Tests shall include 7 and 28-day cylinders, molds and one hold cylinder.

H. Cal 308 - Specific gravity and weight per cubic foot of compressed Bituminous mixture. Asphalt testing shall also include extraction (% bitumen) and gradation.

I. Asphalt coring.

J. Concrete coring per ASTM C-42.

Personnel:

Veronica Rager, Project Manager
Tim Rodriguez, Chief Operating Officer/Project Manager
Michael Kibbey, EIT, Construction Services Group Manager
James K. Auser, PE, Senior Materials Engineer/Responsible Engineer
Randy Cortez, Materials Laboratory Manager
Cristiano Melo, PE, GE, Senior Geotechnical Engineer/Branch Manger
Scott Orr, Senior Engineering Technician
David Eckhardt, Senior Engineering Technician
Dennis Ness, Senior Special Inspector
Kenneth (KC) Clark, Engineering Technician

EXHIBIT B

Compensation

ON-CALL MATERIAL TESTING SERVICES

SUMMARY OF COSTS
CITY OF TRACY MATERIALS TESTING SERVICES COST SCHEDULE

ACTIVITY	FEES
Cal 216 Laboratory maximum density (A-4)	$284 per each
R-value test (B)	$473 per each
Sieve analysis (C)	$226 per each
Sand equivalent (D)	$167 per each
Percentage crushed particles (E)	$218 per each
Percent lime by titration (F)	Per quote
Concrete compression tests (G)	$180 per each
Specific gravity/unit weight/gradation/extraction (H)	$210 per each
Asphalt coring (I)	$257 per hour
Concrete coring (includes compression tests on cores (J)	$337 per hour
Cal 216 field density tests – HOURLY RATE PREVAILING WAGE (A.1, A.2, A.3)	$159 per hour
Cal 216 field density tests – HOURLY RATE NON-PREVAILING WAGE (A.1, A.2, A.3)	$142 per hour
Mileage	$40 trip charge
Travel Time (Maximum Two Hours)	1hr round trip

BSK Associates - July 1, 2024 to June 30, 2025 City of Tracy Schedule of Fees

PERSONNEL RATES

Escalation: The prices noted below are subject to an increase of 5% annually, effective July 1 of each year following the initiation of a services agreement.

PROFESSIONAL STAFF

Principal	$	299.00	Seismic GIS	$	231.00
Senior Professional	$	263.00	GIS Specialist	$	200.00
Project Professional II	$	247.00	Information Specialist II	$	189.00
Project Professional I	$	210.00	Information Specialist I	$	168.00
Staff Professional II	$	184.00	CAD	$	126.00
Staff Professional I	$	163.00	Litigation support		1.5x standard rate
Project Administrator	$	116.00	Deposition / Trial		2.0x standard rate
Administrative Assistant / Clerical	$	105.00			

TECHNICAL STAFF - FIELD AND LABORATORY (NON-PREVAILING WAGE)

Non-Destructive Inspection/Testing	$	173.00	BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES		
Special Inspector	$	147.00	Field Work from 0 to 4 hours		Bill actual time
Engineering Technician	$	142.00	Field Work from 4 to 8 hours		Bill actual time
Technician	$	137.00	Field Work over 8 hours / Saturdays		Bill time and a half
Ground Penetrating Radar Scanning Technician	$	331.00	Sundays, holidays and over 12 hours		Bill double time
Core Drilling Technician	$	257.00	Night Shift (Shift commencing after 2pm / before 4am)		Base Rate x 12.5%
Floor Flatness Testing Technician	$	221.00	Show-up time (no work performed)		Bill 2 hours
Sample Pickup / Transportation / Delivery	$	126.00	Sampling or cylinder pickup, minimum charge		Bill 2 hours
Laboratory Technician	$	137.00	Trip Charge		$30.00

NORTHERN CA PREVAILING WAGE LABOR RATES

Group 1 - Special Inspector	$	189.00	BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES		
Group 2 - Special Inspector	$	179.00	Field Work from 0 to 4 hours		Bill actual time
Group 3 - Engineering Technician	$	159.00	Field Work from 4 to 8 hours		Bill actual time
Group 3 - Geotechnical Professional	$	194.00	Field Work over 8 hours / Saturdays		Bill time and a half
Group 3 - Environmental Professional	$	194.00	Sundays, holidays and over 12 hours		Bill double time
Group 4 - Technician	$	139.00	Night Shift (Shift commencing after 2pm / before 4am)		Base Rate x 12.5%
			Show-up time (no work performed)		Bill 2 hours
			Sampling or cylinder pickup, minimum charge		Bill 2 hours

SOUTHERN CA PREVAILING WAGE LABOR RATES

Group 1 - Geotechnical Professional	$	196.00	BASIS OF CHARGES FOR FIELD TECHNICIAN SERVICES		
Group 1 - Environmental Professional	$	196.00	Field Work from 0 to 4 hours		Bill actual time
Group 1 - Technician	$	169.00	Field Work from 4 to 8 hours		Bill actual time
Group 2 - Special Inspector	$	179.00	Field Work over 8 hours / Saturdays		Bill time and a half
Group 3 - Non-Destuctive Testing (NDT)	$	189.00	Sundays, holidays and over 12 hours		Bill double time
			Premium Shift (Weekday work before 6am / after 5pm)		Bill time and a half
			Show-up time (no work performed)		Bill 2 hours
			Sampling or cylinder pickup, minimum charge		Bill 2 hours

REIMBURSABLES

Project Administration Fees	7% of Invoice		DIR Administration Fees	3% of Invoice	
Mileage - 2x4 (Portal to Portal)	$	1.00	Certified Payroll / DIR Upload (Monthly)	$	300.00
Mileage - 4x4 (Portal to Portal)	$	2.00	Non-Performance Certified Payroll / DIR Upload (Monthly)	$	100.00
Bridge Toll	Cost + 15%		Subcontractor Management / Compliance Forms (Monthly)	$	100.00
Parking Fees	Cost + 15%		Additional LCP Tracker or Other Compliance Software (Monthly)	$	200.00
Per Diem (as required)	Quote / $250 min.		Additional Special Forms, as required (Monthly)	$	150.00
Subconsultant Services	Cost + 15%		Project Setup (Project)	$	550.00

BSK Associates - July 1, 2024 to June 30, 2025 City of Tracy Schedule of Fees

SOFTWARE AND EQUIPMENT

Escalation: The prices noted below are subject to an increase of 5% annually, effective July 1 of each year following the initiation of a services agreement.

ANALYSIS SOFTWARE USAGE FEES

gINT (software)	$ 68.00	Slide (software)	$ 133.00
LPile (software)	$ 68.00	Settle3D (software)	$ 133.00
APile (software)	$ 68.00	Cpet-IT (software)	$ 68.00
SHAFT (software)	$ 68.00	LiqSVs (software)	$ 68.00
GROUP (software)	$ 133.00	ArcGIS (software)	$ 68.00
Cliq (software)	$ 68.00	Surfer (software)	$ 68.00
LiquefyPro (software)	$ 68.00	Seep/W (software)	$ 133.00
LiqIT (software)	$ 68.00		

EQUIPMENT

Nuclear Gauge (Day)	$ 74.00	10' PVC Blank - 2"(Each)	$ 28.00
Skidmore Wilhelm Calibrator (Day)	$ 74.00	10' PVC Blank - 4: (Each)	$ 65.00
NDT Weld Testing Equipment - UT/MT/PT (Day)	$ 74.00	10' PVC Screen - 2" (Each)	$ 44.00
Proof Load Testing Equipment (Day)	$ 74.00	10' PVC Screen - 4" (Each)	$ 88.00
Torque Wrench (Day)	$ 74.00	5' PVC Blank - 2" (Each)	$ 19.00
GPR Scanning Equipment (Day)	$ 341.00	5' PVC Blank - 4" (Each)	$ 56.00
Rebar Locator/Pachometer (Day)	$ 134.00	5' PVC Screen - 2" (Each)	$ 28.00
Coring Equipment (day)	$ 252.00	5' PVC Screen - 4" (Each)	$ 72.00
Relative Humidity Meter (Day)	$ 74.00	55 Gallon Drum (Each)	$ 131.00
Moisture Emission Test Kit (Each)	$ 50.00	6 "x 5' Steel Monument Cover (Each)	$ 310.00
Wood Moisture Meter (Day)	$ 74.00	Air Indicators (Each)	$ 56.00
Air Meter (Concrete)	$ 74.00	Combustible Gas Indicator (Day)	$ 83.00
Laptop (Day)	$ 79.00	Disposable Bailer (Each)	$ 15.00
Document Scanner (Day)	$ 34.00	HydroPunch Tip (Each)	$ 26.00
Vehicle/Truck Charge (Day)	$ 144.00	Lantec GEM 300 (Day)	$ 271.00
Hand Auger (Day)	$ 158.00	Locking Cap - 2" (Each)	$ 26.00
Seismograph (Day)	$ 333.00	Locking Cap - 4" (Each)	$ 53.00
Hand-held GPS (Day)	$ 102.00	Silicone Tubing (Foot)	$ 9.00
Slope Inclinometer Probe (Each)	$ 525.00	Tedlar Vapor Bags (Each)	$ 32.00
Double Ring Infiltrometer (Day)	$ 158.00	Bottom Cap (Each)	$ 11.00
Drilling Kit - Paint/Stakes/Lath (Each)	$ 36.00	Disposable Purge Pump Tubing (Foot)	$ 2.00
Drilling Supplies (Tubes / Caps)	$ 368.00	Bison Resistivity Meter (Day)	$ 213.00
Sample Sleeve w/ Caps/Teflon 6" (Each)	$ 14.00	Chem Grout Pump (Day)	$ 139.00
Manometer (Day)	$ 259.00	DC Purge Pump (Day)	$ 70.00
Generator	$ 110.00	Development Pump and Controller (Day)	$ 97.00
Power Auger	$ 110.00	Dissolved Oxygen Meter (Day)	$ 84.00
AC Cold Patch (Each)	$ 20.00	Grundfos Converter (Day)	$ 93.00
Bentonite Grout (Bag)	$ 28.00	HydroPunch II (Each)	$ 333.00
Bentonite Medium Chips (Bag)	$ 26.00	Interface Meter (Each)	$ 125.00
Bentonite Pellets (Bucket / Bag)	$ 198.00	Kemmer Sampler (Day)	$ 48.00
Bentonite Powder (Bag)	$ 16.00	ORP Meter (Each)	$ 89.00
Filter Sand (Bag)	$ 15.00	Sample Pump (Day)	$ 133.00
Portland Cement (Bag)	$ 20.00	Scanning Equipment (Day)	$ 134.00
Ready Mix (Bag)	$ 19.00	Water Level Data Logger (Day)	$ 103.00
Padlocks (Each)	$ 28.00	Telescopic Wastewater Sampler (Day)	$ 70.00
pH/EC/Temperature Meter (Day)	$ 79.00	SVE System (Month)	$1,470.00
PID/OVA (Day)	$ 158.00	Combustible Gas Meter (Day)	$ 252.00
Steam Cleaner (Day)	$ 146.00	Water Meter (Day)	$ 68.00
Turbidity Kit (Day)	$ 89.00	Flow Monitoring Equipment (Day)	$ 408.00
Water Sample Filters (Each)	$ 29.00	Liquid Proportional Sampling Equipment (Day)	$ 414.00
Well Sounder (Day)	$ 63.00	Gas Detector Pump (Each)	$ 48.00
Well Vault Traffic Rated Box (Each)	$ 146.00	Landfill Gas Chromatograph (Day)	$ 273.00
Bollards (Each)	$ 125.00	Support Truck (Day)	$ 273.00
Air Compressor (Day)	$ 74.00	Sound Level Meter (Each)	$ 43.00
Continuous Core Sampler (Day)	$ 341.00	Water Level Transducers (Each)	$ 16.00
4" Disposable Bailers (Each)	$ 26.00	Multiparameter Env Water Meter (Day)	$ 179.00

BSK Associates - July 1, 2024 to June 30, 2025 City of Tracy Schedule of Fees

MATERIALS LABORATORY TESTS

Escalation: The prices noted below are subject to an increase of 5% annually, effective July 1 of each year following the initiation of a services agreement. Standard Rate Applies to Normal Testing Schedule. Rush Order Turnaround Time Charged at 1.5 x Standard Unit Rates.

SOILS & AGGREGATES			
Modified or Standard Proctor - 4" or 6" Mold (ASTM / AAS	$ 336.00	% Crushed Particles / Fractured Particles (CT 205/AASHTO T335)	$ 218.00
Proctor with Oversize Material (ASTM / AASHTO)	$ 420.00	% Flat & Elongated (ASTM D4791)	$ 167.00
Proctor Check Point (All Methods)	$ 180.00	Minus 200 Wash/Aggregate (ASTM C117)	$ 110.00
Caltrans Maximum Wet Density (CT 216)	$ 284.00	Sieve Analysis w/ Wash (ASTM C136 / CT 202 / AASHTO T27)	$ 226.00
Minus 200 Wash Soil (ASTM D1140)	$ 110.00	Sieve Analysis - Coarse Only (ASTM C136 / CT 202 / AASHTO T27)	$ 110.00
Moisture Content of Soils (ASTM D2216)	$ 47.00	Coarse Specific Gravity / Absorption (ASTM C127/CT 206/AASHTO T85)	$ 210.00
Plasticity Index (ASTM D4318)	$ 290.00	Fine Specific Gravity / Absorption (ASTM C128/CT 207/AASHTO T84)	$ 210.00
Expansion Index of Soils (UBC No. 29)	$ 311.00	Sand Equivalent (ASTM D2419 / CT 217 / AASHTO T176)	$ 167.00
Collapse Potential of Soils (ASTM D2435)	$ 270.00	Durability Index (CT 229)	$ 331.00
Organic Impurities (ASTM C40 / CT 213)	$ 110.00	Abrasion by LA Rattler, Large Size (ASTM C131/CT 211/AASHTO T96)	$ 378.00
Tube Density & Moisture Content of Soil (ASTM D2216, D:	$ 57.00	Abrasion by LA Rattler, Small Size (ASTM C131/CT 211/AASHTO T96)	$ 311.00
Visual Classification (ASTM D2488)	$ 57.00	Cleanness Value of Aggregate (CT 227)	$ 238.00
Hydrometer (ASTM D422 / CT 203)	$ 315.00	Aggregate Wt pcf Compacted (ASTM C 29)	$ 117.00
Double Hydrometer (ASTM D4221)	$ 414.00	Gradation-Rip Rap - Per Sieve (D5519-Method A)	$ 298.00
Uncompacted Void Content (CT 234 / AASHTO T304)	$ 147.00	Sodium Sulfate Soundness-Min. Charge (ASTM C88/CT 214/AASHTO T1	$ 462.00
Sand Density Calibration (ASTM D1556)	$ 231.00	Sodium Sulfate Soundness-Per Sieve (ASTM C88/CT 214/AASHTO T104	$ 147.00
Minimum Resistivity of Soils (CT 643)	$ 186.00	R-Value of Soils (CT 301)	$ 473.00
Consolidation (ASTM D2435) w/ 2 Time Rates	$ 553.00	Soil Cement Compression - Set (ASTM D1633)	$ 315.00
Consolidation (ASTM D2435) w/ No Time Rates	$ 368.00	CIR / FDR Compressive Strength Testing - Set	$ 315.00
Unconfined Compressive Strength, Soil (ASTM D2166)	$ 147.00	CIR / FDR Sample Preparation / Compaction	$ 289.00
Remolded Consolidation (ASTM D2435)	$ 468.00	CBR (ASTM D1883/AASHTO T-180)	$1,313.00
Minimum Index Density Soils (ASTM D4254)	$ 91.00	Preparation of Soil-Cement Samples	$ 994.00
Direct Shear Remolded (ASTM D3080)	$ 347.00	Soluble Sulfate Chloride & Sulfide	$ 172.00
Direct Shear (ASTM D3080)	$ 290.00	pH Sulfate & Chloride	$ 87.00
Remolded Direct Shear (ASTM D3080)	$ 347.00	% Lumps/Friable Particles (ASTM C142)	$ 107.00
Remolded Flexwall Perm (ASTM D5084)	$ 739.00	% Organics in Soil (ASTM D2974)	$ 181.00

HOT MIX ASPHALT			
JMF Mix Design, Superpave / Caltrans	$11,838.00	Bitumen Content - Ignition (ASTM D6307 / CT382 / AASHTO T308)	$ 296.00
JMF Verification - HMA - Superpave / Caltrans	$6,860.00	Oil Content Correction Factor (ASTM D6307 / CT 382 / AASHTO T308)	$ 689.00
JMF Production Startup - Superpave / Caltrans	$6,382.00	Gradation from Extraction (ASTM D5444 / AASHTO T30)	$ 180.00
RAP Material Testing - Additional Fee	$ 830.00	Bulk Specific Gravity (CT308 / AASHTO T275 / ASTM D2726)	$ 84.00
Rubberized RHMA Material - Additional Fee	$1,915.00	HMA Theo. Max Density Rice Method (ASTM D2041 / CT 309 / AASHTC	$ 331.00
JMF Mix Design, HVEEM	$4,095.00	Volumetric Calculations (VMA, VFA, DP, AV, Eff. Calcs)	$ 70.00
JMF Mix Design, Marshall	$4,858.00	Moisture Content of Asphalt (CT 370 / AASHTO T329)	$ 87.00
Open Graded Asphalt Optimum Bitumen Content (CT 368	$2,924.00	Film Stripping	$ 117.00
Gyratory Compaction - Set of 3 (AASHTO T312)	$ 442.00	Compaction/Preparation of HMA Briquette (CT 304)	$ 290.00
Hamburg Wheel Track (AASHTO T324)	$2,625.00	Stabilometer Value - Set of 3 (CT366)	$ 368.00
Tensile Strength Ratio (CT 371 / AASHTO T283)	$1,449.00	Lab Mixed TSR - Moisture Induced Damage (AASHTO T283 / CT 371)	$1,943.00
Marshall Maximum Density (ASTM D6926)	$ 386.00	Calculated AC Maximum Density (CT 367)	$ 131.00
Marshall Stability & Flow (ASTM D6927)	$ 331.00	Thickness Determination of AC Cores	$ 28.00

CONCRETE & MASONRY			
Compression Test Concrete - Per Cylinder (ASTM C39)	$ 37.00	Flexural Test per Beam (ASTM C78 / CT 523)	$ 118.00
Compression Test Concrete - Set of 4/5 (ASTM C39)	$ 180.00	Linear Shrinkage - Set of 3 (ASTM C157)	$ 525.00
Compression Test of Core (ASTM C42)	$ 80.00	Unit Weight Lt Wt Concrete (ASTM C567)	$ 74.00
Compressive Strength of Shotcrete Panel	$ 420.00	Splitting Tensile Strength of Concrete (ASTM C496)	$ 158.00
Compression Test Composite CMU Prism (1)	$ 218.00	Compressive Strength CMU Block (ASTM C140)	$ 252.00
Compression Test Grout (Set of 4)	$ 159.00	Comp. Strength, SG, & Abs. of CMU - Per Block (ASTM C140)	$ 290.00
Compression Test Mortar (Set of 3)	$ 145.00	Masonry Linear Shrinkage (ASTM C426)	$ 532.00
		Masonry Core Shear Test (Title 24)	$ 248.00

METALS & FIREPROOFING			
Tensile & Bend of Rebar #3-11	$ 195.00	Brinell Hardness of Steel (ASTM E10)	$ 131.00
Slip and Tensile Rebar Couplers (CT 670)	$ 284.00	Rockwell Hardness of Steel (ASTM E18)	$ 131.00
Bolt Proof & Ultimate Load	$ 187.00	Face Bend of Steel Coupon	$ 80.00
Bolt Hardness - Set of 3	$ 131.00	Root Bend of Weld Coupon	$ 80.00
Nut Proof Load - Set of 3	$ 187.00	Side Bend of Weld Coupon	$ 80.00
Nut Hardness - Set of 3	$ 131.00	Tensile Test of Steel Coupon	$ 110.00
Washer Hardness - Set of 3	$ 131.00	Bend Test of Steel Coupon	$ 95.00
Dry Density Fireproofing (ASTM E605)	$ 125.00	Adhesion / Cohesion Fireproofing Materials	$ 167.00

EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

AUTHORIZING THE A) EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENTS WITH TERRACON CONSULTANTS, INC. TO PROVIDE MATERIAL TESTING SERVICES FOR AN INITIAL TERM OF THREE YEARS FOR A NOT-TO-EXCEED ANNUAL AMOUNT OF $200,000, AND B) CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH OF THE CONTRACT FOR UP TO TWO YEARS.

WHEREAS, the City has a variety of Capital Improvement Projects (CIP), Land Development (LD) projects, Traffic Engineering (TE) projects requiring material testing services; and

WHEREAS, the City requires the support of professional, technical, and related services from outside firms to perform these tasks; and

WHEREAS, on May 7, 2024, Engineering staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide On-Call Material Testing Services for Engineering projects on the City's website; and

WHEREAS, the requested On-Call services include but are not limited to, field density testing including method CAL 231, method CAL 216-Drym, ASTM D-2937-tube method, laboratory maximum density, optimum moisture determinations, California 216, dry method, R-Value test, method CAL 301 R-value test., sieve analysis, sand equivalent test per CAL 217-H, percentage of crushed particles per CAL 205, percent of lime-treatment test by titration per CAL 338, concrete compression tests per CAL 521, 539, and 540, specific gravity and weight per cubic foot of compressed bituminous mixture, asphalt testing including extraction (% bitumen) and gradation, asphalt coring, concrete coring per ASTM C-42; and

WHEREAS, the City received seven (7) proposals to provide the required material testing services, and the City selected two (2) firms to provide these services. The table below lists two (2) On-Call consultants and the services they will be providing; and

Consultant	Service Provided
BSK Associates	Material Testing Services
Terracon Consultants, Inc	Material Testing Services

and;

WHEREAS, the City has elected to enter into an MPSA with Terracon Consultants, Inc. for an initial term of three years for an annual not-to-exceed budget of $200,000 for each agreement; and

WHEREAS, the City will utilize these services on an On-Call basis and terms outlined in the Master Professional Services Agreements (MPSA) between the City and Consultants; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the cost of these services is generally paid from developer contributions, Capital Improvement Project budgets, or Federal and State grant funds; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby approves the Master Professional Service Agreements to provide On-Call Material Testing Services with; Terracon Consultants, Inc. attached hereto as Exhibit 1; and be it

FURTHER RESOLVED: That the City Manager is authorized to administratively extend the initial term of the Agreement attached hereto as Exhibit 1 for one additional two-year term, following a written determination that the respective Consultant has satisfactorily met all the requirements of the MPSA, and further subject to annual budgetary appropriation by the City Council, through the budget approval process, supporting the funding for such annual extensions; and be it

FURTHER RESOLVED: Compliance with the California Environmental Quality Act is met because this action is not considered a project as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024 by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

EXHIBITS:
Exhibit 1 – Master Professional Service Agreement with Terracon Consultants, Inc.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Terracon Consultants, Inc.
FOR
MATERIAL TESTING SERVICES

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Terracon Consultants, Inc., a California Corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic Projects as further described herein and in Exhibit A.

B. On May 7, 2024 the City issued a request for proposal (RFP) for the Material Testing Services. On May 30, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on _____ pursuant to Tracy Municipal Code 2.20.140 (3), and City Council Resolution No. _____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Troy Schiess, PE, Contract Manager. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Terracon Consultants, Inc. ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum

compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1,2024 and expire and terminate automatically on July 1,2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of two (2) year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed 200,000.00 ((Two hundred thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Koosun Kim
City Engineer
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Troy Schiess, PE, Contract Manager
Terracon Consultants, Inc.
902 Industrial Way
Lodi, CA 95240

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers,

employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant

By: Troy Schiess, PE
Title: Contract Manager
Date: 06/05/2024

Federal Employer Tax ID No. 46-5432694

Joseph Aldern

By: Joseph Aldern
Title: Senior Vice President
Date: 06/05/2024

Exhibits:

A	Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B	Compensation (See Agreement section 3.)
C	Task Order Form

EXHIBIT A Scope of Work

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services: Professional Material Testing Services for Capital Improvement Projects, Land Development Projects, and Transportation and Traffic projects.

General Description of Services the Consultant will Provide: On-call professional Material Testing Services under this agreement may include, but are not limited to, the following activities conducted to the industry standards:

A. Field Density Testing

1. Method CAL 231. This test will not be allowed in trenches and when used, the first five moistures shall be run mechanically (stove or oven) to determine moisture relationship to the nuclear machine. The nuclear machine will then be adjusted for the moisture differentials. If it cannot be adjusted, all moistures shall be run mechanically unless a field examination can prove the accuracy of the moisture determination. Each section tested (structural section) shall not be more than 500 feet in length and do not combine or average 3 separate curve materials or test data.

2. Method CAL 216-Dry. This test will be acceptable in all areas and materials. When nuclear machines are used, one out of every ten tests (or portion thereof) shall be compared with a sand density test, and the two tests shown as such on the report. This test can be an option in trench testing, but because of the costs involved, shall be secondary in trenches. Soil materials shall not be mixed.

3. ASTM D-2937-Tube Method. This test will be acceptable in all materials and areas that can be tube-tested.
4. Laboratory Maximum Density, Optimum Moisture Determinations – California 216, Dry Method.

NOTE:

1. For the field density testing of Public Works projects, (A.1, A.2, & A.3) Consultant shall compensate the field inspectors based on hourly rate established by the Department of Industrial Relations for operating Engineers (Heavy Highway Works): Group 6, Northern California Area 1.
2. For the field density testing of Private work (Subdivision Inspection)

hourly prevailing wage rate is not applicable.

B. R-Value Test
Method CAL 301 - R-Value Test. California State Highway; Untreated Material and Cement Lime or Other Additives (field or laboratory).

C. Sieve Analysis
Method CAL 202 - Sieve Analysis. This shall consist of course and/or fine with 200 wash.

D. Sand Equivalent Test per CAL 217-H.

E. Percentage of crushed particles per CAL 205.

F. Percent of lime-treatment test by titration per CAL 338.

G. Concrete compression tests per CAL 521, 539 and 540. Tests shall include 7 and 28-day cylinders, molds and one hold cylinder.

H. Cal 308 - Specific gravity and weight per cubic foot of compressed Bituminous mixture. Asphalt testing shall also include extraction (% bitumen) and gradation.

I. Asphalt coring.

J. Concrete coring per ASTM C-42.

Personnel:

Troy Schiess, PE, Contract Manager
Joe Edwards, Project Manager
George Ogas, Assistant Project Manager
Paula Arends, Laboratory Manager
Eric Allen, Construction Inspector / Materials Testing Engineer
Bobby Edger, Construction Inspector / Materials Testing Engineer
Ben Saptang, Construction Inspector / Materials Testing Engineer
Tom Solomon, Construction Inspector / Materials Testing Engineer
Sam Bone, Construction Inspector / Materials Testing Engineer

EXHIBIT B

Compensation

ON-CALL MATERIAL TESTING SERVICES

SUMMARY OF COSTS
CITY OF TRACY MATERIALS TESTING SERVICES COST SCHEDULE

ACTIVITY	FEES
Cal 216 Laboratory maximum density (A-4)	$225.00
R-value test (B)	$320.00
Sieve analysis (C)	$165.00
Sand equivalent (D)	$120.00
Percentage crushed particles (E)	$185.00
Lime determination by titration (F)	Do not perform
Concrete compression tests (G)	$28.00/cyl
Specific gravity/unit weight/gradation/extraction(ignition) (H)	$375.00
Asphalt coring (I)	$180.00/hr
Concrete coring (includes compression tests on cores (J)	$180.00/hr, $60.00/core
Cal 216 field density tests – HOURLY RATE PREVAILING WAGE (A.1, A.2, A.3)	$145.00/hr
Cal 216 field density tests – HOURLY RATE NON-PREVAILING WAGE (A.1, A.2, A.3)	$105.00/hr
Mileage	$1.00/mile
Travel Time (Maximum Two Hours)	90 mins round trip

Terracon's Hourly Rate Schedule

Construction Material Testing & Special Inspection Services	
Principal Engineer	$ 280/Hour
Senior Engineer	$ 255/Hour
Project Engineer/Project Manager/Project Geologist	$ 225/Hour
Staff Engineer/Geologist/Scientist	$ 155/Hour
Field Engineer/Geologist/Scientist	$ 140/Hour
Staff/Field Engineer - Prevailing Wage	$ 180/Hour
AC/Soils Inspector - Prevailing Wage	$ 145/Hour
ACI Inspector - Prevailing Wage	$ 145/Hour
ICC Inspector - Prevailing Wage	$ 150/Hour
AWS Welding Inspector - Prevailing Wage	$ 185/Hour
Field Report Preparation	$ 95/Each
Pad Certification Report	$ 400/Each
Final Letter	$ 400/Each
Hot Mix Asphalt (HMA) Services	
HMA Design Review	$ 250/Each
Quality Control Manager	$ 185/Hour
Quality Control Plan	$ 840/Each
Non-Destructive Testing	
High Strength Bolt (HSB) Testing (Calibrated Torque Method)	$ 185/Hour
Bolt Pull/Load Testing	$ 170/Hour
Rebar Pull Testing	$ 170/Hour
Ceiling Wire Pull Testing	$ 170/Hour
NDT GPR	$ 170/Hour
Pachometer	$ 150/Hour
Soils	
Atterberg Limit D4318	$ 175/Each
Permeability Falling Head	$ 300/Each
Specific Gravity Determination ASTM D854	$ 100/Each
C136 Sieve Analysis Fine	$ 165/Each
Wash 200 D1140	$ 115/Each
Hydrometer ASTM D422	$ 275/Each
4" mold AASHTO T99, ASTM D698	$ 285/Each
6" mold AASHTO T99, ASTM D698	$ 285/Each
4" mold AASHTO T180, ASTM D1557	$ 285/Each
6" mold AASHTO T180, ASTM D1557	$ 285/Each
CTM 216 Relative Compaction, Untreated and Treated Soils	$ 225/Each
CTM 301 R-Value Untreated Samples	$ 320/Each
CTM 301 R-Value Treated Samples	$ 380/Each
pH Test	$ 80/Each
pH-Lime Determination Test	$ 650/Each
Resistivity and pH Test CTM 643	$ 240/Each
Swell Test (Expansion Index) ASTM D4829	$ 445/Each
CTM 373 Unconfined Compressive Lime treated Specimen	$ 340/Each
Compressive Strength Cement	$ 340/Each
Compressive Strength Lime	$ 340/Each



Percent Lime/Cement Design, based on compressive strength (includes pH Lime Determination and Unconfined Compressive Strength)	$ 5,200/Each
Unconfined Compression Test ASTM D2166	$ 150/Each
Masonry Brick/Block/Tile	
Compression Tests on Core Specimens (includes prep) ASTM C42	$ 85/Each
Shear Tests Masonry Core	$ 155/Each
Compression Test Grout Molds	$ 40/Each
Compression Test Mortar Cylinder	$ 40/Each
Compression 2"x4" Cylinder Molds	$ 50/Each
Compression Masonry Prism (2-block, mortared & grouted)	$ 230/Each
Compression Test Masonry Unit 8"x8"x16"	$ 230/Each
Masonry Absorption Tests ASTM C140	$ 150/Each
Masonry Shrinkage (Volume Change)	$ 220/Each
Masonry Lineal Shrinkage with Absorption	$ 300/Each
Masonry Shrinkage with Absorption and Compression	$ 460/Each
Concrete	
Concrete Mix Design Review	$ 250/Each
Additional Concrete Mix Design (using same materials)	$ 245/Each
Concrete Mix Design with Trial Batch & Concrete Cylinder Compression Tests	Request Quote
Floor Flatness Testing	$ 175/Hour
Floor Flatness Report	$ 450/Each
Unit Weight Fireproofing	$ 100/Each
Compression Test Concrete Cylinders (same price for untested "hold" specimens)	$ 28/Each
Flexural Strength, Concrete Beams, 6"x6"x24 ASTM C78	$ 155/Each
Cylinder Molds	$ 2/Each
Cement Content of Hardened Portland Cement Concrete ASTM C85	Request Quote
Shrink Bar Testing (3 bars per set) ASTM C157	$ 460/Set
Compression Tests on Core Specimens (includes prep) ASTM C42	$ 120/Each
Calcium Chloride Moisture Test Kit (includes calculations)	$ 100/Each
Hot Mix Asphalt (HMA)	
Job Mix Formula (Reduced Rate for Multiple JMF's)	Request Quote
CTM 202 Sieve Course Agg	$ 165/Each
CTM 202 Sieve Fine Agg	$ 165/Each
CTM 202 Sieve Ignition Sample	$ 185/Each
CTM 202 Batch Plant Gradation Report	$ 180/Each
CTM 204 Plasticity Index	$ 205/Each
CTM 205 Determining % Crushed Particles	$ 230/Each
CTM 206 Bulk SpG & Absor Coarse Agg	$ 180/Each
CTM 207 Bulk SpG (SDD) Fine Agg	$ 180/Each
CTM 211 LA Rattler	$ 240/Each
CTM 214 Sodium Sulfate Soundness (per Sieve)	$ 180/Each
CTM 217 Sand Equivalent	$ 120/Each
CTM 226 Moisture Content of Aggregates by oven drying	$ 80/Each
CTM 227 Cleanness Coarse Agg	$ 180/Each
CTM 229 Durability Index	$ 195/Each
CTM 234 - AASHTO T304 Fine Angularity	$ 240/Each
CTM 235 - ASTM D4791 Flat and Elongated Particles	$ 220/Each
CTM 303 Kc & Kf determination	$ 340/Each
CTM 304 AC Sample Preparation	$ 130/Each
CTM 304 AC Sample Preparation with Lime Treat	$ 155/Each

CTM 308 Bulk Spec Grav Bit Mix (Cores and Briquettes)	$ 50/Each
CTM 309 Theo Spec Gav Bit Mix	$ 185/Each
CTM 366 Stabilometer Value (Set of 3)	$ 340/Each
CTM 370 Moisture Content of Bit. Mix by Microwave	$ 80/Each
CTM 371 Tensile Strength Ratio Lab Mix	$ 2,200/Each
CTM 371 Tensile Strength Ratio Lab Mix with Lime Treat	$ 2,300/Each
CTM 371 Tensile Strength Ratio Field Mix	$ 1,800/Each
CTM 382 Ignition Furnace Asphalt Content	$ 190/Each
CTM 382 Ignition Furnace Calibration (1 per new source)	$ 600/Each
CTM 382 Ignition Furnace Calibration with lime	$ 750/Each
LP-1 Theo Max SpG Mix with Dif AC Cont	$ 190/Each
LP-2, 3, & 4 - HMA Volumetrics (VMA, VFA, DP) Calculations Report	$ 120/Each
LP-10 Sampling and Testing CRM	$ 240/Each
ASTM D2974 Organic Matter	$ 110/Each
ASTM D5334 Thermal Resistivity	$ 660/Each
Marshall Mix Design	
Marshall Mix Design	Request Quote
ASTM D1559 Stability & Flow	$ 140/Each
ASTM D1075 Immersion & Compression Retained Strength	$ 140/Each
ASTM D2726 Unit Weight	$ 90/Each
ASTM D2172 Extraction	$ 340/Each
ASTM D2172 Extraction with Gradation	$ 390/Each
ASTM D2041, D2172 Max. Specific Gravity of Bituminous Mix.	$ 180/Each
Aggregates	
ASTM C88 Sodium or Magnesium Sulphate Soundness (per sieve size)	$ 180/Each
ASTM C40 Injurious Impurity Matter	$ 105/Each
ASTM C29 Unit Weight (aggregate)	$ 110/Each
CTM 212 Unit Weight (aggregates)	$ 110/Each
CTM 217 Sand Equivalent Test	$ 150/Each
C128 Specific Gravity, Fine	$ 150/Each
C127 Specific Gravity, Coarse	$ 120/Each
AASHTO T335 Percent Crushed Particles	$185.00
CTM 227 Cleanness Value, Coarse Aggregate	$ 240/Each
CTM 229 Durability Index: *Fine & Coarse Aggregate*	$ 195/Each
C142 Percent Friable Particles	$ 195/Each
Cal Trans Class II Aggregate Base Conformance Test (R-Value, Gradation, SE, Durability)	$ 975/Each
Structural Steel	
Tensile & Bend Tests:	
Reinforcement Steel Tensile & Bend <5	$ 165/Each
Reinforcement Steel Tensile & Bend 6 to 9	$ 195/Each
Reinforcement Steel No. 10 and larger	$ 235/Each
High-strength Bolt, Nut & Washer Testing	$ 420/Set
Rockwell Hardness Test	$ 120/Each
Welder Qualification & Weld Procedure Qualifications	
Weld Procedure Qualifications	$ 1050/Each
Welder Qualification Plate Groove Weld- 1G, 2G, 3G, 4G	$ 160/Each
Welder Qualification Pipe Groove Weld - 1G, 2G, 5G, 6G, 6GR	$ 265/Each
Welder Qualification Plate Fillet Weld - 1F, 2F, 3F, 4F	$ 105/Each

Welder Qualification Pipe Fillet Weld - 1F, 2F, 4F, 5F	$ 125/Each
WPS Test Plate (set)	$ 125/Each
WPS Test Pipe (set)	$ 135/Each
Geotechnical Soils & Aggregates	
Direct Shear Test:	
FAST (Cohesionless)	$ 300/Point
SLOW (Cohesive)	$ 375/Point
Triaxial Compression Test	
Unconsolidated Undrained Triax D2850	$ 210/Each
Consolidated Undrained Triax D4767	$ 410/Each
Consolidated - Drained	$ 450/Each
Consolidated - Undrained with Pore Pressure Measurements	Request Quote
Consolidation Test:	
Swell Only	$ 275/Each
Consolidation without Time Rate	$ 650/Each
Consolidation with Time Rate, per load increment (additional charge)	$ 130/Each
Additional Fees	
Mileage*	$1.00/Mile
Rental Equipment	Cost + 15%
Miscellaneous	Cost + 15%

* Mileage only. Personnel time will be charged from portal to portal.

- Support Services, Equipment Rental, Supplies, Per Diem, and Subcontractor Costs will be billed as direct cost plus 15% profit.
- Time will be charged in 2, 4, and 8-hour increments, including portal-to-portal travel from our Lodi, CA office and laboratory. Time worked more than 8 hours per day, night shifts, and Saturdays will be charged at 1.5 times the hourly rate. Time worked on Holidays, Sundays, Saturdays after 8 hours, and weekdays after 12 hours will be charged at two (2) times the hourly rate.
- We assume all fieldwork performed will be subject to prevailing wage rates.

EXHIBIT C - Task Order Form

[Use this Form or Create New Based on Same Substance---

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

June 18, 2024

Agenda Item 1.J

RECOMMENDATION

Staff recommends that City Council adopt Resolutions: 1) approving an on-call list, for three years, of qualified consultants for environmental review services and planning assistance; and 2) authorizing the execution of six separate Master Professional Service Agreements with such qualified consultants, each for an initial term of three years and a not-to-exceed annual amount of $500,000.

EXECUTIVE SUMMARY

This agenda item seeks 1) an approval of an on-call list with consultants for CEQA and planning assistance services, and 2) authorization to execute six separate Master Professional Service agreements (MPSAs) with six consultants selected from the list to provide these services for an initial term of three years and for a not to exceed amount of $500,000 per fiscal year for each agreement.

Pursuant to public bidding requirements in Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130 for professional services, staff recently published a Request for Proposals (RFP) for environmental analysis under the California Environmental Quality Act (CEQA) and general planning assistance. On April 8, 2024, staff received and reviewed all nine proposals received and determined that seven consultants demonstrated they were qualified and responsible proposers and fit the City's needs for competence and professional qualifications necessary for the satisfactory performance of the anticipated scopes of work. Staff is recommending that these seven consultants be deemed qualified to remain on the on-call list. Simultaneously staff is recommending the authorization to execute MPSAs with six consultants from the list.

BACKGROUND AND LEGISLATIVE HISTORY

An on-call list is the practice of prequalifying consultants to be available at specific times for specific expertise areas, so that the City may utilize them on an as-needed basis by the terms outlined in an MPSA between the City of Tracy and the respective consultant.

Currently, the city uses six firms for CEQA and planning assistance, contracted through Master MPSAs dating back to 2020. Whenever staff shortages, peaking workloads or the complexity of a project mandates external assistance, consultants have been called upon to perform various tasks needed to complete work. Having multiple firms retained for the necessary work will ensure that the various services can be obtained in a timely manner. The existing MPSA's with these six consultants are set to expire on June 30, 2024.

Therefore, pursuant to public bidding requirements in the Tracy Municipal Code for professional services. staff recently published an RFP for CEQA services and general planning assistance. On April 8, 2024, staff received and reviewed all nine the proposals received. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, staff determined that seven consultants demonstrated they were qualified and responsible proposers and adequately fit the City's needs for competence and professional qualifications necessary for the satisfactory performance of the anticipated scopes of work. In making those determinations, City staff considered the following factors:

- The experience and past performance of the firm, its agents and employees in completing projects of various type, size and complexity.
- The firm's ability to provide timely and accurate environmental documentation and planning assistance.
- The flexibility of the proposal based upon the performance and cost schedules and methodologies used by the firm to complete projects.
- The firm's understanding of the work to be completed based upon the clarity of the proposal and responsiveness to the Request for Proposal

ANALYSIS

Staff in the Community and Economic Development Department work with various developers on many entitlement applications, most of which include the need for environmental analyses, as well as project management and other planning assistance. Some examples include multiple annexations for the eventual development of industrial buildings and residential subdivisions, workforce/affordable housing policies, and several residential subdivision projects, many of which require General Plan and/or Zoning amendments. In consideration of the timing needs of the developers, staff is tasked with expediting the completion of the entitlements of these projects, including their necessary environmental studies.

The City is also working on several other large-scale City-initiated projects, including an update to the City's Municipal Services Review, which may include an expansion of the Sphere of Influence, drafting of an environmental sustainability ordinance for industrial development, annexation of the Patterson Pass Business Park, implementation policies and procedures for the Housing Element, and a potential update to the General Plan and Sustainability Action Plan.

The proposed Master Professional Services Agreements would enable City planning staff to utilize these consultants on an on-call basis and on various projects for a three-year term expiring June 30, 2027. Each agreement would be subject to a not to exceed amount of $500,000 annually.

As noted above, having an on-call list of qualified consultants will enable staff to better manage staff shortages, peaking workloads and complex projects. In addition to approving the on-call list, staff recommends the City Council authorize the execution of MPSAs with six of the qualified consultants from the list.

The proposed MPSAs specify that the City may allocate work to each firm selected based on the City's budget, Cost Recovery Agreements, the required services needed at the time, and the competitiveness and quality of each MPSA to satisfy the City's needs most efficiently and economically for specified services.

CEQA DETERMINATION

The proposed on-call agreements are for procurement of planning services only and are therefore not "projects" under the California Environmental Quality Act. Pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that executing such MPSAs will have a physical effect on the environment.

FISCAL IMPACT

Funding consultants for CEQA and planning assistance services will come from the project specific cost recovery agreements, and the Community and Economic Development Department budget as appropriate.

Five of the consultants on the proposed list have been in contract with the City for the same services for the last several years and their use has varied each year, based on the applications submitted for processing, the types of projects staff is directed to complete, and City staffing levels. In calendar years 2022 and 2023, the costs associated with these five existing consultants is as follows:

- DeNovo Planning Group: $625,203, 59% of which was funded through CRAs, with the rest funded by operating and capital projects budgets.
- First Carbon Solutions: $386,982, 100% funded through CRAs.
- Kimley Horn: $252,722, 90% funded by CRAs and application fees, the remaining by capital projects budget.
- Land Logistics: $80,832, all funded through application fees.
- Placeworks: $42,309, funded through the operating budget and grants.

The MPSAs allow the City to terminate the agreements if adequate funding does not exist.

STRATEGIC PRIORITY

This agenda item is not related to a City Council Strategic Priority.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt Resolutions: 1) approving an on-call list, for three years, of qualified consultants for environmental review services and planning assistance; and 2) authorizing the execution of six separate Master Professional Service Agreements with such qualified consultants, each for an initial term of three years and a not-to-exceed annual amount of $500,000.

Prepared By: Victoria Lombardo, Senior Planner

Reviewed by: Scott Claar, Interim Assistant Director of Community and Economic Development
Forrest Ebbs, Director of Community and Economic Development
Sara Cowell, Director of Finance
Bijal M. Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Master Professional Service Agreement with De Novo Planning Group
Attachment B – Master Professional Service Agreement with EMC Planning Group
Attachment C – Master Professional Service Agreement with First Carbon Solutions
Attachment D – Master Professional Service Agreement with Land Logistics
Attachment E – Master Professional Service Agreement with MIG
Attachment F – Master Professional Service Agreement with Placeworks

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
De Novo Planning Group
CEQA Services and Planning Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and De Novo Planning Group a California corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide CEQA services and planning assistance for Community and Economic Development Department planning staff projects as further described herein and in Exhibit A.

B. On March 14, 2024, City issued a Request for Proposals (RFP) for CEQA services and planning assistance. On April 8, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on June 18, 2024 pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2024-____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Ben Ritchie. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Community and Economic Development ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on June 30, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of one year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $500,000 ((Five Hundred Thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Community and Economic Development Director
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

De Novo Planning Group
Ben Ritchie
1020 Suncast Ln., #106
El Dorado Hills, CA 95762

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

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer, and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations, or agreements. All exhibits attached hereto are incorporated by reference herein.

13. <u>Signatures</u>. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy D. Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant
De Novo Planning Group, a California Corporation

DocuSigned by:
Ben Ritchie
EAFAA29D041942C...

By: Ben Ritchie
Title: CEO
Date: 5/24/2024 | 12:07 PM PDT

Federal Employer Tax ID No. 26-2962235

DocuSigned by:
Steve McMurtry
9378972DD8C5494...

By: Steve McMurtry
Title: CFO
Date: 5/28/2024 | 1:35 PM PDT

EXHIBITS

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)
C Task Order Form

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services:

Consultant shall be on-call to provide environmental analyses and project management for various current and future development and planning projects. This may include but is not limited to applicant-driven development projects, City-initiated policy and municipal code analyses and updates, amendments to the City's Sphere of Influence and Municipal Services Review, annexations, General Plan Amendments, Specific Plans, and the like.

General Description of Services the Consultant will Provide:
City will confer with the Consultant and receive and approve a written scope of work for each individual project, executing a task order with an estimated budget and timing at the beginning of each task.

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

EXHIBIT B

Compensation

De Novo Planning Group – CEQA Services and Planning Assistance Proposal

An Extension of City Staff

The De Novo Principals have served as contract staff members and environmental coordinators for multiple public agencies throughout California, which gives us an intimate understanding of the intricacies and inner-workings of public planning agencies. Our work program includes the preparation of staff reports, meeting and presentation materials, and continuous project update reports throughout the life of the project. In these tough budget times, we understand and appreciate the burdens placed on City staff, and our goal is to make the CEQA document preparation process a pleasant and rewarding experience for the City staff members.

Billing Rates

Principal:	$235/hour
Principal Planner:	$210/hour
Senior Planner:	$175/hour
Associate Planner:	$145/hour
Assistant Planner:	$115/hour
GIS/Graphics	$135/hour

We do not charge for travel, mileage or meals, nor do we mark up our subconsultant costs. Direct costs are limited to charges for document printing and ship, and we do not mark these charges up.

DocuSign Envelope ID: 67FA7E5B-45C1-45AC-BD44-C2AD0D30FD4D

EXHIBIT C

Task Order Form

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
EMC Planning Group
CEQA Services and Planning Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and EMC Planning Group a California corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide CEQA services and planning assistance for Community and Economic Development Department planning staff projects as further described herein and in Exhibit A.

B. On March 14, 2024, City issued a Request for Proposals (RFP) for CEQA services and planning assistance. On April 8, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on June 18, 2024 pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2024-____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Michael J. Groves. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Community and Economic Development ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on June 30, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of one year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $500,000 ((Five Hundred Thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

To City:

Community & Economic Development Director
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

EMC Planning Group
Michael J. Groves
601 Abrego Street
Monterey, CA 93940

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy D. Young
Title: Mayor
Date: _____

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

Consultant
EMC Planning Group Inc., a California Corporation

DocuSigned by:
Michael Groves
648D525D8B37428...

By: Michael J. Groves
Title: President and Senior Principal
Date: 6/12/2024 | 1:49 PM PDT

Federal Employer Tax ID No. 77-0126607

EXHIBITS

A	Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B	Compensation (See Agreement section 3.)
C	Task Order Form

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services:

Consultant shall be on-call to provide environmental analyses and project management for various current and future development and planning projects. This may include but is not limited to applicant-driven development projects, City-initiated policy and municipal code analyses and updates, amendments to the City's Sphere of Influence and Municipal Services Review, annexations, General Plan Amendments, Specific Plans, and the like.

General Description of Services the Consultant will Provide:
City will confer with the Consultant and receive and approve a written scope of work for each individual project, executing a task order with an estimated budget and timing at the beginning of each task.

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

EXHIBIT B

Compensation

4.0 Fee Schedule & Insurance Certificate

4.1 Fee Schedule

The following Fee Schedule is effective as of January 1, 2024.

Principals	Hourly Billing Rate	
Senior Principal	$295.00	
Principal	$275.00	
Planners		
Principal Planner	$235.00	
Senior Planner	$205.00	
Associate Planner	$175.00	
Assistant Planner	$140.00	
Biologists		**Monitoring Rate**
Principal Biologist	$225.00	($150.00)
Senior Biologist	$185.00	($130.00)
Associate Biologist	$170.00	($120.00)
Assistant Biologist	$125.00	($100.00)
Archaeologist		
Registered Professional Archaeologist	$145.00	
Support Staff		
Desktop Publisher	$150.00	
Executive Assistant/Production Manager	$125.00	
Administrative Assistant	$115.00	
GIS/Graphics Technician	$140.00	

This fee schedule is exclusive of direct reimbursable expenses, such as word processing, editing, printing, copying, travel, lodging, dining, communications, supplies, equipment rental, etc. All expenses are billed at cost plus fifteen percent (15%) for administration. All outside services are billed at cost plus fifteen percent (15%) for administration. This fee schedule is subject to revision at any time.

Invoices are due and payable within 30 days. Past due balances are subject to a service charge of one and one-half percent (1.5%) per month. Service charges are in addition to approved contract amount. Expert witness services are provided at a fifty percent (50%) mark-up.

DocuSign Envelope ID: 95F3BF0B-0685-4BF8-94F8-11F124E99808

EXHIBIT C

Task Order Form

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
First Carbon Solutions
CEQA Services and Planning Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and First Carbon Solutions (FCS International, Inc.) a California corporation ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide CEQA services and planning assistance for Community and Economic Development Department planning staff projects as further described herein and in Exhibit A.

B. On March 14, 2024, City issued a Request for Proposals (RFP) for CEQA services and planning assistance. On April 8, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on June 18, 2024 pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2024-____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Mary Bean. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Community and Economic Development ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on June 30, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of one year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $500,000 ((Five Hundred Thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

To City:

Community & Economic Development Director
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

First Carbon Solutions
Mary Bean
2999 Oak Road, Suite 250
Walnut Creek, CA 94597

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy D. Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant
FCS International, Inc., a California Corporation

DocuSigned by:
Mary Bean
F9504AB32BDA47E...

By: Mary Bean
Title: Senior Vice President
Date: 6/12/2024 | 6:09 PM PDT

Federal Employer Tax ID No. 953,782,289.00

DocuSigned by:
C. Patrick Schultz, CFO
B3AC5BF245884D5...

By: C. Patrick Schultz
Title: CFO
Date: 6/12/2024 | 6:06 PM PDT

EXHIBITS

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)
C Task Order Form

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services:

Consultant shall be on-call to provide environmental analyses and project management for various current and future development and planning projects. This may include but is not limited to applicant-driven development projects, City-initiated policy and municipal code analyses and updates, amendments to the City's Sphere of Influence and Municipal Services Review, annexations, General Plan Amendments, Specific Plans, and the like.

General Description of Services the Consultant will Provide:
City will confer with the Consultant and receive and approve a written scope of work for each individual project, executing a task order with an estimated budget and timing at the beginning of each task.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

EXHIBIT B

Compensation

Fee Schedule

FirstCarbon Solutions

Compensation is based on the following fee schedule and charges.

FCS Personnel	Hourly Labor Rate ($)
President	$320–$340
Director/Vice President	$270–$320
Legal Counsel	$220–$260
Associate Director/Senior Team Leader	$220–$250
Senior Project Manager/Senior Scientist/Senior Regulatory Scientist	$190–$220
Project Manager/Scientist/Regulatory Scientist	$140–$190
Assistant Project Manager/Assistant Scientist/Assistant Regulatory Scientist	$120–$140
Environmental Analyst/Technical Analyst/Regulatory Analyst	$90–$120
Senior Graphic Designer/GIS Manager	$150–$210
Graphic Designer/GIS/Computer-aided Design Drafting Specialist	$110–$150
Publications Coordinator/Technical Editor	$110–$150
Word Processor	$95–$130
Archaeological/Paleontological Monitor I/II	$95–$130
Archaeological/Paleontological Monitor III	$130–$160
Biological Monitor I/II	$95–$130
Biological Monitor III	$130–$160
Reprographics Assistant/Intern	$70–$90
Administrative Assistant/Accounting/Clerical	$70–$110

Other Labor Rates

Labor rates for expert testimony, litigation support, and depositions/court appearances will be billed at a minimum of two times the above rates. If additional services are authorized during the performance of a contract, compensation will be based on the fee schedule in effect at the time the services are authorized.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

Direct Expenses

Direct costs and out-of-pocket expenses are billed as follows:

1. Out-of-pocket expenses, including, but not limited to, travel, messenger service, reprographics, lodging, meals, blueprint, reproduction, and photographic services: Cost, as charged to FCS, plus a 10 percent administrative fee.
2. Subcontractors' fees: Cost, as charged to FCS, plus a 10 percent administrative fee.
3. Passenger Cars: $0.67 per mile.
4. Four-wheel-drive vehicles: $95.00 per day plus $0.667 per mile.
5. Records checks: Fees vary by facility and project.
6. Museum curation: Fees vary by city and project.
7. Cultural resources storage/curation of fossil and artifact collections: Cost, as charged to FCS, plus a 10 percent administrative fee.
8. Per Diem: Fees charged at the USA Federal (GSA) Rate. Lodging surcharge may apply in high-rate areas.
9. US Fish and Wildlife Services (USFWS)/CDFW impacts or mitigation fees: Cost, as charged to FCS, plus a 10 percent administrative fee.

Terms

Compensation and direct expenses are invoiced monthly and payable upon receipt or as codified in project-specific contract.

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

Kimley-Horn and Associates, Inc. (Traffic Specialist)

Personnel	Hourly Labor Rate ($)
Analyst I	$140–$190
Analyst II	$190–$250
Professional	$240–$280
Senior Professional I	$290–$345
Senior Professional II	$360–$420
Senior Technical Support	$125–$305
Technical Support	$115–$180
Support Staff	$95–$160

- Effective through June 30, 2024
- Subject to annual adjustment thereafter
- Internal Reimbursable Expenses will be charged at 5% of Labor Billings
- External Reimbursable Expenses will be charged at 15% mark-up, or per the Contract
- Subconsultants will be billed per the Contract

TJKM Transportation Consultants (Traffic Specialist)

Personnel	Hourly Labor Rate ($)
Principal	$265
Director	$245
Senior Project Manager	$210
Project Manager	$200
Senior Transportation Engineer	$185
Transportation Engineer	$145
Assistant Transportation Engineer	$135
Senior Transportation Planner	$185
Transportation Planner	$145
Assistant Transportation Planner	$135
GIS Specialist	$110
Graphics Designer	$110
Designer	$105
Technical Staff II	$95
Administration Staff	$90
Production Staff	$65

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

Direct Expenses

1. Plotting (per sheet) $18.00.
2. Travel Cost (per mile, subject to change; based on IRS standard mileage rates) $0.67.
3. All outside services are billed at cost plus a ten percent margin for handling. Expert Witness charges available upon request

DocuSign Envelope ID: 50FDBB7A-2EBC-468D-A751-DF3F785AD9A8

EXHIBIT C

Task Order Form

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Land Logistics Planning and Development Services
CEQA Services and Planning Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Land Logistics Planning and Development Services ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide CEQA services and planning assistance for Community and Economic Development Department planning staff projects as further described herein and in Exhibit A.

B. On March 14, 2024, City issued a Request for Proposals (RFP) for CEQA services and planning assistance. On April 8, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on June 18, 2024 pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2024-____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Brian Millar. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Community and Economic Development ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on June 30, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of one year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $500,000 ((Five Hundred Thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Community & Economic Development Director
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

Land Logistics Planning and Development Services
Brian Millar
216 F Street, #38
Davis, CA 95616

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy D. Young
Title: Mayor
Date: _____

Consultant
Land Logistics Planning and Development Services, a California Corporation

DocuSigned by:
Brian Millar
6CA23A1854F4458...

By: Brian Millar, AICP
Title: President & Secretary
Date: 5/24/2024 | 10:28 AM EDT

Federal Employer Tax ID No. 20-2768148

Attest:

_____
Adrianne Richardson, City Clerk

Approved as to form:

_____
Bijal M. Patel, City Attorney

EXHIBITS

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)
C Task Order Form

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services:

Consultant shall be on-call to provide environmental analyses and project management for various current and future development and planning projects. This may include but is not limited to applicant-driven development projects, City-initiated policy and municipal code analyses and updates, amendments to the City's Sphere of Influence and Municipal Services Review, annexations, General Plan Amendments, Specific Plans, and the like.

General Description of Services the Consultant will Provide:
City will confer with the Consultant and receive and approve a written scope of work for each individual project, executing a task order with an estimated budget and timing at the beginning of each task.

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

EXHIBIT B

Compensation

FEE SCHEDULE

Standard hourly rates for Land Logistics staff who be assigned to the City of Tracy:

- Robby Thacker, Senior Planner - $145/hr
- Leiloni Shine, AICP, Associate Planner - $125/hr
- Logan Shine, Associate Planner - $125/hr

Rates can be utilized on an hourly basis, or by determining a not-to-exceed amount based on a specific project scope of work.

DocuSign Envelope ID: 6BAD67F2-9039-43B7-AA19-39BBEDBDF615

EXHIBIT C

TASK ORDER FORM

Project:	_____
Consultant:	_____
Project Task Order Number:	[X of X]
Description of Task and Services:	_____ _____ _____
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
Moore Iacofano Goltsman, Inc. (MIG)
CEQA Services and Planning Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and Moore Iacofano Goltsman, Inc. (MIG) ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide CEQA services and planning assistance for Community and Economic Development Department planning staff projects as further described herein and in Exhibit A.

B. On March 14, 2024, City issued a Request for Proposals (RFP) for CEQA services and planning assistance. On April 8, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on June 18, 2024 pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2024-____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: Paula Hartman. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Community and Economic Development ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on June 30, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of one year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $500,000 ((Five Hundred Thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates shall cover all costs and expenses for Consultant's performance of this Agreement. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

To City:

Community & Economic Development Director
333 Civic Center Plaza
Tracy, CA 95376

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

To Consultant:

MIG
Paula Hartman
800 Hearst Avenue
Berkeley, CA 94710

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy D. Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant
Moore Iacofano Goltsman, Inc., a California Corporation

DocuSigned by:
Daniel S. Iacofano
7F3FC3E3791347D...

By: Daniel S. Iacofano
Title: President/CEO
Date: 5/28/2024 | 2:38 PM PDT

Federal Employer Tax ID No. 94-3116998

DocuSigned by:
Christopher Beynon
99720BF4391D435...

By: Christopher Beynon
Title: Vice President/Treasurer
Date: 5/28/2024 | 1:58 PM PDT

EXHIBITS

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)
C Task Order Form

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services:

Consultant shall be on-call to provide environmental analyses and project management for various current and future development and planning projects. This may include but is not limited to applicant-driven development projects, City-initiated policy and municipal code analyses and updates, amendments to the City's Sphere of Influence and Municipal Services Review, annexations, General Plan Amendments, Specific Plans, and the like.

General Description of Services the Consultant will Provide:
City will confer with the Consultant and receive and approve a written scope of work for each individual project, executing a task order with an estimated budget and timing at the beginning of each task.

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

EXHIBIT B

Compensation

4. Fee Schedule

Unless specified otherwise by prior agreement, invoices are submitted monthly showing time and charges for professional services by staff category and a separate figure for expenses. Invoices are payable upon receipt. Invoices unpaid past 30 days are subject to interest at 1- 1/2% per month. MIG, Inc., labor includes all overhead.

Rates subject to 3% increase effective January 1 of each year

MIG Staff Billing Rates

CATEGORY	$/HR
Senior Principal/CEO	355
Principal	230-245
Director/Senior Project Manager III	205-235
Senior Project Manager I-II	180-200
Project Manager	150-165
Sr. Biologist/Ecologist/Analyst III	205-225
Sr. Biologist/Ecologist/Analyst I-II	180-200
Biologist/Ecologist/Analyst I-II	110-165
Field Crew	100
Senior CAD/GIS/Graphic Analyst	135-165
CAD/GIS/Graphic Analyst	110-130
Administrative Support	110

CATEGORY	$/HR
Senior Archaeologist/Historian	185-200
Archaeologist/Historian	120-165
Senior Landscape Architect	185-200
Landscape Architect	150-165
Landscape Designer	120-130
Senior Planner	185-200
Planner	110-160
ADA Specialist	135-155
Sr. Facilitator/Engagement Specialist	155-185
Facilitator/Engagement Specialist	110-150
Digital Engagement/Web Design	145-190
Graphic Designer/Visualization	110-165

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

MIG Expenses

CATEGORY	BASIS
Commercial travel	Cost + 10%
Automobile travel	Current IRS rate
Lodging/Meals	Cost + 10%
Photocopy (A and B sizes)	$0.10/image
Color copies	$0.50/image
Commercial report reproduction	Cost + 10%
Noise meter setup	$50/unit/day
Bat acoustic detector	$50/unit/night
Subcontractors	Cost + 10%
Other (lab, materials, etc.)	Cost + 10%

Basin Research Associates Staff Billing Rates

CATEGORY	BASIS
Principal Investigator, MA/PhD	$180
Research Scientist, MA/PhD	$165
Archaeologist (MA)	$98
Archaeologist Technician (BA)	$90
GIS/Graphics	$112
Administrative/Clerical	$78

Ninyo & Moore Staff Billing Rates

CATEGORY	BASIS
Principal Engineer/Geologist/Environmental Scientist/ Certified Industrial Hygienist	$210
Senior Engineer/Geologist/ Environmental Scientist	$200
Senior Project Engineer/Geologist/ Environmental Scientist	$195
Project Engineer/Geologist/ Environmental Scientist	$185
Senior Staff Engineer/Geologist/ Environmental Scientist	$170
Staff Engineer/Geologist/Environmental Scientist	$155
GIS Analyst	$130
Technical Illustrator/CAD Operator	$110
Certified Asbestos/Lead Technician	$195
Field Operations Manager	$130
Nondestructive Examination Technician	$125
Supervisory Technician	$120
Special Inspector (Concrete, Masonry, Structural Steel, Welding, and Fireproofing)	$115
Senior Technician	$110
Technician	$110

W-Trans Staff Billing Rates

CATEGORY	BASIS
Senior Principal	$300 – $375
Principal	$230 – $300
Senior Engineer/Planner	$195 – $230
Engineer/Planner	$175 – $200
Associate Engineer/Planner	$155 – $180
Assistant Engineer/Planner	$130 – $155
Technician/Administrative	$120 – $155
Intern	$30 – $80
Field Technician	$30 – $75

DocuSign Envelope ID: 297D75A1-8D2E-41D7-B3F9-1A25603D70A1

EXHIBIT C

Task Order Form

Project:	
Consultant:	
Project Task Order Number:	[X of X]
Description of Task and Services:	
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
PlaceWorks, Inc.
CEQA Services and Planning Assistance

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and PlaceWorks, Inc. ("Consultant"). City and Consultant are referred to individually as "Party" and collectively as "Parties."

Recitals

A. City desires to retain Consultant to provide CEQA services and planning assistance for Community and Economic Development Department planning staff projects as further described herein and in Exhibit A.

B. On March 14, 2024, City issued a Request for Proposals (RFP) for CEQA services and planning assistance. On April 8, 2024, Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) and 2.20.130, the City has determined that Consultant demonstrated that it was the best qualified and most responsible proposer, and best fits the City's needs for competence and professional qualifications necessary for the satisfactory performance of the Services.

C. After negotiations between the City and Consultant, the Parties have reached an agreement for the performance of services in accordance with the terms set forth in this Agreement.

D. This Agreement was approved on June 18, 2024 pursuant to Tracy Municipal Code Section 2.20.140(3), and City Council Resolution No. 2024-____.

NOW THEREFORE, for good and valuable consideration the sufficiency of which the Parties hereby acknowledge, the Parties mutually agree as follows:

1. Scope of Services. Consultant shall perform professional services, tasks, and scope of work further described in Exhibit A hereto ("Services") for the City's benefit on an as-needed basis pursuant to individual approved Task Orders for services within the in accordance with the terms and conditions of this Agreement. The Services shall be performed by, or under the direct supervision of, Consultant's Authorized Representative: David Early. Consultant shall not replace its Authorized Representative, nor shall Consultant replace any of the personnel listed in Exhibit A, nor shall Consultant use or replace any subcontractor or subconsultant, without City's prior written consent. A failure to obtain the City's prior written consent for any change or replacement in personnel or subcontractor/subconsultant may result in the termination of this Agreement.

1.1 Task Order Forms. The Services within the Scope of Work will be comprised of Task Order Forms (in the form provided in Exhibit C hereto), approved, executed and delivered by the Director of Community and Economic Development ("Director") from time-to-time during the Term of this Agreement, on an as-needed basis. The Consultant cannot start performing any Work until the Director has executed a Task Order for such work. The City has no obligation to issue any Task Orders under this Master Agreement. The City may issue any number of Task Orders provided that the sum of the maximum compensation of all approved Task Orders cannot exceed the Total Not-to-Exceed amount stated in Section 3.1.

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

1.2 Non-Exclusive Agreement. The City reserves the right to contract with other consultants providing the same Services or similar scope of services described above during the term of this Agreement. The City further reserves the right to assign work, at its sole discretion, to consultants other than Consultant based on City's budget, experience, and skills of consultants based on the City's specific needs.

2. Time of Performance. Time is of the essence in the performance of services under this Agreement and the timing requirements set forth shall be strictly adhered to unless otherwise modified in writing in accordance with this Agreement. Consultant shall begin performance and shall complete all required services no later than the dates set forth in each individual Task Order. Any services for which times for performance are not specified in each individual Task Order shall be started and completed by Consultant in a reasonably prompt and timely manner based upon the circumstances and direction communicated by the City to the Consultant. Consultant shall submit all requests for time extensions to the City in writing no later than ten days after the start of the condition which purportedly caused the delay, and not later than the date on which performance is due. City shall grant or deny such requests at its sole discretion.

2.1 Term. The term of this Agreement shall commence on July 1, 2024 and expire and terminate automatically on June 30, 2027 or earlier by termination pursuant to Section 6 of this Agreement ("Term"). Subject to the Not-To-Exceed Amount defined in Section 3.1, the Term of this Agreement may be extended with express written amendment incorporating this Agreement signed by both Parties and one of the following City approvals: (a) City Council approval or (b) City Manager approval. An administrative extension of this Agreement by City Manager shall be limited to an additional term of one year(s) and require written determination by the City Manager that Consultant has satisfactorily met all the requirements of this Agreement.

3. Compensation. City shall pay Consultant on a time and expense basis, at the billing rates set forth in Exhibit B attached and incorporated by reference for services performed under this Agreement.

3.1 Annual Total Not to Exceed Amount. Consultant's total compensation for all Task Orders and Services under this Agreement shall not exceed $500,000 ((Five Hundred Thousand) Dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Consultant's billing rates under this Agreement may be annually increased in January of each year by the lesser of 3% or the annual increase in the Cost of Living Index – All Items, for the Sacramento Metropolitan Region. No work shall be performed by Consultant in excess of the Total Not-to-Exceed Amount. Consultant acknowledges City has no obligation to compensate or reimburse Consultant for any fees or costs incurred in excess of the Total Not-to-Exceed Amount. Unless specifically stated otherwise or agreed to in writing and approved by City Council, the fees proposed by Consultant, as set forth in Exhibit B hereto, shall remain unchanged for the entire term of this Agreement and any extensions of this Agreement.

3.1.2 For each Task Order issued under this Agreement, Consultant's Services shall not exceed the maximum compensation stated in that Task Order.

3.2 Invoices. No less than Ninety (90) days after performing Services, Consultant shall submit monthly written invoice(s) to the City that include copies of approved Task Orders, the Services performed, and identify times, dates, and names of persons performing the services.

3.2.1 If Consultant is providing services in response to a development application, separate invoice(s) must be issued for each application and each invoice shall contain the City's designated development application number.

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

3.2.2 Consultant's failure to submit invoice(s) in accordance with these requirements may result in the City rejecting said invoice(s) and thereby delaying payment to Consultant.

3.2.3 Consultant shall submit invoices no later than 90 days after completion of a Task Order or portion of the Services. City has no obligation to pay invoices delivered greater than 90 days after the date of performance of the Services.

3.3 Payment. Within 30 days after the City's receipt of invoice(s), City shall make payment to the Consultant based upon the services described on the invoice(s) and approved by the City.

3.4 City Budget Limitations. This Agreement will terminate without penalty, liability or expense of any kind to City at the end of any fiscal year if funds are not appropriated for the next succeeding fiscal year. If funds are appropriated for a portion of the fiscal year, this Agreement will automatically terminate, without penalty, liability or expense of any kind at the end of the term for which funds are appropriated. City has no obligation to make appropriations for this Agreement in lieu of appropriations for new or other agreements. City budget decisions are subject to the discretion of the City Council. Consultant's assumption of risk of possible non-appropriation is part of the consideration for this Agreement. The payment of any compensation under this Agreement shall be subject to the City of Tracy appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

4. Indemnification. Consultant shall, to the fullest extent permitted by law, indemnify, defend (with independent counsel approved by the City), and hold harmless the City from and against any claims arising out of Consultant's negligent performance or failure to comply with obligations under this Agreement, except to the extent caused by the sole, active negligence, or willful misconduct of the City. In this section, "City" means the City, its officials, officers, agents, employees, and volunteers; "Consultant" means the Consultant, its employees, agents and subcontractors; "Claims" includes claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all related costs and expenses) and any allegations of these; and "Arising out of" includes "pertaining to" and "relating to". The Consultant's indemnification obligation applies to the maximum extent allowed by law and includes defending the City as set forth in Sections 2778 and 2782.8 of the California Civil Code. Upon the City's written request, the Consultant, at its own expense, shall defend any suit or action that is subject to this indemnification obligation. The provisions of this section survive completion of the services or the termination of this Agreement and are not limited by the provisions of Section 5 relating to insurance.

5. Insurance. Consultant shall, throughout the duration of this Agreement, maintain insurance to cover Consultant, its agents, representatives, and employees in connection with the performance of services under this Agreement at the minimum levels set forth herein.

5.1 Commercial General Liability (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.

5.2 Automobile Liability (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.

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

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

5.4 Professional Liability "claims made" coverage shall be maintained to cover damages that may be the result of errors, omissions, or negligent acts of Consultant in an amount not less than $1,000,000 per claim.

5.5 Endorsements. Consultant shall obtain endorsements to the automobile and commercial general liability insurance policies with the following provisions.

5.5.1 The City (including its elected officials, officers, employees, agents, and volunteers) shall be named as an additional "insured."

5.5.2 For any claims related to this Agreement, Consultant's coverage shall be primary insurance with respect to the City. Any insurance maintained by the City shall be excess of the Consultant's insurance and shall not contribute with it.

5.6 Notice of Cancellation. Consultant shall notify the City if the policy is canceled before the expiration date. For the purpose of this notice requirement, any material change in the policy prior to the expiration shall be considered a cancellation. Consultant shall immediately obtain a replacement policy.

5.7 Authorized Insurers. All insurance companies providing coverage to Consultant shall be insurance organizations authorized by the Insurance Commissioner of the State of California to transact the business of insurance in the State of California.

5.8 Insurance Certificate. Consultant 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.

5.9 Substitute Certificates. Consultant shall provide a substitute certificate of insurance no later than 30 days prior to the policy expiration date of any insurance policy required by this Agreement.

5.10 Consultant's Obligation. Maintenance of insurance by the Consultant as specified in this Agreement shall in no way be interpreted as relieving the Consultant of any responsibility whatsoever (including indemnity obligations under this Agreement), and the Consultant may carry, at its own expense, such additional insurance as it deems necessary. Failure to provide or maintain any insurance policies or endorsements required herein may result in the City terminating this Agreement.

6. Termination.

6.1 The Parties may terminate this Agreement for any reason, including, but not limited to, convenience, by giving ten (10) days' written notice to the other Party. The City shall pay Consultant for all services satisfactorily performed in accordance with this Agreement, up to the date notice is given.

6.2 This Agreement shall automatically terminate immediately without notice to Consultant upon any of the following occurrences: (a) material breach of this Agreement by Consultant; (b) lack of City funds appropriated. In the event of termination by material breach of Consultant, if the City replaces any incomplete or defective Services from another consultant at a greater cost, the Consultant is responsible for such excess cost in addition to any other remedies available to the City.

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

6.3 Upon termination, Consultant shall return the City all original documents, including preliminary drafts and supporting documents, prepared by Consultant in connection with the Services performed under this Agreement.

7. Ownership of Work. All original documents prepared by Consultant for this Agreement, whether complete or in progress, are the property of the City once payment has been received by the Consultant, and shall be given to the City at the completion of Consultant's services, or upon demand from the City. No such documents shall be revealed or made available by Consultant to any third party without the City's prior written consent, unless required by law. If City desires to reuse any dpcuments or other deliverables, including electronic media, pertaining to the project prepared by Consultant, City may do so, but if such documents or other deliverables are reused by City for any purpose other than that for which such documents or deliverables were originally prepared, or if City causes such documents for deliverables to be altered without Consultant's written consent, such reuse shall be at City's risk.

8. Independent Contractor Status. Consultant is an independent contractor and is solely responsible for the acts of its employees or agents, including any negligent acts or omissions. Consultant is not City's employee and Consultant shall have no authority, express or implied, to act on behalf of the City as an agent, or to bind the City to any obligation, unless the City provides prior written authorization. Consultant is free to work for other entities while under contract with the City. Consultant, and its agents or employees, are not entitled to City benefits.

9. Conflicts of Interest. Consultant (including its employees, agents, and subconsultants) shall not maintain or acquire any direct or indirect interest that conflicts with the performance of this Agreement. If Consultant maintains or acquires such a conflicting interest, the City may terminate any contract (including this Agreement) involving Consultant's conflicting interest. The Consultant represents that it is familiar with the local and state conflict of interest laws, and agrees to comply with those laws in performing this Agreement. The Consultant represents and warrants that the representations made by the Consultant concerning unfair competitive advantage and conflicts of interest in connection with its submissions in response to the City's procurement for this Agreement were true and accurate both when made and as of the date of this Agreement. Consultant represents and warrants that it has not and shall not offer or deliver any City officer, public official, or employee any gifts or donations in violation Federal, State and/or local law.

10. Rebates, Kickbacks, or Other Unlawful Consideration. Consultant warrants that this Agreement was not obtained or secured through rebates, kickbacks, or other unlawful consideration either promised or paid to any City official or employee. For breach of this warranty, City shall have the right, in its sole discretion, to terminate this Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback, or other unlawful consideration.

11. Notices. All notices, demands, or other communications which this Agreement contemplates or authorizes shall be in writing and shall be personally delivered or mailed to the other party to the addresses listed below. Communications shall be deemed to have been given and received on the first to occur of: (1) actual receipt at the address designated below, or (2) three working days after the deposit in the United States Mail of registered or certified mail, sent to the address designated below.

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

To City:

Community & Economic Development Director
333 Civic Center Plaza
Tracy, CA 95376

To Consultant:

PlaceWorks, Inc.
Attention: David Early
2040 Bancroft Way, Suite 400
Berkeley, CA 94704

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

12. Miscellaneous.

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

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

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

12.4 Assignment and Delegation. Consultant may not assign, transfer or delegate this Agreement or any portion of it without the City's written consent. Any attempt to do so will be void. City's consent to one assignment shall not be deemed to be a consent to any subsequent assignment.

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

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

12.6.1 Prevailing Wage Laws. Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates; employment of apprentices (§ 1777.5), certified payroll records (§1776), hours of labor (§1813 and §1815), debarment of contractors and subcontractors (§1777.1) and the performance of other requirements on "public works" and "maintenance" projects. If the services being performed under this Agreement are part of a "public works" or "maintenance" project, as defined in the Prevailing Wage Laws, and if the total compensation is $1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. These prevailing rates are on file with the City and are available online at http://www.dir.ca.gov/DLSR. Consultant shall defend, indemnify and hold the City, its officials, officers, employees and agents, harmless from any and all claims, costs, penalties, or interests arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

12.6.2 Non-discrimination. Consultant represents and warrants that it is an equal opportunity employer and it shall not discriminate against any subconsultant, employee or applicant for employment because of race, religion, color, national origin, handicap, ancestry, sex or age. Consultant shall also comply with all applicable anti-discrimination federal and state laws, including but not limited to, the California Fair Employment and Housing Act (Gov. Code 12990 (a-f) et seq.).

12.7 Business Entity Status. Consultant is responsible for filing all required documents and/or forms with the California Secretary of State and meeting all requirements of the Franchise Tax Board, to the extent such requirements apply to Consultant. By entering into this Agreement, Consultant represents that it is not a suspended corporation. If Consultant is a suspended corporation at the time it enters into this Agreement, City may take steps to have this Agreement declared voidable.

12.8 Business License. Before the City signs this Agreement, Consultant shall obtain a City of Tracy Business License. Consultant shall maintain an active City of Tracy Business License during the term of this Agreement.

12.9 Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective successors and assigns.

12.10 Construction of Agreement. Each Party hereto has had an equivalent opportunity to participate in the drafting of this Agreement and/or to consult with legal counsel. Therefore, the usual construction of an agreement against the drafting Party shall not apply hereto.

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

12.12 Controlling Provisions. In the case of any conflict between the terms of this Agreement and the Exhibits hereto, and Consultant's proposal (if any), the Agreement shall control. In the case of any conflict between the Exhibits hereto and the Consultant's proposal (if any), the Exhibits shall control.

12.13 Entire Agreement. This Agreement and the attached Exhibits comprise the entire integrated understanding between the Parties concerning the services to be performed. This Agreement supersedes all prior negotiations, representations or agreements. All exhibits attached hereto are incorporated by reference herein.

13. Signatures. The individuals executing this Agreement on behalf of Consultant represent and warrant that they have the right, power, legal capacity and authority to enter into and to execute this Agreement on behalf of Consultant.

[SIGNATURES ON FOLLOWING PAGE]

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

IN WITNESS HEREOF, the City and Consultant agree to the full performance of the foregoing terms as of the last signature date.

City of Tracy

By: Nancy D. Young
Title: Mayor
Date: _____

Attest:

Adrianne Richardson, City Clerk

Approved as to form:

Bijal M. Patel, City Attorney

Consultant
PlaceWorks, Inc., a California Corporation

DocuSigned by:
Brian Judd
E2D0AC28194E400...

By: Brian Judd
Title: Chief Executive Officer
Date: 5/30/2024 | 5:02 PM PDT

Federal Employer Tax ID No. _____

DocuSigned by:
Kara Kosel
1EF72BF86609445...

By: Kara Kosel
Title: Vice President of Finance
Date: 5/30/2024 | 4:06 PM PDT

EXHIBITS

A Scope of Work, including personnel and time of performance (See Agreement sections 1 and 2.)
B Compensation (See Agreement section 3.)
C Task Order Form

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

EXHIBIT A

Services

The Consultant shall provide the services and deliverables set forth in this **Exhibit A**. The Consultant shall provide all services and deliverables required by this **Exhibit A** to the satisfaction of the City.

General Description of Project for which Consultant will Provide Services:

Consultant shall be on-call to provide environmental analyses and project management for various current and future development and planning projects. This may include but is not limited to applicant-driven development projects, City-initiated policy and municipal code analyses and updates, amendments to the City's Sphere of Influence and Municipal Services Review, annexations, General Plan Amendments, Specific Plans, and the like.

General Description of Services the Consultant will Provide:
City will confer with the Consultant and receive and approve a written scope of work for each individual project, executing a task order with an estimated budget and timing at the beginning of each task.

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

EXHIBIT B

Compensation

Fee Schedule

PlaceWorks' hourly rate sheet is shown below. Our rates increase by a small percentage each year, and if selected, PlaceWorks can provide rates for subsequent years. For on-call services, we are flexible in adjusting our rates depending on the duration of the contract. We bill on a monthly time-and-materials compensation schedule.

PlaceWorks Fee Schedule	
Staff / Staff Level	**Hourly Bill Rate**
Principal	$210-$335
Associate Principal	$195-$275
Senior Associate II	$170-$260
Senior Associate I	$160-$220
Associate II	$135-$190
Associate I	$125-$175
Project Planner	$105-$165
Planner	$90-$145
Graphics Specialist	$90-$155
Administrator	$145-$235
Clerical/Word Processing/Technical Editor	$45-$155
Intern	$80-$115

Subconsultants are billed at cost plus 10%.
Mileage reimbursement rate is the standard IRS approved rate.
Possible Yearly Increase of 5% on bill rates.

EXHIBIT C

DocuSign Envelope ID: 55E23083-2FA5-4830-8425-B6484A604B31

Task Order Form

Project:	
Consultant:	
Project Task Order Number:	[X of X]
Description of Task and Services:	
Maximum Compensation for Task:	$_____.00
Task Completion Time:	The Consultant must complete the services and deliverable for this task in On or before: [DATE]
Year-to-Date Total Authorized Task Order Compensation:	$_____.00
Remaining Total Not to Exceed Amount upon completion of this Task:	$_____.00

APPROVED BY CITY REPRESENTATIVE

_____
[Insert Name and Position]

_____
Date

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL
RESOLUTION NO. 2024-_____

APPROVING AN ON-CALL LIST, FOR THREE YEARS, OF QUALIFIED CONSULTANTS FOR ENVIRONMENTAL REVIEW SERVICES AND PLANNING ASSISTANCE

WHEREAS, the City of Tracy has a variety of planning applications and projects that require specialized environmental review and planning services; and

WHEREAS, planning staff processes over 150 applications annually and is experiencing substantial demand for growth in residential and industrial sectors; and

WHEREAS, the City requires the support of professional, technical California Environmental Quality Act (CEQA) and related services from outside firms to process many of the applications; and

WHEREAS, on April 8, 2024, City staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide CEQA services and planning assistance; and

WHEREAS, the City received nine proposals to provide the required services in the RFP; and

WHEREAS, the requested on-call services include but are not limited to environmental analyses, as well as project management and other planning assistance.

WHEREAS, the City staff, carefully evaluated all nine proposals received based on the criteria described in the RFP, and determined that following seven of them possess the skills, experience, competence, professional qualifications, and certifications required to provide the services required by the City and have been deemed qualified to remain on an on call list:

De Novo Planning Group – CEQA services and planning assistance
EMC Planning Group – CEQA services and planning assistance
First Carbon Solutions – CEQA services and planning assistance
Kimley Horn – CEQA services and planning assistance
Land Logistics – CEQA services and planning assistance
MIG – CEQA services and planning assistance
Placeworks – CEQA services and planning assistance; and

WHEREAS, the City will utilize such services on an on-call basis, and the City will execute Master Professional Services Agreements with each consultant and issue Purchase Orders for the scopes of work needed; and be it

WHEREAS, the cost of these services are typically paid by applicants through a cost-recovery agreement, but the City can also authorize payment for certain services unrelated to development applications by utilizing approved budgeted funds or CIPs; and

RESOLVED: That the City Council of the City of Tracy hereby approves an On-Call Professional Services list for CEQA and Planning Assistance consisting of: De Novo Planning Group, EMC Planning Group, First Carbon Solutions, Kimley Horn, Land Logistics, MIG and Placeworks and such list shall remain valid - three-years; and be it

FURTHER RESOLVED: That the City Council directs staff to return for future approvals of any specific agreement with any specific firm listed on the foregoing on-call list, to the extent that may be needed for either budgetary or contract authority under the Tracy Municipal Code; and be it

FURTHER RESOLVED: That the approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a "project" as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTENTION:	COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy

ATTEST:

_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL
RESOLUTION NO. 2024-_____

AUTHORIZING THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH DE NOVO PLANNING GROUP TO PROVIDE ON-CALL ENVIRONMENTAL REVIEW SERVICES AND PLANNING ASSISTANCE, FOR A TERM OF THREE YEARS AND A NOT-TO-EXCEED ANNUAL AMOUNT OF $500,000.

WHEREAS, the City of Tracy has a variety of planning applications and projects that require specialized environmental review under the California Environmental Quality Act (CEQA) and professional services; and

WHEREAS, planning staff receives for processing over 150 applications annually and is experiencing substantial demand for growth in residential and industrial sectors; and

WHEREAS, the City requires the support of professional, technical CEQA, and related services from outside firms to process many of the applications; and

WHEREAS, on March 14, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call CEQA services and planning assistance; and

WHEREAS, the requested services include but are not limited to environmental analyses, as well as project management and other planning assistance; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an on-call list of qualified consultants to provide the CEQA service and planning assistance; and

WHEREAS, De Novo Planning Group is on the on-call list; and

WHEREAS, to provide these services, staff recommends that the City Council authorize the execution of a Master Professional Services Agreements (MPSA) for an initial term of three years for a not-to-exceed amount of $500,000 per fiscal year; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the funding for the MPSA will be through existing budget authority, as granted by the City Council through the budget approval process and through project-specific cost recovery agreements; and

WHEREAS, through the budget approval process, the City Council approves an anticipated, estimated amount of funds anticipated to be collected application fees set forth in the City's Master Fee Schedule, and expenses not covered by such fees are appropriated General Fund amounts, which amount is adjusted as needed throughout the fiscal year; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves the execution of a Master Professional Services Agreement attached hereto as Attachment A to provide on-call CEQA and planning assistance services with De Novo Planning Group for a not-to-exceed amount of $500,000 per fiscal year, for a term of three years; and be it

FURTHER RESOLVED: The approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a "project" as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024-_____

AUTHORIZING THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH EMC PLANNING GROUP TO PROVIDE ON-CALL ENVIRONMENTAL REVIEW SERVICES AND PLANNING ASSISTANCE, FOR A TERM OF THREE YEARS AND A NOT-TO-EXCEED ANNUAL AMOUNT OF $500,000

WHEREAS, the City of Tracy has a variety of planning applications and projects that require specialized environmental review under the California Environmental Quality Act (CEQA) and professional services; and

WHEREAS, planning staff receives for processing over 150 applications annually and is experiencing substantial demand for growth in residential and industrial sectors; and

WHEREAS, the City requires the support of professional, technical CEQA, and related services from outside firms to process many of the applications; and

WHEREAS, on March 14, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call CEQA services and planning assistance; and

WHEREAS, the requested services include but are not limited to environmental analyses, as well as project management and other planning assistance; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an on-call list of qualified consultants to provide the CEQA service and planning assistance; and

WHEREAS, EMC Planning Group is on the on-call list; and

WHEREAS, to provide these services, staff recommends that the City Council authorize the execution of a Master Professional Services Agreements (MPSA) for an initial term of three years for a not-to-exceed amount of $500,000 per fiscal year; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the funding for the MPSA will be through existing budget authority, as granted by the City Council through the budget approval process and through project-specific cost recovery agreements; and

WHEREAS, through the budget approval process, the City Council approves an anticipated, estimated amount of funds anticipated to be collected application fees set forth in the City's Master Fee Schedule, and expenses not covered by such fees are appropriated General Fund amounts, which amount is adjusted as needed throughout the fiscal year; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves the execution of a Master Professional Services Agreement attached hereto as Attachment B to provide on-call CEQA and planning assistance with EMC Planning Group for a not-to-exceed amount of $500,000 per fiscal year for a term of three years; and be it

FURTHER RESOLVED: The approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a "project" as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024-_____

AUTHORIZING THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH FIRST CARBON SOLUTIONS, TO PROVIDE ON-CALL ENVIRONMENTAL REVIEW SERVICES AND PLANNING ASSISTANCE, FOR A TERM OF THREE YEARS AND NOT-TO-EXCEED ANNUAL AMOUNT OF $500,000.

WHEREAS, the City of Tracy has a variety of planning applications and projects that require specialized environmental review under the California Environmental Quality Act (CEQA) and professional services; and

WHEREAS, planning staff receives for processing over 150 applications annually and is experiencing substantial demand for growth in residential and industrial sectors; and

WHEREAS, the City requires the support of professional, technical CEQA, and related services from outside firms to process many of the applications; and

WHEREAS, on March 14, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call CEQA services and planning assistance; and

WHEREAS, the requested services include but are not limited to environmental analyses, as well as project management and other planning assistance; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an on call list of qualified consultants to provide the CEQA service and planning assistance; and

WHEREAS, First Carbon Solution is on the on-call list; and

WHEREAS, to provide these services, staff recommends that the City Council authorize the execution of a Master Professional Services Agreements (MPSA) for an initial term of three years for a not-to-exceed amount of $500,000 per fiscal year; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the funding for the MPSA will be through existing budget authority, as granted by the City Council through the budget approval process and through project-specific cost recovery agreements; and

WHEREAS, through the budget approval process, the City Council approves an anticipated, estimated amount of funds anticipated to be collected application fees set forth in the City's Master Fee Schedule, and expenses not covered by such fees are appropriated General Fund amounts, which amount is adjusted as needed throughout the fiscal year; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves the execution of a Master Professional Services Agreement attached hereto as Attachment C to provide on-call CEQA and planning assistance with First Carbon Solutions for a not-to-exceed amount of $500,000 per fiscal yearfor a term of three years; and be it

FURTHER RESOLVED: Compliance with the California Environmental Quality Act is met because this action is not considered a project as defined by Section 21065 of the Public Resources Code

FURTHER RESOLVED: The approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a "project" as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024-_____

AUTHORIZING THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH LAND LOGISTICS TO PROVIDE ON-CALL ENVIRONMENTAL REVIEW SERVICES AND PLANNING ASSISTANCE, FOR A TERM OF THREE YEARS AND A NOT-TO-EXCEED ANNUAL AMOUNT OF $500,000.

WHEREAS, the City of Tracy has a variety of planning applications and projects that require specialized environmental review under the California Environmental Quality Act (CEQA) and professional services; and

WHEREAS, planning staff receives for processing over 150 applications annually and is experiencing substantial demand for growth in residential and industrial sectors; and

WHEREAS, the City requires the support of professional, technical CEQA, and related services from outside firms to process many of the applications; and

WHEREAS, on March 14, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call CEQA services and planning assistance; and

WHEREAS, the requested services include but are not limited to environmental analyses, as well as project management and other planning assistance; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an on-call list of qualified consultants to provide the CEQA service and planning assistance; and

WHEREAS, Land Logistics is on the on-call list; and

WHEREAS, to provide these services, staff recommends that the City Council authorize the execution of a Master Professional Services Agreements (MPSA) for an initial term of three years for a not-to-exceed amount of $500,000 per fiscal year; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the funding for the MPSA will be through existing budget authority, as granted by the City Council through the budget approval process and through project-specific cost recovery agreements; and

WHEREAS, through the budget approval process, the City Council approves an anticipated, estimated amount of funds anticipated to be collected application fees set forth in the City's Master Fee Schedule, and expenses not covered by such fees are appropriated General Fund amounts, which amount is adjusted as needed throughout the fiscal year; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves the execution of a Master Professional Services Agreement attached hereto as Attachment D to provide on-call CEQA and planning assistance with Land Logistics for a not-to-exceed amount of $500,000 per fiscal year for a term of three years; and be it

FURTHER RESOLVED: The approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a "project" as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024-_____

AUTHORZING THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH PLACEWORKS TO PROVIDE ON-CALL ENVIRONMENTAL REVIEW SERVICES AND PLANNING ASSISTANCE, FOR A TERM OF THREE YEARS AND A NOT-TO-EXCEED ANNUAL AMOUNT OF $500,000.

WHEREAS, the City of Tracy has a variety of planning applications and projects that require specialized environmental review under the California Environmental Quality Act (CEQA) and professional services; and

WHEREAS, planning staff receives for processing over 150 applications annually and is experiencing substantial demand for growth in residential and industrial sectors; and

WHEREAS, the City requires the support of professional, technical CEQA, and related services from outside firms to process many of the applications; and

WHEREAS, on March 14, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call CEQA services and planning assistance; and

WHEREAS, the requested services include but are not limited to environmental analyses, as well as project management and other planning assistance; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an on-call list of qualified consultants to provide the CEQA service and planning assistance; and

WHEREAS, PLACEWORKS is on the on-call list; and

WHEREAS, to provide these services, staff recommends that the City Council authorize the execution of a Master Professional Services Agreements (MPSA) for an initial term of three years for a not-to-exceed amount of $500,000 per fiscal year; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the funding for the MPSA will be through existing budget authority, as granted by the City Council through the budget approval process and through project-specific cost recovery agreements; and

WHEREAS, through the budget approval process, the City Council approves an anticipated, estimated amount of funds anticipated to be collected application fees set forth in the City's Master Fee Schedule, and expenses not covered by such fees are appropriated General Fund amounts, which amount is adjusted as needed throughout the fiscal year; and

RESOLVED: That the City Council of the City of Tracy hereby approves the execution of a Master Professional Services Agreement attached hereto as Attachment F to provide on-call CEQA and planning services with Placeworks for a not-to-exceed amount of $500,000 per fiscal year for a term of three years; and be it

FURTHER RESOLVED: Compliance with the California Environmental Quality Act is met because this action is not considered a project as defined by Section 21065 of the Public Resources Code

FURTHER RESOLVED: The approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a "project" as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2024-_____

AUTHORIZING THE EXECUTION OF A MASTER PROFESSIONAL SERVICES AGREEMENT WITH MIG TO PROVIDE ON-CALL ENVIRONMENTAL REVIEW SERVICES AND PLANNING ASSISTANCE, FOR A TERM OF THREE YEARS AND A NOT-TO-EXCEED ANNUAL AMOUNT OF $500,000.

WHEREAS, the City of Tracy has a variety of planning applications and projects that require specialized environmental review under the California Environmental Quality Act (CEQA) and professional services; and

WHEREAS, planning staff receives for processing over 150 applications annually and is experiencing substantial demand for growth in residential and industrial sectors; and

WHEREAS, the City requires the support of professional, technical CEQA, and related services from outside firms to process many of the applications; and

WHEREAS, on March 14, 2024, staff, following established procedures in accordance with Tracy Municipal Code, Section 2.20.140, posted a Request for Proposals (RFP) to solicit experienced and qualified consultants to provide on-call CEQA services and planning assistance; and

WHEREAS, the requested services include but are not limited to environmental analyses, as well as project management and other planning assistance; and

WHEREAS, concurrently with this agenda item, staff recommends that the City Council approve an on-call list of qualified consultants to provide the CEQA service and planning assistance; and

WHEREAS, MIG Planning group is on the on-call list; and

WHEREAS, to provide these services, staff recommends that the City Council authorize the execution of a Master Professional Services Agreements (MPSA) for an initial term of three years for a not-to-exceed amount of $500,000 per fiscal year; and

WHEREAS, the City will issue Task Orders specifying the scope of work needed, and each consultant will invoice the City based on the scope of work for each Task Order; and

WHEREAS, the funding for the MPSA will be through existing budget authority, as granted by the City Council through the budget approval process and through project-specific cost recovery agreements; and

WHEREAS, through the budget approval process, the City Council approves an anticipated, estimated amount of funds anticipated to be collected application fees set forth in the City's Master Fee Schedule, and expenses not covered by such fees are appropriated General Fund amounts, which amount is adjusted as needed throughout the fiscal year; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby approves the execution of a Master Professional Services Agreement attached hereto as Attachment E to provide CEQA and planning assistance with MIG for a not-to-exceed amount of $500,000 per fiscal year for a term of three years; and be it

FURTHER RESOLVED: Compliance with the California Environmental Quality Act is met because this action is not considered a project as defined by Section 21065 of the Public Resources Code

FURTHER RESOLVED: The approval requested in this item is for project planning work only and will not result in a physical change in the environment and is not considered a "project" as defined by Section 21065 of the Public Resources Code.

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on the 18th day of June 2024, by the following vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:
ABSTENTION: COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 3.A

RECOMMENDATION

Staff recommends that the City Council conduct a public hearing and upon conclusion adopt a resolution ordering the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for Fiscal Year 2024/2025.

EXECUTIVE SUMMARY

Annually, the City Council is required by the California Landscape and Lighting Act of 1972 to review and consider for approval the Tracy Consolidated Landscape Maintenance District (District) Engineer's Report for the new Fiscal Year. On May 21, 2024, per Resolution No. 2024-075, the City Council approved the District Engineer's report and declared its intention to levy annual assessments for the maintenance of landscaping and related appurtenances in the District per Resolution No. 2024-076 and scheduled the statutorily required public hearing for June 18, 2024. Staff recommends that, after conducting a public hearing and reviewing and considering the public comments received, the City Council approve and authorize the levy and collection of assessments for Fiscal Year 2024/2025.

BACKGROUND AND LEGISLATIVE HISTORY

Prior to Fiscal Year 2003-2004, the City managed three (3) landscape maintenance districts. Each of these districts were formed with specific areas of improvement. Collectively, there were 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 2003-2004, the City consolidated the three (3) districts into a single district pursuant to Section 22605 (d) of the Landscape and Lighting Act of 1972 and established the Tracy Consolidated Landscape Maintenance District. As part of the consolidation, the improvements associated with the various Zones were evaluated and it was determined that, in some areas, the special benefit to properties could be more refined by expanding the existing thirty (30) Zones to thirty-seven (37) Zones. Since the consolidation, several annexations have taken place and there are now forty-one (41) Zones in the District.

The City utilizes the equivalent dwelling unit (EDU) method of apportionment. This method is widely seen as the most appropriate and equitable assessment methodology for districts governed by the Landscape and Lighting Act of 1972. An EDU is a methodology used to convert differing parcel types and sizes to equate back to a single-family parcel. The single-family parcel is used as the basic unit of assessment. 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, and size of the property, as compared to a single-family home site.

On December 5, 2023, through Resolution No. 2023-231, the City Council retained Harris & Associates (Harris) for administrative, engineering, and financial services, including assisting with the annual levy of the District and to prepare and file with the City Clerk the Annual Engineers Report for the District in accordance with the Landscape and Lighting Act of 1972.

ANALYSIS

At the time of the formation of each Zone, a maximum allowable assessment was established. The maximum assessment was based on the maintenance cost projected to cover the landscaping and related services and amenities within each Zone. It is recognized that the cost of maintaining the improvements increases each year due to inflation. Therefore, as an attempt to offset inflationary increases that affect service costs to the Zone, assessments include a formula for increasing the maximum assessment rates for each future Fiscal Year. The annual inflationary rate increase allows the maximum rates to be adjusted by three percent (3%) or the percentage of the Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco-Oakland-San Jose Area Region, whichever is less. The City utilizes June as their benchmark month when analyzing the 12-month percent change for the CPI-U.

The maximum assessment rates allowed for Fiscal Year 2024/2025 is recommended to be adjusted by the CPI-U, 2.9%, over the prior year's maximum assessment rates. While it is necessary to keep up with inflation and adjust maximum assessments, it is important to note that the amount to be levied will only be based on the estimated cost of maintenance.

These moderate annual inflationary increases have not been adequate to keep up with the cost of maintaining the improvements and related services within each Zone. Some Zones have accumulated a structural deficit while others have been dependent on their respective reserves to balance the operating budget for regular routine maintenance. Having to absorb this delta has resulted in a financial burden for several Zones. Currently, twenty-seven (27) of the forty-one (41) Zones (66%) have reached their maximum assessment rates and either are or will be experiencing a budget shortfall.

Pursuant to Article XIII D of the California Constitution (commonly known as Proposition 218), property owners must approve any assessments that exceed the adjusted maximum assessment (CPI-U or 3%, lessor of). Prop 218 provides limited opportunities to increase revenue. There are two methods to increase revenue beyond the adjusted maximum assessment: 1) the General Fund may contribute funds to Zones to ensure a balanced budget; or 2) property owner ballot proceedings can be initiated pursuant to Government Code 53753 and Prop 218.

For Fiscal Year 2024/2025, the General Fund anticipates providing approximately $721,500 in the form of a Capital Improvement Project for arterial landscaping and tree maintenance as these improvements are generally viewed as a general benefit. These funds will continue to support a consistent level of maintenance for arterial roadways that the public benefits from for ease of transportation and connectivity throughout the community. Without the General Fund contribution for arterial maintenance, several Zones would need to rely on their reserves, require a service level reduction, and/or incur or increase their deficit to balance the Zones operating budget. In addition, the Storm Drain Fund is expected to contribute $20,000 to cover a portion of the expenses associated with channel-way landscaping.

Based upon the estimated costs to maintain the long and short-term landscaping and improvements, staff recommends approval of the assigned assessment rates found in Part II ("Estimate of Costs") of the Engineer's Report for Fiscal Year 2024/2025. The report reflects:

- Seventeen (17) Zones are projected to increase their respective reserve budget.
- Seven (7) Zones are projected to not be assessed as maintenance is performed by another entity (i.e., HOA) or their respective reserve budget has ample funds to cover any maintenance needs.

- Ten (10) Zones are projected to have higher expenditures than revenues as enhancements are expected to occur to improve the overall aesthetics.
- Three (3) Zones are projected to eliminate their deficit and begin establishing a reserve.
- Four (4) Zones are expected to reduce their existing deficit.

The need to develop strategies to address Zones that have reached their maximum assessment is also recognized. As a result, staff have engaged services with Harris to collectively develop a methodical plan and process for Zones that are financially struggling to meet maintenance and capital needs. The process will include an analysis of financing strategies, re-engineering, public outreach, special benefit analysis, and balloting services. Staff anticipates returning to City Council in late Fall with an informational report outlining the plan/process for Zones that have reached their maximum assessment.

FISCAL IMPACT

The District has 41 Zones; therefore, each Zone should be viewed as an independent budget. Revenue for operations, maintenance, and capital replacement in each Zone is from assessments, Storm Drain, General Fund, and reserves. Below is the operational breakdown:

Zone	Revenue	Expense
1	$50,214	$74,800
2	$26,376	$37,817
3	$503,599	$545,543
4	$8,646	$3,169
5	$0	$227
6	$4,485	$428
7	$342,976	$303,410
8	$75,936	$57,813
9	$643,012	$439,199
10	$285,465	$204,935
11	$2,403	$1,689
12	$141,391	$115,074
13	$142,601	$180,938
14	$70,278	$91,340
15	$269,429	$302,712
16	$59,183	$54,905
17	$385,434	$925,454
18	$198,328	$170,958
19	$184,856	$201,533
20	$36,699	$34,508

Zone	Revenue	Expense
21	$73,648	$72,696
22	$41,303	$29,657
23	$74,667	$44,812
24	$111,264	$106,721
25	$0	$0
26	$287,483	$358,402
27	$16,465	$11,863
28	$102,003	$193,412
29	$116,660	$60,810
30	$66,756	$65,813
31	$0	$0
32	$0	$0
33	$3,079	$30,222
34	$36,130	$22,729
35	$91,749	$87,100
36	$0	$25
37	$0	$0
40	$17,858	$7,479
41	$2,904	$1,766
42	$21,733	$12,428
43	$10,500	$7,002

PUBLIC OUTREACH / INTEREST

A notice was published in the Tracy Press on/or before June 7, 2024. In addition, staff has developed an LMD landing page on the City's website (https://www.cityoftracy.org/our-city/departments/parks-recreation-department/parks-and-facilities/landscape-maintenance-district-lmd) to provide stakeholders with valuable information pertaining to their Zone. Also, an LMD brochure has been created along with business cards with a QR code that links to the

City's LMD web page. In addition, Parks Maintenance will begin coordinating with Recreation to showcase Zone enhancements via City social media platforms.

COORDINATION

This report was prepared by the Parks, Recreation, and Community Services Department in coordination with the Finance and Public Works Departments.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

This item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; "CEQA Guidelines") in that it is not a "project" for purposes of CEQA (as defined by CEQA Guidelines §15378). Specifically, this item proposes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment (CEQA Guidelines §§15378(b)(5)). Further, even if this item were deemed a "project", the item would be exempt as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

STRATEGIC PLAN

This agenda item is consistent with the City Council's adopted Quality of Life strategies.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council conduct a public hearing and upon conclusion adopt a resolution ordering the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for Fiscal Year 2024/2025.

Prepared by: Nilo Velazquez, Management Analyst II
Todd Rocha, Operations Superintendent (Parks Maintenance)

Reviewed by: Jolene Jauregui-Correll, Interim Director of Parks, Recreation, and Community Services
Brian MacDonald, Interim Director of Public Works
Sara Cowell, Director of Finance
Kimberly Murdaugh, Interim Assistant City Manager
Bijal Patel, City Attorney

Approved by: Midori Lichtwardt, City Manager

Attachment:

Attachment A: Engineer's Report, Tracy Consolidated Landscape Maintenance District for Fiscal Year 2024-2025

Attachment B: PowerPoint Presentation

CITY OF TRACY CALIFORNIA
Think Inside the Triangle™

CITY OF TRACY

ENGINEER'S REPORT
FISCAL YEAR 2024-25
CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT

June 2024

Harris & Associates

Prepared by

Harris & Associates
1401 Willow Pass Road, Suite 500
Concord, CA 94520
www.weareharris.com

ENGINEER'S REPORT FOR
FISCAL YEAR 2024-25
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 _____, 2024

_____
ADRIANNE RICHARDSON
CITY CLERK
CITY OF TRACY

TABLE OF CONTENTS

Table of Contents

Introduction 1

Impacts of Proposition 218 2

Statement of Assessment Engineer 3

Part I – Plans and Specifications 5

Part II – Estimate of Costs 9

Part III – Quantification of Benefit 53

Part IV – Method of Assessment 54

Part V – Assessment Diagram 58

Part VI – Assessment Roll 59

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-maintenance (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, 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 said resolution, the final assessor's roll will be prepared and filed with the County Tax Collector's office to be included on the FY 2024-25 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 streetlight 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 2024-25

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 2024-25.

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 May, this Report has been ordered for:

CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT

(Hereinafter referred to as the "District"),

I, Alison Bouley, 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 2024-25 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 29th day of May, 2024

Harris & Associates



Alison Bouley, P.E., Assessment Engineer
R.C.E. No. C61383
Engineer of Work

PART I – PLANS AND SPECIFICATIONS

DESCRIPTION OF IMPROVEMENTS
FOR THE CITY OF TRACY
CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT
FISCAL YEAR 2024-25

The District 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 for 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.
- 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 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 (Parkway street-tree, Arterial-tree, and Park-tree maintenance) 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:

- 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 ten 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.

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 to 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.

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 1, Plans and Specifications, for each Zone are summarized in the Zone budget tables on pages 13-53.

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

EXPENDITURES COSTS [1]

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.
- *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.

Commodities – 5300

- *Supplies.* Includes supplies to maintain or repair irrigation system, playgrounds, plant material, etc.

Internal Services – 5400

- Services related to City Staff time devoted to the District.
- *Utilities.* The cost of water, sewer, electrical, telephone, vehicle replacement, building, IT, and anything necessary to maintain improvements within the Zones.
- Business expense not chargeable to a particular part of the District (ex: insurance, etc.)
- 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)

Other/Indirect – (5500-5900)

- *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.
- *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.

LEVY ADJUSTMENTS [2]

Long-Term 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, Street Tree, and Park Tree Maintenance.* This represents the zone's annual installment for participation in the Tree Maintenance program.
- *Park Rehabilitation & Renovation.* This represents the zone's annual installment for participation in the Park Rehabilitation and Renovation program.

G. F. – 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. This also includes 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.

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.

General Fund Support. Represents the City's contribution to the Zones for improvements not related to channel way and capital improvement projects.

Storm Drain 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 for San Joaquin County tax roll purposes.

Maximum Levy per EDU[3]*.* 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.

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 2025-26 are equal to the current year's proposed amount plus 3% escalation to account for inflation. This is shown as an estimate only.
2. Administration Costs for 2025-26 are equal to the current year's proposed 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. The Zone Reserve Adjustments, added or subtracted, equals the amount necessary to keep the assessment rate at or below the maximum allowable assessment rate for that year.
4. The Maximum Assessment Rate for 2025-26 is equal to the current year's Maximum Assessment Rate, plus 3% escalation for inflation. The actual escalation rate is detailed on page 58 of this Report, under Assessment Range Formula.
5. The Beginning Fund Balances shown on each Budget page includes the Zones Reserve amounts and are derived from Fiscal Year 2022-23 ending balances.

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 1		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$12,786	$13,169
Contracted Services - 5200	$16,137	$16,621
Commodities - 5300	$35,710	$36,781
Internal Services - 5400	$7,205	$7,421
Other/Indirect - (5500 - 5900)	$2,962	$3,051
TOTAL EXPENDITURES COST	**$74,800**	**$77,044**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($5,589)	$0
Zone Reserves Adjustment	($24,586)	($31,096)
General Fund - 101	$0	$0
Storm Drain Fund - 101	($522)	($522)
TOTAL ADJUSTMENTS	**($30,697)**	**($31,618)**
Balance to Levy	**$44,103**	**$45,426**
Total Revenue at Maximum Rate	**$44,103**	**$45,426**
Variance above/(below) Maximum Revenue	$0	($0)
DISTRICT STATISTICS		
Total Parcels	294	294
Total Parcels Levied	294	294
Total EDUs	617.00	617.00
Total EDUs Levied	617.00	617.00
Proposed Levy per EDU	**$71.48**	$73.62
Max Levy per EDU [3]	$71.48	$73.62
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$105,071	$80,485
Reserve Fund Adjustment	($24,586)	($31,096)
Projected Reserve Ending Fund Balance	**$80,485**	**$49,389**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 2		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$128	$132
Contracted Services - 5200	$34,972	$36,022
Commodities - 5300	$7	$7
Internal Services - 5400	$2,551	$2,628
Other/Indirect - (5500 - 5900)	$159	$163
TOTAL EXPENDITURES COST	**$37,817**	**$38,952**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($13,041)	$0
Zone Reserves Adjustment	($11,441)	($25,215)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($24,482)**	**($25,215)**
Balance to Levy	**$13,335**	**$13,736**
Total Revenue at Maximum Rate	**$13,336**	**$13,736**
Variance above/(below) Maximum Revenue	($1)	$0
DISTRICT STATISTICS		
Total Parcels	125	125
Total Parcels Levied	125	125
Total EDUs	125.00	125.00
Total EDUs Levied	125.00	125.00
Proposed Levy per EDU	**$106.68**	$109.89
Max Levy per EDU [3]	$106.69	$109.89
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$18,933	$7,492
Reserve Fund Adjustment	($11,441)	($25,215)
Projected Reserve Ending Fund Balance	**$7,492**	**($17,723)**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 3		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$191,786	$197,539
Contracted Services - 5200	$142,784	$147,068
Commodities - 5300	$12,650	$13,030
Internal Services - 5400	$155,944	$160,622
Other/Indirect - (5500 - 5900)	$42,379	$43,650
TOTAL EXPENDITURES	**$545,543**	**$561,909**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($45,730)	$0
Zone Reserves Adjustment	($41,944)	($90,348)
General Fund - 101	$0	$0
Storm Drain Fund - 101	($1,453)	($1,453)
TOTAL ADJUSTMENTS	**($89,127)**	**($91,801)**
Balance to Levy	**$456,416**	**$470,108**
Total Revenue at Maximum Rate	**$456,416**	**$470,108**
Variance above/(below) Maximum Revenue	$0	$0
DISTRICT STATISTICS		
Total Parcels	2,293	2,293
Total Parcels Levied	2,293	2,293
Total EDUs	2,878.87	2,878.87
Total EDUs Levied	2,878.87	2,878.87
Proposed Levy per EDU	**$158.54**	$163.30
Max Levy per EDU [3]	$158.54	$163.30
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$195,360	$153,416
Reserve Fund Adjustment	($41,944)	($90,348)
Projected Reserve Ending Fund Balance	**$153,416**	**$63,068**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 4		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS 1		
Personnel - 5100	$1,662	$1,712
Contracted Services - 5200	$282	$291
Commodities - 5300	$92	$95
Internal Services - 5400	$718	$740
Other/Indirect - (5500 - 5900)	$414	$426
TOTAL EXPENDITURES COST	**$3,169**	**$3,264**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($6)	$0
Zone Reserves Adjustment	$5,477	$5,635
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$5,471**	**$5,635**
Balance to Levy	**$8,640**	**$8,899**
Total Revenue at Maximum Rate	**$22,830**	**$23,515**
Variance above/(below) Maximum Revenue	($14,190)	($14,615)
DISTRICT STATISTICS		
Total Parcels	144	144
Total Parcels Levied	144	144
Total EDUs	144.00	144.00
Total EDUs Levied	144.00	144.00
Proposed Levy per EDU	**$60.00**	$61.80
Max Levy per EDU [3]	$158.54	$163.30
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$15,339	$20,816
Reserve Fund Adjustment	$5,477	$5,635
Projected Reserve Ending Fund Balance	**$20,816**	**$26,452**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 5		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$0	$0
Contracted Services - 5200	$227	$234
Commodities - 5300	$0	$0
Internal Services - 5400	$0	$0
Other/Indirect - (5500 - 5900)	$0	$0
TOTAL EXPENDITURES COST	**$227**	**$234**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	($227)	($234)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($227)**	**($234)**
Balance to Levy	**$0**	**$0**
Total Revenue at Maximum Rate	**$10,939**	**$11,267**
Variance above/(below) Maximum Revenue	($10,939)	($11,267)
DISTRICT STATISTICS		
Total Parcels	69	69
Total Parcels Levied	69	69
Total EDUs	69.00	69.00
Total EDUs Levied	69.00	69.00
Proposed Levy per EDU	**$0.00**	$0.00
Max Levy per EDU [3]	$158.54	$163.30
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$18,316	$18,089
Reserve Fund Adjustment	($227)	($234)
Projected Reserve Ending Fund Balance	**$18,089**	**$17,855**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 6		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$128	$132
Contracted Services - 5200	$1	$1
Commodities - 5300	$7	$7
Internal Services - 5400	$222	$229
Other/Indirect - (5500 - 5900)	$70	$72
TOTAL EXPENDITURES COST	**$428**	**$441**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$4,057	($441)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$4,057**	**($441)**
Balance to Levy	**$4,485**	**$0**
Total Revenue at Maximum Rate	**$7,111**	**$7,324**
Variance above/(below) Maximum Revenue	($2,626)	($7,324)
DISTRICT STATISTICS		
Total Parcels	2	2
Total Parcels Levied	2	2
Total EDUs	44.85	44.85
Total EDUs Levied	44.85	44.85
Proposed Levy per EDU	**$100.00**	$103.00
Max Levy per EDU [3]	$158.54	$163.30
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$12,338	$16,395
Reserve Fund Adjustment	$4,057	($441)
Projected Reserve Ending Fund Balance	**$16,395**	**$15,954**

City of Tracy
Consolidated Landscape Maintenance District
Proposed Budget for Fiscal Year 2024-25

Zone 7

	Proposed Budget FY 2024-25	Forecasted Budget FY 2025-26
EXPENDITURES COSTS [1]		
Personnel - 5100	$62,266	$64,134
Contracted Services - 5200	$154,570	$159,207
Commodities - 5300	$3,458	$3,562
Internal Services - 5400	$68,325	$70,375
Other/Indirect - (5500 - 5900)	$14,791	$15,235
TOTAL EXPENDITURES COST	**$303,410**	**$312,512**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($89,780)	$0
Zone Reserves Adjustment	$39,566	($51,774)
General Fund - 101	$0	$0
Storm Drain Fund - 101	($1,807)	($1,807)
TOTAL ADJUSTMENTS	**($52,021)**	**($53,581)**
Balance to Levy	**$251,389**	**$258,931**
Total Revenue at Maximum Rate	**$251,389**	**$258,931**
Variance above/(below) Maximum Revenue	$0	$0
DISTRICT STATISTICS		
Total Parcels	1,171	1,171
Total Parcels Levied	1,171	1,171
Total EDUs	1,272.34	1,272.34
Total EDUs Levied	1,272.34	1,272.34
Proposed Levy per EDU	**$197.58**	$203.51
Max Levy per EDU [3]	$197.58	$203.51
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$112,444	$152,010
Reserve Fund Adjustment	$39,566	($51,774)
Projected Reserve Ending Fund Balance	**$152,010**	**$100,236**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 8		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$128	$132
Contracted Services - 5200	$39,364	$40,544
Commodities - 5300	$7	$7
Internal Services - 5400	$17,856	$18,392
Other/Indirect - (5500 - 5900)	$458	$472
TOTAL EXPENDITURES COST	**$57,813**	**$59,547**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($30,582)	$0
Zone Reserves Adjustment	$18,123	($12,896)
General Fund - 101	$0	$0
Storm Drain Fund - 101	($2,084)	($2,084)
TOTAL ADJUSTMENTS	**($14,543)**	**($14,980)**
Balance to Levy	**$43,270**	**$44,568**
Total Revenue at Maximum Rate	**$43,270**	**$44,568**
Variance above/(below) Maximum Revenue	$0	$0
DISTRICT STATISTICS		
Total Parcels	219	219
Total Parcels Levied	219	219
Total EDUs	219.00	219.00
Total EDUs Levied	219.00	219.00
Proposed Levy per EDU	**$197.58**	$203.51
Max Levy per EDU [3]	$197.58	$203.51
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	($255,003)	($236,879)
Reserve Fund Adjustment	$18,123	($12,896)
Projected Reserve Ending Fund Balance	**($236,879)**	**($249,775)**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 9		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$42,321	$43,590
Contracted Services - 5200	$200,795	$206,818
Commodities - 5300	$2,350	$2,421
Internal Services - 5400	$181,057	$186,489
Other/Indirect - (5500 - 5900)	$12,676	$13,056
TOTAL EXPENDITURES COST	**$439,199**	**$452,375**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($206,070)	$0
Zone Reserves Adjustment	$203,813	($2,413)
General Fund - 101	$0	$0
Storm Drain Fund - 101	($3,817)	($3,817)
TOTAL ADJUSTMENTS	**($6,074)**	**($6,231)**
Balance to Levy	**$433,125**	**$446,144**
Total Revenue at Maximum Rate	**$433,149**	**$446,144**
Variance above/(below) Maximum Revenue	($24)	$0
DISTRICT STATISTICS		
Total Parcels	2,369	2,369
Total Parcels Levied	2,369	2,369
Total EDUs	2,444.82	2,444.82
Total EDUs Levied	2,444.82	2,444.82
Proposed Levy per EDU	**$177.16**	$182.47
Max Levy per EDU [3]	$177.17	$182.49
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	($469,238)	($265,425)
Reserve Fund Adjustment	$203,813	($2,413)
Projected Reserve Ending Fund Balance	**($265,425)**	**($267,838)**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 10		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$51,143	$52,677
Contracted Services - 5200	$97,942	$100,880
Commodities - 5300	$2,840	$2,925
Internal Services - 5400	$40,613	$41,831
Other/Indirect - (5500 - 5900)	$12,397	$12,769
TOTAL EXPENDITURES COST	**$204,935**	**$211,083**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($46,217)	$0
Zone Reserves Adjustment	$80,530	$35,127
General Fund - 101	$0	$0
Storm Drain Fund - 101	($7,927)	(7,927)
TOTAL ADJUSTMENTS	**$26,386**	**$27,201**
Balance to Levy	**$231,321**	**$238,283**
Total Revenue at Maximum Rate	**$231,343**	**$238,283**
Variance above/(below) Maximum Revenue	($22)	$0
DISTRICT STATISTICS		
Total Parcels	317	317
Total Parcels Levied	317	317
Total EDUs	2,193.45	2,193.45
Total EDUs Levied	2,193.45	2,193.45
Proposed Levy per EDU	**$105.46**	$108.62
Max Levy per EDU [3]	$105.47	$108.63
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	($69,374)	$11,156
Reserve Fund Adjustment	$80,530	$35,127
Projected Reserve Ending Fund Balance	**$11,156**	**$46,283**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 11		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$128	$132
Contracted Services - 5200	$1,481	$1,526
Commodities - 5300	$7	$7
Internal Services - 5400	$28	$29
Other/Indirect - (5500 - 5900)	$44	$46
TOTAL EXPENDITURES COST	**$1,689**	**$1,740**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($489)	$0
Zone Reserves Adjustment	$714	$232
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$225**	**$232**
Balance to Levy	**$1,914**	**$1,972**
Total Revenue at Maximum Rate	**$1,914**	**$1,972**
Variance above/(below) Maximum Revenue	($0)	$0
DISTRICT STATISTICS		
Total Parcels	1	1
Total Parcels Levied	1	1
Total EDUs	18.15	18.15
Total EDUs Levied	18.15	18.15
Proposed Levy per EDU	**$105.46**	$108.62
Max Levy per EDU [3]	$105.47	$108.63
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	($2,868)	($2,154)
Reserve Fund Adjustment	$714	$232
Projected Reserve Ending Fund Balance	**($2,154)**	**($1,922)**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 12		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$28,512	$29,368
Contracted Services - 5200	$52,157	$53,722
Commodities - 5300	$1,583	$1,631
Internal Services - 5400	$26,196	$26,982
Other/Indirect - (5500 - 5900)	$6,625	$6,824
TOTAL EXPENDITURES COST	**$115,074**	**$118,526**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($41,064)	$0
Zone Reserves Adjustment	$26,317	($15,189)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($14,747)**	**($15,189)**
Balance to Levy	**$100,327**	**$103,337**
Total Revenue at Maximum Rate	**$151,383**	**$155,925**
Variance above/(below) Maximum Revenue	($51,056)	($52,588)
DISTRICT STATISTICS		
Total Parcels	103	103
Total Parcels Levied	103	103
Total EDUs	1,003.27	1,003.27
Total EDUs Levied	1,003.27	1,003.27
Proposed Levy per EDU	**$100.00**	$103.00
Max Levy per EDU [3]	$150.89	$155.42
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$229,928	$256,245
Reserve Fund Adjustment	$26,317	($15,189)
Projected Reserve Ending Fund Balance	**$256,245**	**$241,056**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 13		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$51,143	$52,677
Contracted Services - 5200	$80,846	$83,271
Commodities - 5300	$2,840	$2,925
Internal Services - 5400	$34,612	$35,650
Other/Indirect - (5500 - 5900)	$11,497	$11,842
TOTAL EXPENDITURES COST	**$180,938**	**$186,366**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($1,292)	$0
Zone Reserves Adjustment	($38,337)	($40,814)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($39,629)**	**($40,814)**
Balance to Levy	**$141,309**	**$145,553**
Total Revenue at Maximum Rate	**$141,313**	**$145,553**
Variance above/(below) Maximum Revenue	($4)	$0
DISTRICT STATISTICS		
Total Parcels	418	418
Total Parcels Levied	418	418
Total EDUs	418.00	418.00
Total EDUs Levied	418.00	418.00
Proposed Levy per EDU	**$338.06**	$348.21
Max Levy per EDU [3]	$338.07	$348.21
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$559,465	$521,128
Reserve Fund Adjustment	($38,337)	($40,814)
Projected Reserve Ending Fund Balance	**$521,128**	**$480,314**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 14		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$26,211	$26,997
Contracted Services - 5200	$34,220	$35,247
Commodities - 5300	$1,456	$1,500
Internal Services - 5400	$23,598	$24,306
Other/Indirect - (5500 - 5900)	$5,856	$6,032
TOTAL EXPENDITURES COST	**$91,341**	**$94,081**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($1,472)	$0
Zone Reserves Adjustment	($21,063)	($23,208)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($22,535)**	**($23,208)**
Balance to Levy	**$68,806**	**$70,874**
Total Revenue at Maximum Rate	**$68,809**	**$70,874**
Variance above/(below) Maximum Revenue	($4)	$0
DISTRICT STATISTICS		
Total Parcels	369	369
Total Parcels Levied	369	369
Total EDUs	371.00	371.00
Total EDUs Levied	371.00	371.00
Proposed Levy per EDU	**$185.46**	$191.02
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$42,636	$21,573
Reserve Fund Adjustment	($21,063)	($23,208)
Projected Reserve Ending Fund Balance	**$21,573**	**($1,634)**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 15		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$65,974	$67,953
Contracted Services - 5200	$109,970	$113,269
Commodities - 5300	$3,664	$3,774
Internal Services - 5400	$107,479	$110,703
Other/Indirect - (5500 - 5900)	$15,625	$16,094
TOTAL EXPENDITURES COST	**$302,712**	**$311,793**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($7,804)	$0
Zone Reserves Adjustment	($33,283)	($42,305)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($41,087)**	**($42,305)**
Balance to Levy	**$261,625**	**$269,488**
Total Revenue at Maximum Rate	**$261,639**	**$269,488**
Variance above/(below) Maximum Revenue	($14)	$0
DISTRICT STATISTICS		
Total Parcels	1,209	1,209
Total Parcels Levied	1,209	1,209
Total EDUs	1,410.68	1,410.68
Total EDUs Levied	1,410.68	1,410.68
Proposed Levy per EDU	**$185.46**	$191.02
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$110,272	$76,989
Reserve Fund Adjustment	($33,283)	($42,305)
Projected Reserve Ending Fund Balance	**$76,989**	**$34,683**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 16		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$8,694	$8,955
Contracted Services - 5200	$22,267	$22,935
Commodities - 5300	$483	$497
Internal Services - 5400	$21,172	$21,807
Other/Indirect - (5500 - 5900)	$2,289	$2,358
TOTAL EXPENDITURES COST	**$54,905**	**$56,552**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($1,690)	$0
Zone Reserves Adjustment	$4,277	$2,668
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$2,587**	**$2,668**
Balance to Levy	**$57,493**	**$59,221**
Total Revenue at Maximum Rate	**$57,496**	**$59,221**
Variance above/(below) Maximum Revenue	($3)	$0
DISTRICT STATISTICS		
Total Parcels	310	310
Total Parcels Levied	310	310
Total EDUs	310.00	310.00
Total EDUs Levied	310.00	310.00
Proposed Levy per EDU	**$185.46**	$191.02
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$142,478	$146,755
Reserve Fund Adjustment	$4,277	$2,668
Projected Reserve Ending Fund Balance	**$146,755**	**$149,424**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 17		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$383,572	$395,079
Contracted Services - 5200	$116,256	$119,744
Commodities - 5300	$218,200	$224,746
Internal Services - 5400	$128,497	$132,352
Other/Indirect - (5500 - 5900)	$78,929	$81,297
TOTAL EXPENDITURES COST	**$925,454**	**$953,217**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($55,487)	$0
Zone Reserves Adjustment	($540,020)	($613,357)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($595,507)**	**($613,357)**
Balance to Levy	**$329,947**	**$339,861**
Total Revenue at Maximum Rate	**$329,962**	**$339,861**
Variance above/(below) Maximum Revenue	($15)	$0
DISTRICT STATISTICS		
Total Parcels	1,129	1,129
Total Parcels Levied	1,129	1,129
Total EDUs	1,542.96	1,542.96
Total EDUs Levied	1,542.96	1,542.96
Proposed Levy per EDU	**$213.84**	$220.26
Max Levy per EDU [3]	$213.85	$220.27
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$1,176,620	$636,599
Reserve Fund Adjustment	($540,020)	($613,357)
Projected Reserve Ending Fund Balance	**$636,599**	**$23,243**

City of Tracy
Consolidated Landscape Maintenance District
Proposed Budget for Fiscal Year 2024-25

Zone 18

	Proposed Budget FY 2024-25	Forecasted Budget FY 2025-26
EXPENDITURES COSTS [1]		
Personnel - 5100	$22,631	$23,310
Contracted Services - 5200	$123,216	$126,912
Commodities - 5300	$1,257	$1,295
Internal Services - 5400	$18,102	$18,645
Other/Indirect - (5500 - 5900)	$5,753	$5,926
TOTAL EXPENDITURES COST	**$170,959**	**$176,088**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($69,220)	$0
Zone Reserves Adjustment	$27,370	($43,106)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($41,850)**	**($43,106)**
Balance to Levy	**$129,108**	**$132,982**
Total Revenue at Maximum Rate	**$129,108**	**$132,982**
Variance above/(below) Maximum Revenue	$0	$0
DISTRICT STATISTICS		
Total Parcels	968	968
Total Parcels Levied	968	968
Total EDUs	977.65	977.65
Total EDUs Levied	977.65	977.65
Proposed Levy per EDU	**$132.06**	$136.02
Max Levy per EDU [3]	$132.06	$136.02
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$247,887	$275,257
Reserve Fund Adjustment	$27,370	($43,106)
Projected Reserve Ending Fund Balance	**$275,257**	**$232,151**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 19		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$49,225	$50,702
Contracted Services - 5200	$94,986	$97,836
Commodities - 5300	$2,734	$2,816
Internal Services - 5400	$43,080	$44,372
Other/Indirect - (5500-5900)	$11,508	$11,853
TOTAL EXPENDITURES COST	**$201,533**	**$207,579**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($4,614)	$0
Zone Reserves Adjustment	($16,677)	($21,922)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($21,291)**	**($21,922)**
Balance to Levy	**$180,242**	**$185,657**
Total Revenue at Maximum Rate	**$180,249**	**$185,657**
Variance above/(below) Maximum Revenue	($7)	$0
DISTRICT STATISTICS		
Total Parcels	507	507
Total Parcels Levied	507	507
Total EDUs	743.51	743.51
Total EDUs Levied	743.51	743.51
Proposed Levy per EDU	**$242.42**	$249.70
Max Levy per EDU [3]	$242.43	$249.70
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$689,426	$672,749
Reserve Fund Adjustment	($16,677)	($21,922)
Projected Reserve Ending Fund Balance	**$672,749**	**$650,826**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 20		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$10,996	$11,326
Contracted Services - 5200	$10,772	$11,095
Commodities - 5300	$611	$629
Internal Services - 5400	$9,612	$9,900
Other/Indirect - (5500 - 5900)	$2,517	$2,593
TOTAL EXPENDITURES COST	**$34,508**	**$35,543**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($1,787)	$0
Zone Reserves Adjustment	$2,191	$4,709
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$404**	**$4,709**
Balance to Levy	**$34,912**	**$35,959**
Total Revenue at Maximum Rate	**$42,319**	**$43,588**
Variance above/(below) Maximum Revenue	($7,407)	($7,629)
DISTRICT STATISTICS		
Total Parcels	168	168
Total Parcels Levied	168	168
Total EDUs	174.56	174.56
Total EDUs Levied	174.56	174.56
Proposed Levy per EDU	**$200.00**	$206.00
Max Levy per EDU [3]	$242.43	$249.70
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$149,119	$151,310
Reserve Fund Adjustment	$2,191	$4,709
Projected Reserve Ending Fund Balance	**$151,310**	**$156,019**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 21		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$11,763	$12,116
Contracted Services - 5200	$30,766	$31,689
Commodities - 5300	$653	$673
Internal Services - 5400	$26,475	$27,269
Other/Indirect - (5500 - 5900)	$3,039	$3,130
TOTAL EXPENDITURES COST	**$72,696**	**$74,877**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($1,690)	$0
Zone Reserves Adjustment	$952	($756)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($738)**	**($756)**
Balance to Levy	**$71,958**	**$74,121**
Total Revenue at Maximum Rate	**$71,962**	**$74,121**
Variance above/(below) Maximum Revenue	($4)	$0
DISTRICT STATISTICS		
Total Parcels	388	388
Total Parcels Levied	388	388
Total EDUs	388.00	388.00
Total EDUs Levied	388.00	388.00
Proposed Levy per EDU	**$185.46**	$191.02
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$70,482	$71,434
Reserve Fund Adjustment	$952	($756)
Projected Reserve Ending Fund Balance	**$71,434**	**$70,678**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 22		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$12,786	$13,169
Contracted Services - 5200	$9,686	$9,976
Commodities - 5300	$710	$731
Internal Services - 5400	$3,557	$3,664
Other/Indirect - (5500 - 5900)	$2,918	$3,006
TOTAL EXPENDITURES COST	**$29,657**	**$30,546**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($1,615)	$0
Zone Reserves Adjustment	$11,647	$10,335
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$10,032**	**$10,335**
Balance to Levy	**$39,688**	**$40,881**
Total Revenue at Maximum Rate	**$39,691**	**$40,881**
Variance above/(below) Maximum Revenue	($2)	$0
DISTRICT STATISTICS		
Total Parcels	214	214
Total Parcels Levied	214	214
Total EDUs	214.00	214.00
Total EDUs Levied	214.00	214.00
Proposed Levy per EDU	**$185.46**	$191.03
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$96,526	$108,173
Reserve Fund Adjustment	$11,647	$10,335
Projected Reserve Ending Fund Balance	**$108,173**	**$118,508**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 23		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$11,507	$11,852
Contracted Services - 5200	$21,370	$22,011
Commodities - 5300	$639	$658
Internal Services - 5400	$8,354	$8,604
Other/Indirect - (5500 - 5900)	$2,942	$3,031
TOTAL EXPENDITURES COST	**$44,812**	**$46,156**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($7,345)	$0
Zone Reserves Adjustment	$29,855	$23,189
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$22,510**	**$23,189**
Balance to Levy	**$67,322**	**$69,345**
Total Revenue at Maximum Rate	**$67,326**	**$69,345**
Variance above/(below) Maximum Revenue	($4)	$0
DISTRICT STATISTICS		
Total Parcels	363	363
Total Parcels Levied	363	363
Total EDUs	363.00	363.00
Total EDUs Levied	363.00	363.00
Proposed Levy per EDU	**$185.46**	$191.02
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$190,233	$220,088
Reserve Fund Adjustment	$29,855	$23,189
Projected Reserve Ending Fund Balance	**$220,088**	**$243,277**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 24		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$33,754	$34,767
Contracted Services - 5200	$36,710	$37,812
Commodities - 5300	$1,874	$1,931
Internal Services - 5400	$26,614	$27,412
Other/Indirect - (5500 - 5900)	$7,768	$8,001
TOTAL EXPENDITURES COST	**$106,721**	**$109,923**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$4,543	$4,685
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$4,543**	**$4,685**
Balance to Levy	**$111,264**	**$114,608**
Total Revenue at Maximum Rate	**$111,264**	**$114,602**
Variance above/(below) Maximum Revenue	$0	$6
DISTRICT STATISTICS		
Total Parcels	600	600
Total Parcels Levied	600	600
Total EDUs	600.00	600.00
Total EDUs Levied	600.00	600.00
Proposed Levy per EDU	**$185.44**	$191.01
Max Levy per EDU [3]	$185.44	$191.00
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$399,157	$403,700
Reserve Fund Adjustment	$4,543	$4,685
Projected Reserve Ending Fund Balance	**$403,700**	**$408,385**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 25		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$0	$0
Contracted Services - 5200	$0	$0
Commodities - 5300	$0	$0
Internal Services - 5400	$0	$0
Other/Indirect - (5500 - 5900)	$0	$0
TOTAL EXPENDITURES COST	**$0**	**$0**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$0	$0
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$0**	**$0**
Balance to Levy	**$0**	**$0**
Total Revenue at Maximum Rate	**$0**	**$0**
Variance above/(below) Maximum Revenue	$0	$0
DISTRICT STATISTICS		
Total Parcels	438	438
Total Parcels Levied	0	0
Total EDUs	438.00	438.00
Total EDUs Levied	0.00	0.00
Proposed Levy per EDU	**$0.00**	$0.00
Max Levy per EDU [3]	$0.00	$0.00
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$0	$0
Reserve Fund Adjustment	$0	$0
Projected Reserve Ending Fund Balance	**$0**	**$0**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 26		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$59,965	$61,764
Contracted Services - 5200	$217,590	$224,118
Commodities - 5300	$3,330	$3,430
Internal Services - 5400	$62,996	$64,886
Other/Indirect - (5500 - 5900)	$14,521	$14,957
TOTAL EXPENDITURES COST	**$358,402**	**$369,154**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($15,385)	$0
Zone Reserves Adjustment	($70,918)	($88,881)
General Fund - 101	$0	$0
Storm Drain Fund - 101	($2,390)	($2,462)
TOTAL ADJUSTMENTS	**($88,693)**	**($91,343)**
Balance to Levy	**$269,708**	**$277,811**
Total Revenue at Maximum Rate	**$269,720**	**$277,811**
Variance above/(below) Maximum Revenue	($11)	$0
DISTRICT STATISTICS		
Total Parcels	1,130	1,130
Total Parcels Levied	1,130	1,130
Total EDUs	1,130.00	1,130.00
Total EDUs Levied	1,130.00	1,130.00
Proposed Levy per EDU	**$238.68**	$245.85
Max Levy per EDU [3]	$238.69	$245.85
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$332,108	$261,190
Reserve Fund Adjustment	($70,918)	($88,881)
Projected Reserve Ending Fund Balance	**$261,190**	**$172,308**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 27		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$639	$658
Contracted Services - 5200	$7,808	$8,042
Commodities - 5300	$36	$37
Internal Services - 5400	$3,089	$3,182
Other/Indirect - (5500 - 5900)	$291	$300
TOTAL EXPENDITURES COST	**$11,863**	**$12,219**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$4,602	$4,740
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$4,602**	**$4,740**
Balance to Levy	**$16,465**	**$16,959**
Total Revenue at Maximum Rate	**$101,793**	**$104,847**
Variance above/(below) Maximum Revenue	($85,328)	($87,888)
DISTRICT STATISTICS		
Total Parcels	116	116
Total Parcels Levied	116	116
Total EDUs	548.84	548.84
Total EDUs Levied	548.84	548.84
Proposed Levy per EDU	**$30.00**	$30.90
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$78,856	$83,458
Reserve Fund Adjustment	$4,602	$4,740
Projected Reserve Ending Fund Balance	**$83,458**	**$88,198**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 28		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$60,860	$62,686
Contracted Services - 5200	$53,306	$54,905
Commodities - 5300	$46,380	$47,771
Internal Services - 5400	$19,846	$20,442
Other/Indirect - (5500 - 5900)	$13,020	$13,411
TOTAL EXPENDITURES COST	**$193,412**	**$199,214**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	($91,409)	($94,145)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($91,409)**	**($94,145)**
Balance to Levy	**$102,003**	**$105,069**
Total Revenue at Maximum Rate	**$102,009**	**$105,069**
Variance above/(below) Maximum Revenue	($6)	$0
DISTRICT STATISTICS		
Total Parcels	550	550
Total Parcels Levied	550	550
Total EDUs	550.00	550.00
Total EDUs Levied	550.00	550.00
Proposed Levy per EDU	**$185.46**	$191.02
Max Levy per EDU [3]	$185.47	$191.03
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$430,156	$338,747
Reserve Fund Adjustment	($91,409)	($94,145)
Projected Reserve Ending Fund Balance	**$338,747**	**$244,602**

City of Tracy
Consolidated Landscape Maintenance District
Proposed Budget for Fiscal Year 2024-25

Zone 29

	Proposed Budget FY 2024-25	Forecasted Budget FY 2025-26
EXPENDITURES COSTS [1]		
Personnel - 5100	$128	$132
Contracted Services - 5200	$44,480	$45,814
Commodities - 5300	$7	$7
Internal Services - 5400	$15,298	$15,757
Other/Indirect - (5500 - 5900)	$897	$924
TOTAL EXPENDITURES COST	**$60,810**	**$62,635**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($29,483)	$0
Zone Reserves Adjustment	$55,850	$27,163
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$26,367**	**$27,163**
Balance to Levy	**$87,177**	**$89,797**
Total Revenue at Maximum Rate	**$87,182**	**$89,797**
Variance above/(below) Maximum Revenue	($5)	$0
DISTRICT STATISTICS		
Total Parcels	496	496
Total Parcels Levied	496	496
Total EDUs	496.00	496.00
Total EDUs Levied	496.00	496.00
Proposed Levy per EDU	**$175.76**	$181.03
Max Levy per EDU [3]	$175.77	$181.04
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	($4,289)	$51,561
Reserve Fund Adjustment	$55,850	$27,163
Projected Reserve Ending Fund Balance	**$51,561**	**$78,724**

City of Tracy
Consolidated Landscape Maintenance District
Proposed Budget for Fiscal Year 2024-25

Zone 30

	Proposed Budget FY 2024-25	Forecasted Budget FY 2025-26
EXPENDITURES COSTS [1]		
Personnel - 5100	$13,553	$13,959
Contracted Services - 5200	$28,029	$28,870
Commodities - 5300	$753	$775
Internal Services - 5400	$20,202	$20,808
Other/Indirect - (5500 - 5900)	$3,276	$3,374
TOTAL EXPENDITURES COST	**$65,813**	**$67,787**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($6,335)	$0
Zone Reserves Adjustment	$943	($5,554)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($5,392)**	**($5,554)**
Balance to Levy	**$60,421**	**$62,233**
Total Revenue at Maximum Rate	**$60,421**	**$62,233**
Variance above/(below) Maximum Revenue	$0	$0
DISTRICT STATISTICS		
Total Parcels	166	166
Total Parcels Levied	166	166
Total EDUs	166.00	166.00
Total EDUs Levied	166.00	166.00
Proposed Levy per EDU	**$363.98**	$374.91
Max Levy per EDU [3]	$363.98	$374.90
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$232,570	$233,513
Reserve Fund Adjustment	$943	($5,554)
Projected Reserve Ending Fund Balance	**$233,513**	**$227,959**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 31		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$0	$0
Contracted Services - 5200	$0	$0
Commodities - 5300	$0	$0
Internal Services - 5400	$0	$0
Other/Indirect - (5500 - 5900)	$0	$0
TOTAL EXPENDITURES COST	**$0**	**$0**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$0	$0
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$0**	**$0**
Balance to Levy	**$0**	**$0**
Total Revenue at Maximum Rate	**$6,823**	**$7,027**
Variance above/(below) Maximum Revenue	($6,823)	($7,027)
DISTRICT STATISTICS		
Total Parcels	1	1
Total Parcels Levied	0	0
Total EDUs	27.75	27.75
Total EDUs Levied	0.00	0.00
Proposed Levy per EDU	**$0.00**	$0.00
Max Levy per EDU [3]	$245.86	$253.24
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$568	$568
Reserve Fund Adjustment	$0	$0
Projected Reserve Ending Fund Balance	**$568**	**$568**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 32		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$0	$0
Contracted Services - 5200	$0	$0
Commodities - 5300	$0	$0
Internal Services - 5400	$0	$0
Other/Indirect - (5500 - 5900)	$0	$0
TOTAL EXPENDITURES COST	**$0**	**$0**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$0	$0
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$0**	**$0**
Balance to Levy	**$0**	**$0**
Total Revenue at Maximum Rate	**$44,837**	**$46,182**
Variance above/(below) Maximum Revenue	($44,837)	($46,182)
DISTRICT STATISTICS		
Total Parcels	2	2
Total Parcels Levied	0	0
Total EDUs	222.68	222.68
Total EDUs Levied	0.00	0.00
Proposed Levy per EDU	**$0.00**	$0.00
Max Levy per EDU [3]	$201.35	$207.39
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$0	$0
Reserve Fund Adjustment	$0	$0
Projected Reserve Ending Fund Balance	**$0**	**$0**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 33		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$12,786	$13,169
Contracted Services - 5200	$5,423	$5,585
Commodities - 5300	$710	$731
Internal Services - 5400	$8,783	$9,046
Other/Indirect - (5500 - 5900)	$2,521	$2,597
TOTAL EXPENDITURES COST	**$30,222**	**$31,129**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($3,079)	$0
Zone Reserves Adjustment	($27,143)	($31,129)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($30,222)**	**($31,129)**
Balance to Levy	**$0**	**$0**
Total Revenue at Maximum Rate	**$664,244**	**$684,171**
Variance above/(below) Maximum Revenue	($664,244)	($684,171)
DISTRICT STATISTICS		
Total Parcels	35	35
Total Parcels Levied	33	33
Total EDUs	2,715.41	2,715.41
Total EDUs Levied	2,715.41	2,715.41
Proposed Levy per EDU	**$0.00**	$0.00
Max Levy per EDU [3]	$244.62	$251.96
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$729,699	$702,556
Reserve Fund Adjustment	($27,143)	($31,129)
Projected Reserve Ending Fund Balance	**$702,556**	**$671,427**

City of Tracy
Consolidated Landscape Maintenance District
Proposed Budget for Fiscal Year 2024-25

Zone 34

	Proposed Budget FY 2024-25	Forecasted Budget FY 2025-26
EXPENDITURES COSTS [1]		
Personnel - 5100	$6,393	$6,585
Contracted Services - 5200	$12,014	$12,374
Commodities - 5300	$355	$366
Internal Services - 5400	$2,472	$2,546
Other/Indirect - (5500 - 5900)	$1,495	$1,540
TOTAL EXPENDITURES COST	**$22,729**	**$23,410**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($12,651)	$0
Zone Reserves Adjustment	$13,401	$773
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$750**	**$773**
Balance to Levy	**$23,479**	**$24,183**
Total Revenue at Maximum Rate	**$23,479**	**$24,183**
Variance above/(below) Maximum Revenue	$0	$0
DISTRICT STATISTICS		
Total Parcels	9	9
Total Parcels Levied	9	9
Total EDUs	84.10	84.10
Total EDUs Levied	84.10	84.10
Proposed Levy per EDU	**$279.18**	$287.56
Max Levy per EDU [3]	$279.18	$287.56
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	($2,345)	$11,056
Reserve Fund Adjustment	$13,401	$773
Projected Reserve Ending Fund Balance	**$11,056**	**$11,829**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 35		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$38,357	$39,508
Contracted Services - 5200	$14,762	$15,205
Commodities - 5300	$2,130	$2,194
Internal Services - 5400	$23,407	$24,109
Other/Indirect - (5500 - 5900)	$8,444	$8,697
TOTAL EXPENDITURES COST	**$87,100**	**$89,713**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($3,661)	$0
Zone Reserves Adjustment	$4,649	$1,021
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$988**	**$1,021**
Balance to Levy	**$88,088**	**$90,734**
Total Revenue at Maximum Rate	**$88,091**	**$90,734**
Variance above/(below) Maximum Revenue	($3)	$0
DISTRICT STATISTICS		
Total Parcels	190	190
Total Parcels Levied	190	190
Total EDUs	313.08	313.08
Total EDUs Levied	313.08	313.08
Proposed Levy per EDU	**$281.36**	$289.79
Max Levy per EDU [3]	$281.37	$289.81
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$67,011	$71,660
Reserve Fund Adjustment	$4,649	$1,021
Projected Reserve Ending Fund Balance	**$71,660**	**$72,681**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 36		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$0	$0
Contracted Services - 5200	$0	$0
Commodities - 5300	$0	$0
Internal Services - 5400	$25	$26
Other/Indirect - (5500 - 5900)	$0	$0
TOTAL EXPENDITURES COST	**$25**	**$26**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	($25)	$0
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($25)**	**$0**
Balance to Levy	**$0**	**$26**
Total Revenue at Maximum Rate	**$7,594**	**$7,822**
Variance above/(below) Maximum Revenue	($7,594)	($7,796)
DISTRICT STATISTICS		
Total Parcels	1	1
Total Parcels Levied	0	0
Total EDUs	72.00	72.00
Total EDUs Levied	0.00	0.00
Proposed Levy per EDU	**$0.00**	$0.00
Max Levy per EDU [3]	$105.47	$108.63
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$2,144	$2,119
Reserve Fund Adjustment	($25)	$0
Projected Reserve Ending Fund Balance	**$2,119**	**$2,119**

City of Tracy
Consolidated Landscape Maintenance District
Proposed Budget for Fiscal Year 2024-25

Zone 37

	Proposed Budget FY 2024-25	Forecasted Budget FY 2025-26
EXPENDITURES COSTS [1]		
Personnel - 5100	$0	$0
Contracted Services - 5200	$0	$0
Commodities - 5300	$0	$0
Internal Services - 5400	$0	$0
Other/Indirect - (5500 - 5900)	$0	$0
TOTAL EXPENDITURES COST	**$0**	**$0**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$0	$0
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$0**	**$0**
Balance to Levy	**$0**	**$0**
Total Revenue at Maximum Rate	**$8,016**	**$8,256**
Variance above/(below) Maximum Revenue	($8,016)	($8,256)
DISTRICT STATISTICS		
Total Parcels	10	10
Total Parcels Levied	0	0
Total EDUs	76.00	76.00
Total EDUs Levied	0.00	0.00
Proposed Levy per EDU	**$0.00**	$0.00
Max Levy per EDU [3]	$105.47	$108.63
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$4,822	$4,822
Reserve Fund Adjustment	$0	$0
Projected Reserve Ending Fund Balance	**$4,822**	**$4,822**

City of Tracy
Consolidated Landscape Maintenance District
Proposed Budget for Fiscal Year 2024-25

Zone 40

	Proposed Budget FY 2024-25	Forecasted Budget FY 2025-26
EXPENDITURES COSTS [1]		
Personnel - 5100	$128	$132
Contracted Services - 5200	$7,241	$7,458
Commodities - 5300	$7	$7
Internal Services - 5400	$29	$30
Other/Indirect - (5500 - 5900)	$74	$76
TOTAL EXPENDITURES COST	**$7,479**	**$7,704**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($13,013)	$0
Zone Reserves Adjustment	$10,379	($2,713)
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**($2,634)**	**($2,713)**
Balance to Levy	**$4,845**	**$4,991**
Total Revenue at Maximum Rate	**$4,846**	**$4,991**
Variance above/(below) Maximum Revenue	($0)	$0
DISTRICT STATISTICS		
Total Parcels	1	1
Total Parcels Levied	1	1
Total EDUs	9.00	9.00
Total EDUs Levied	9.00	9.00
Proposed Levy per EDU	**$538.38**	$554.53
Max Levy per EDU [3]	$538.39	$554.54
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	($24,371)	($13,992)
Reserve Fund Adjustment	$10,379	($2,713)
Projected Reserve Ending Fund Balance	**($13,992)**	**($16,705)**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 41		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$128	$132
Contracted Services - 5200	$1,558	$1,605
Commodities - 5300	$7	$7
Internal Services - 5400	$28	$29
Other/Indirect - (5500 - 5900)	$44	$46
TOTAL EXPENDITURES COST	**$1,766**	**$1,819**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($978)	$0
Zone Reserves Adjustment	$1,138	$165
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$160**	**$165**
Balance to Levy	**$1,926**	**$1,984**
Total Revenue at Maximum Rate	**$1,926**	**$1,984**
Variance above/(below) Maximum Revenue	($0)	$0
DISTRICT STATISTICS		
Total Parcels	1	1
Total Parcels Levied	1	1
Total EDUs	4.15	4.15
Total EDUs Levied	4.15	4.15
Proposed Levy per EDU	**$464.18**	$478.12
Max Levy per EDU [3]	$464.19	$478.12
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$8,011	$9,149
Reserve Fund Adjustment	$1,138	$165
Projected Reserve Ending Fund Balance	**$9,149**	**$9,314**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 42		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$3,836	$3,951
Contracted Services - 5200	$4,436	$4,569
Commodities - 5300	$213	$219
Internal Services - 5400	$2,989	$3,078
Other/Indirect - (5500 - 5900)	$955	$984
TOTAL EXPENDITURES COST	**$12,428**	**$12,801**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	($1,888)	$0
Zone Reserves Adjustment	$9,305	$7,640
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$7,417**	**$7,640**
Balance to Levy	**$19,845**	**$20,440**
Total Revenue at Maximum Rate	**$31,276**	**$32,214**
Variance above/(below) Maximum Revenue	($11,431)	($11,774)
DISTRICT STATISTICS		
Total Parcels	2	2
Total Parcels Levied	2	2
Total EDUs	441.00	441.00
Total EDUs Levied	441.00	441.00
Proposed Levy per EDU	**$45.00**	$46.35
Max Levy per EDU [3]	$70.92	$73.05
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$69,370	$78,675
Reserve Fund Adjustment	$9,305	$7,640
Projected Reserve Ending Fund Balance	**$78,675**	**$86,315**

City of Tracy Consolidated Landscape Maintenance District Proposed Budget for Fiscal Year 2024-25		
Zone 43		
	Proposed Budget FY 2024-25	**Forecasted Budget FY 2025-26**
EXPENDITURES COSTS [1]		
Personnel - 5100	$2,557	$2,634
Contracted Services - 5200	$3,124	$3,218
Commodities - 5300	$142	$146
Internal Services - 5400	$570	$587
Other/Indirect - (5500 - 5900)	$609	$627
TOTAL EXPENDITURES COST	**$7,002**	**$7,212**
LEVY ADJUSTMENTS [2]		
GF - Capital Improvement Projects	$0	$0
Zone Reserves Adjustment	$3,498	$3,603
General Fund - 101	$0	$0
Storm Drain Fund - 101	$0	$0
TOTAL ADJUSTMENTS	**$3,498**	**$3,603**
Balance to Levy	**$10,500**	**$10,815**
Total Revenue at Maximum Rate	**$24,794**	**$25,537**
Variance above/(below) Maximum Revenue	($14,294)	($14,722)
DISTRICT STATISTICS		
Total Parcels	105	105
Total Parcels Levied	105	105
Total EDUs	105.00	105.00
Total EDUs Levied	105.00	105.00
Proposed Levy per EDU	**$100.00**	$103.00
Max Levy per EDU [3]	$236.13	$243.21
FUND BALANCE INFORMATION		
Reserve Fund		
Beginning Fund Balance Fiscal Year 2023/24	$46,772	$50,270
Reserve Fund Adjustment	$3,498	$3,603
Projected Reserve Ending Fund Balance	**$50,270**	**$53,873**

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.

Special Benefit

The improvements and associated costs have been allocated to the assessable properties within the District based upon the special benefit received by those properties. The improvements for which the properties are assessed have been identified as necessary, were installed and are being maintained as part of the development plans. As such, the costs to maintain and service the improvements are strictly the obligation of the properties within the District.

General Benefit

Although the improvements may be visible to passersby or to the public at large, the improvements were installed as a requirement of the development of the zones and are designed for the benefit of properties within the zones. It has been determined however, due to limited access by properties or individuals outside the District, the City will contribute an amount to account for the incidental general benefits conferred to those outside properties or individuals, specifically the general benefit provided by median landscaping along arterial streets within the District. This contribution is shown on the Budget Tables under "GF – Capital Improvement Projects".

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 a single-family residential property. The total EDU's in a Zone are divided into the total amount to be assessed (Balance to Levy) to establish the Levy per EDU (Assessment Rate). The Assessment 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 (Assessment Rate) 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 5.00 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 rights-of-way, 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 the City or by 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-Hayward 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 2022 to June 2023 was 2.87%. The maximum assessment rates allowed for Fiscal Year 2024-25 therefore, have been adjusted by 2.87% 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 2024-25", which exhibit is incorporated by reference herein as Appendix C under separate cover, and is on file in the Office of the City Clerk.

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

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 Lane; 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 Drive

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 11th 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 Lane; Crossroads Drive from Solomon Drive 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 Tracy Boulevard to Gianelli Street; 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 Drive; east side of Corral Hollow, Kagehiro Drive 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 Court

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 Drive, 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 Road – 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 Road from Glenbriar Drive heading east to MacArthur Drive.

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

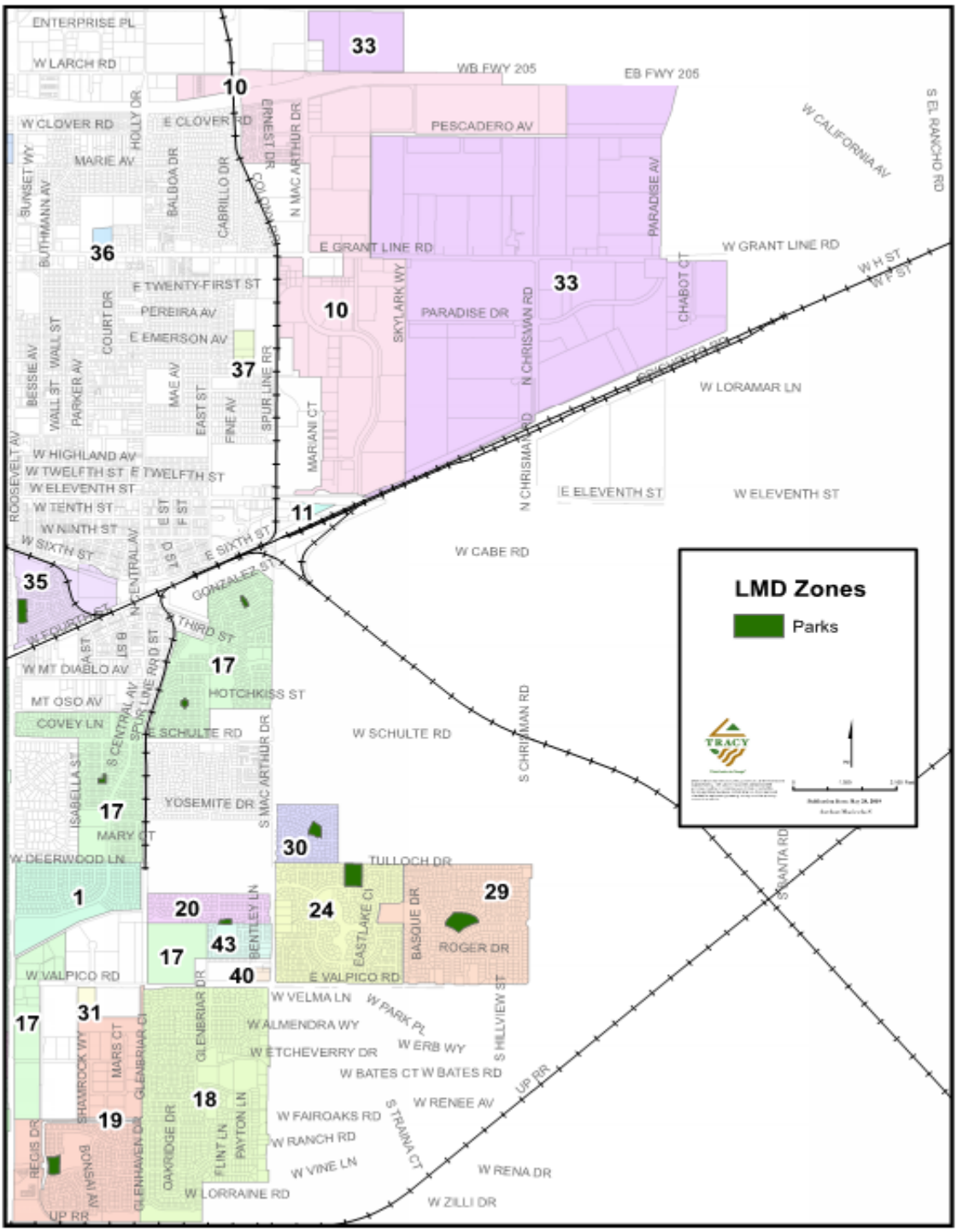
Summary of Maintenance Activities and Levels of Service

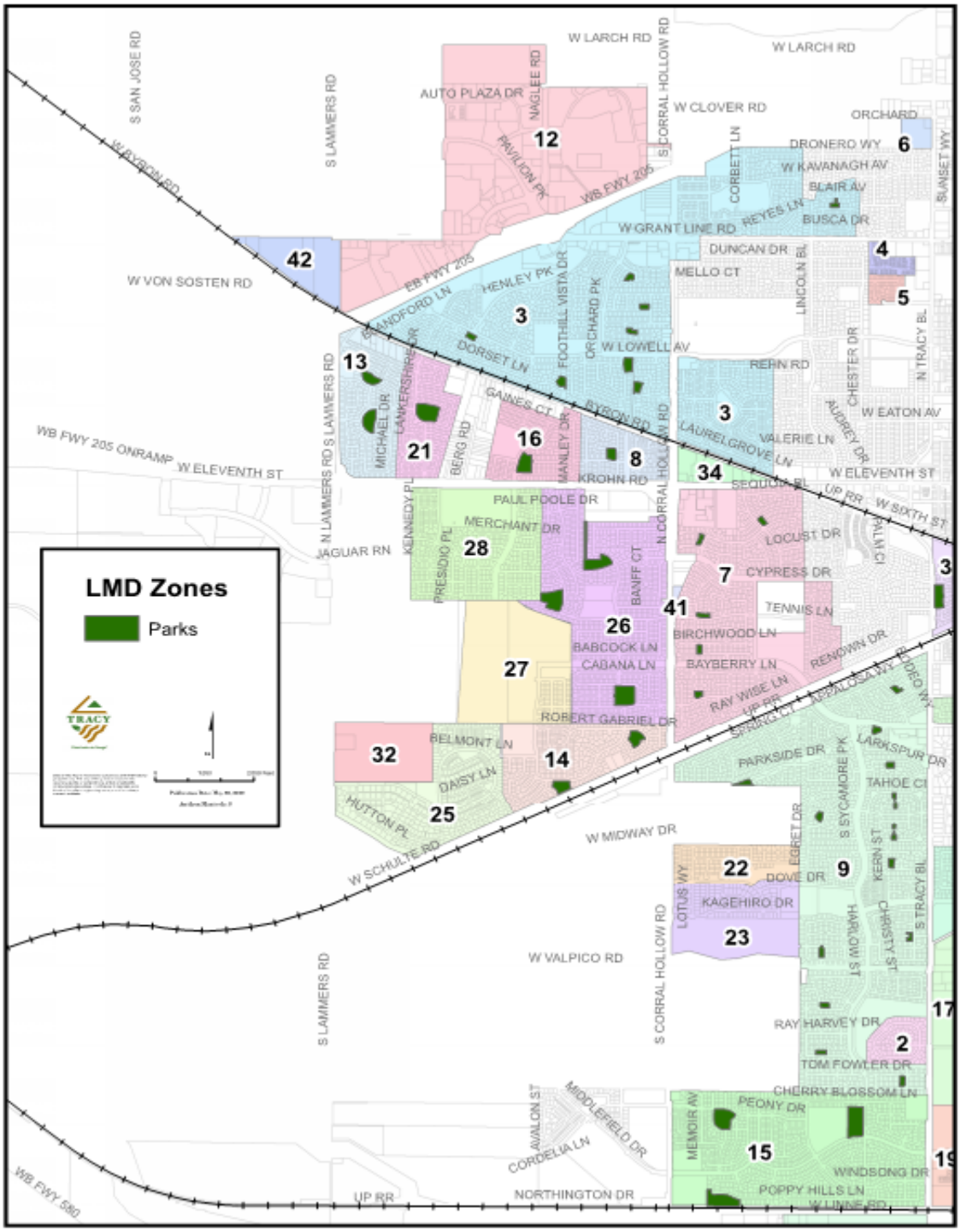
Operational Service Levels

Level A	Level B	Level C
Weekly maintenance and service of parks and streetscapes with tree trimming every 5 years. In general, this level would be reminiscent of the appearance of the landscaping of a bank or professional complex - neat, clean, and green.	Bi-weekly maintenance and service of the parks and streetscapes with tree trimming every 7-8 years. In general, this level would be reminiscent of the appearance of the landscaping of a shopping center or strip mall. One can expect some litter and weeds to accumulate between servicing. Plants will grow out to appear less tidy and amenities may appear dingy and faded.	Monthly maintenance and service of parks and streetscapes with tree trimming every 9-10 years. In general, this level would be reminiscent of the appearance of the landscaping of a parking lot. Litter, weeds, and webs may make these areas look abandoned. Plants and amenities removed will not be replaced.

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
BUSCA DR
REYES LN
W GRANT LINE RD
CORBETT LN
SUNSET WY
DUNCAN DR
MELLO CT
LINCOLN BL
W VON SOSTEN RD
EB FWY 205
HENLEY PK
FOOTHILL VISTA DR
ORCHARD PK
W LOWELL AV
RERN RD
CHESTER DR
N TRACY BL
W EATON AV
AUDREY DR
VALERIE LN
LAUREL GROVE LN
SEQUOIA BL
W ELEVENTH ST
W SIXTH ST
UP RR
WB FWY 205 ONRAMP
KROHN RD
PAUL POOLE DR
MERCHANT DR
KENNEDY PL
PRESIDIO PL
BANFF CT
LOCUST DR
CYPRESS DR
TENNIS LN
BIRCHWOOD LN
BAYBERRY LN
RENOWN DR
BABCOCK LN
CABANA LN
RAY WISE LN
ARALOSA WY
ROBERT GABRIEL DR
RELMONT LN
DAISY LN
HUTTON PL
PARKSIDE DR
LARKSPUR DR
TAHOE CT
W MIDWAY DR
W SCHULTE RD
EGRET DR
S SYCAMORE PK
KERN ST
S TRACY BL
DOVE DR
KAGEHIRO DR
LOTUS WY
HAROLD ST
CHRISTY ST
W VALPICO RD
RAY HARVEY DR
TOM FOWLER DR
CHERRY BLOSSOM LN
PEONY DR
MEMOIR AV
AVALON ST
MIDDLEFIELD DR
CORDELIA LN
WINDSONG DR
POPPY HILLS LN
NORTHINGTON DR
W LINNE RD
WB FWY 580
JAGUAR RN
42
12
6
4
5
3
13
21
16
8
34
28
7
41
26
27
32
14
25
22
9
23
17
2
15
19

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 2024-25", 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, Appendix B 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.

Attachment B

Tracy Consolidated Landscape Maintenance District

June 18, 2024



Overview

- Landscape and Lighting Act 1972
- Proposition 218
- Current Layout
- Engineer's Report
- Recommendation
- Questions

TRACY

Think Inside the Triangle™

Landscape and Lighting Act 1972

The Streets and Highway Code Section 22500-22509 governs the Landscaping and Lighting Act of 1972 (the "Act").

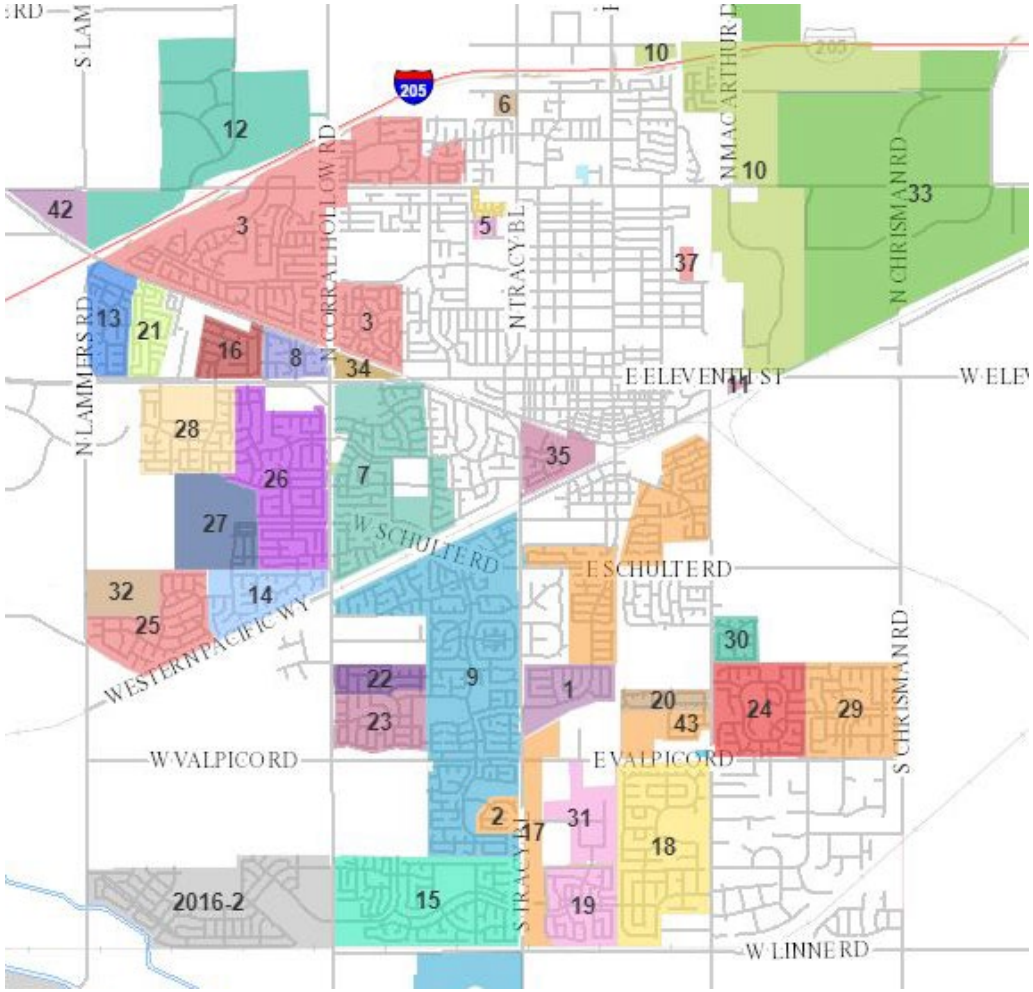
- A district is a funding mechanism to cover the costs of maintenance that provide a **special benefit** for properties in a defined area.
- The Act allows Districts / Zones to be formed by a majority vote of affected property owners by an assessment balloting measure.
- Annual charges (assessments) are calculated on a benefit formula that calculates the value, or benefit, a property receives from the amenities in the area.

Proposition 218

- In November 1996, California voters passed Prop 218.
- Requires property owner approval for assessment increases exceeding an established, adjusted maximum.
- A majority protest exists if there are more negative votes than positive, weighted in proportion to assessment amount for each property.

TRACY
Think Inside the Triangle™

Current Layout



TRACY
Think Inside the Triangle™

Engineer's Report

- General Fund contribution: $721,500
- Storm Drain Contribution: $20,000
- Maximum Assessment Adjustment 2.9%
- All other revenues are from assessments and reserves:
  - 17 Zones projected to increase their reserve budget.
  - 7 Zones projected to not be assessed as maintenance is performed by another entity (i.e., HOA) or their respective reserve budget has ample funds to cover any maintenance needs.
  - 10 Zones projected to have higher expenditures than revenues as enhancements are expected to occur
  - 3 Zones projected to eliminate their deficit.
  - 4 Zones expected to reduce their existing deficit.

11th St.

Alden Glen Dr.

Before



After



TRACY

Think Inside the Triangle™

11th St

Crossroads to Corral Hollow

Before



After

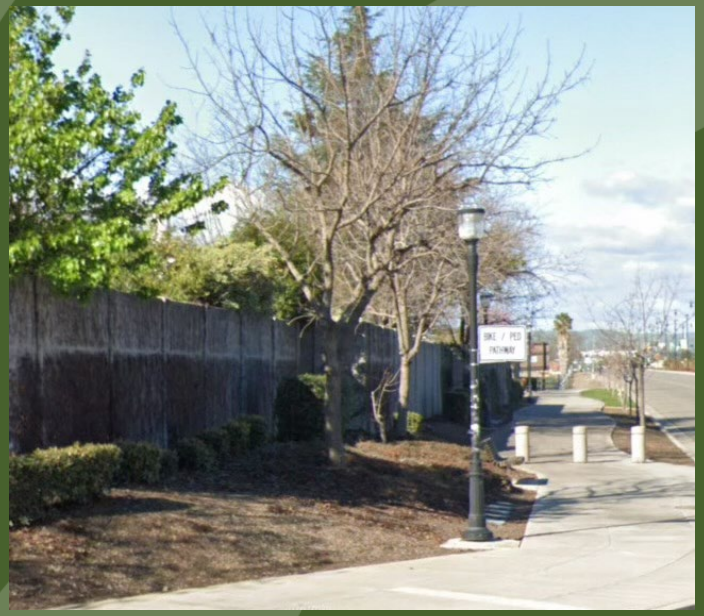


Think Inside the Triangle™

11th St

Jefferson to Lammers

Before



After



TRACY

Think Inside the Triangle™

Corral Hollow

Byron to Hillview

Before



After



TRACY

Think Inside the Triangle™

Tracy Blvd

6th St to Tennis Ln

Before



After



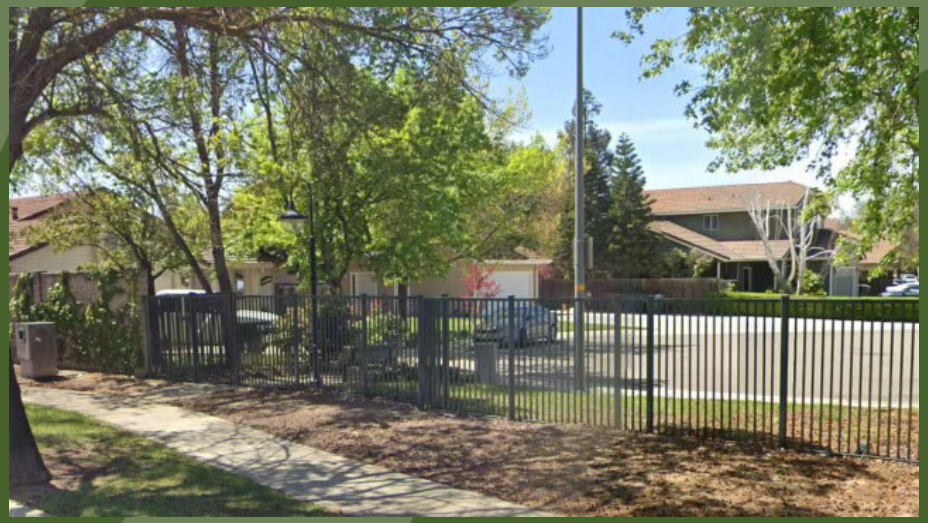
TRACY

Think Inside the Triangle™

Tracy Blvd

Tennis Ln to Schulte

Before



After



TRACY

Think Inside the Triangle™



Next Steps

- Return to City Council in Fall with an informational report.
- Provide different avenues to educate stakeholders.
- Continue to engage property owners to gauge interest in special balloting procedure for re-assessment.

TRACY

Think Inside the Triangle™

Recommendation

Ordering the levy and collection of assessments within the Tracy Consolidated Landscape Maintenance District for Fiscal Year 24/25.

TRACY
Think Inside the Triangle™

Questions

APPROVED AS TO FORM AND LEGALITY

_____
CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL RESOLUTION

NO. 2024-

ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS WITHIN THE TRACY CONSOLIDATED LANDSCAPE MAINTENANCE DISTRICT FOR FISCAL YEAR 2024/2025

WHEREAS, the City Council of the City of Tracy, pursuant to the Landscaping and Lighting Act of 1972, codified in Division 15, Part 2 of the California Streets and Highways Code (Act), initiated proceedings for the levy and collection of assessments against lots and parcels within the Tracy Consolidated Landscape Maintenance District (District) for Fiscal Year 2024/2025 (see Resolution No. 2024-076); and

WHEREAS, Harris & Associates (the Assessment Engineer for the District) has prepared and filed the District Engineer's Report (Report) for Fiscal Year 2024/2025 with the City Clerk pursuant to the Act, and said Report has been presented to the City Council, which approved it on May 21, 2024, per Resolution No. 2024-075, 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, 2024, and ending June 30, 2025, to pay the costs and expenses of operating, maintaining, and servicing landscaping and appurtenant facilities located within the District; and

WHEREAS, the City Council has heard and considered the public comments received for this item at a noticed public hearing; and now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby finds and determines that the foregoing recitals are true and correct; and be it further

RESOLVED: The City Council finds that following a notice duly given, the City Council has held a full and fair public hearing regarding the levy and collection of assessments, and considered all oral and written statements, protests and communications made or filed by interested persons; and be it further

RESOLVED: That, based upon its review 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; and
b. The District includes all of the land receiving such benefit; and
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, 2024, and ending June 30, 2025; and

d. The proposed special benefit assessments calculated and apportioned for Fiscal Year 2024/2025 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; and
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; and
f. The assessments to be levied are without regard to property valuation; and be it further

RESOLVED: That the City Council hereby confirms that the Report and assessments as presented to the City Council and on file with the City Clerk are filed; and be it further

RESOLVED: That 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; and be it further

RESOLVED: That the City Council directs the City Manager to ensure that the County Auditor of San Joaquin County has entered on the County Assessment Roll opposite each parcel of land the amount of levy, that such levies are collected at the same time and in the same manner as the County taxes are collected, and that, after collection by the County, the net amount of the levy is paid to the City Treasurer; and be it further

RESOLVED: That the City Council hereby directs the City Treasurer to 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 to ensure that such money be expended only for the maintenance, operation and servicing of the landscaping, parks, and appurtenant facilities as described in the Report; and be it further

RESOLVED: That the adoption of this Resolution constitutes the District levy for the fiscal year commencing July 1, 2024, and ending June 30, 2025; and be it further

RESOLVED: That the City Clerk is hereby authorized and directed to file the levy with the County Auditor upon adoption of this resolution; and be it further

RESOLVED: This item is exempt from review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., “CEQA”) and CEQA regulations (14 California Code of Regulations §§ 15000, et seq.; “CEQA Guidelines”) in that it is not a "project" for purposes of CEQA (as defined by CEQA Guidelines §15378 and that this item proposes an organizational or administrative activity that will not result in a direct or indirect physical change in the environment (CEQA Guidelines §§15378(b)(5)); and further, even if this item were deemed a "project", the item would be exempt as it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment (CEQA Guidelines §15061(b)(3)).

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

The foregoing Resolution 2024-_____ was adopted by the Tracy City Council on June 18, 2024, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTENTION:	COUNCIL MEMBERS:

_____
NANCY D. YOUNG
Mayor of the City of Tracy, California

ATTEST:_____
ADRIANNE RICHARDSON
City Clerk and Clerk of the Council of the
City of Tracy, California

June 18, 2024

Agenda Item 3.B

RECOMMENDATION

Staff recommends that the City Council discuss options to amend Chapter 6.04 (Business Taxes) of the Tracy Municipal Code and direct staff to return with a future ordinance 1) amending Chapter 6.04 to provide a temporary fifty percent rate reduction and industry specific amendments, or 2) through some other method of amending Chapter 6.04.

EXECUTIVE SUMMARY

In November 2022, 72% of Tracy voters approved initiative Measure B, which adopted an updated Business Tax structure, which is codified in Chapter 6.04 (Business Taxes) of the Tracy Municipal Code (TMC). The City's Business Tax structure had not been updated since 1984. The updated structure served to make sure all businesses paid a proportional share. The updated structure moved to a business tax based upon gross receipts rather than number of employees and took effect July 1, 2023. Shortly after the new tax bills were received by local businesses, businesses approached City Council Members, City staff and the Chamber of Commerce, voicing their concerns with the increased tax amount being charged to their respective businesses. At the City Council's request, staff has conducted discussion through several workshops and meetings with the Finance Committee (Committee) on the impacts of the new tax structure to Tracy businesses and potential options to reduce such impacts. During the May 21, 2024 City Council meeting, staff presented the Committee's recommendations for potential options for future amendments to Chapter 6.04 (Business Taxes). During that meeting, the City Council requested staff return on June 4th with all potential options that have been analyzed for discussion and incorporation into possible amendments to Chapter 6.04 (Business Taxes). Attachment A to the staff report outlines all options that have been analyzed by staff. On June 4, 2024, Council adopted an interim urgency ordinance that allows for a 45-day moratorium on Business Tax payments and requested staff return for up to two additional meetings to continue discussion.

In an effort to maintain the Business Tax structure approved by 72% of voters and address the concerns of the local business community, staff recommends that the City Council consider providing interim relief to some of the businesses by adopting a temporary fifty percent rate reduction to the Business Tax along with industry specific amendments.

BACKGROUND AND LEGISLATIVE HISTORY

Business Tax is an annual tax charged to businesses operating in the City, for the purpose of contributing revenue to the City's General Fund in support of essential services, such as public safety, streets maintenance, recreation programs and economic development.

In March 2020, the City Council formed the Ad-Hoc Committee for fiscal sustainability (which committee now has become the standing Finance Committee of the City Council). The committee was formed with the intention of providing guidance to develop short- and long-term

fiscal sustainability strategies. During this time, the City was facing a budget deficit. One of the recommendations from the committee was to review the structure of the City's Business Tax. The City's Business Tax structure was based upon the number of employees, had a cap of $2,018 and had remained unchanged since 1984.

In March 2022, the City Council directed staff to proceed with placing a tax measure on the November 2022 ballot. Staff worked to develop a tax structure that was more equitable amongst small and large businesses. In the process of determining the proposed tax rates, staff partnered with HDL Companies to analyze the rates of cities similar in size and close in proximity to Tracy. The proposed tax rates were broken into business categories, with the lower tax rates associated with businesses with a smaller margin for profit and with a higher rate of tax associated for businesses with a larger margin for profit.

The updated Business Tax structure was aimed to bring equity amongst small and large businesses and to give Tracy control over local funds, providing resources for community priorities including public safety, recreational programs, street maintenance, and economic development.

In June 2022, the City Council approved the structure to be placed on the November 2022 ballot, as Measure B. The ballot measure, as written below, was approved by voters in November 2022.

Official Measure B Ballot Language

To ensure large businesses pay a proportionate share and provide funding for City services such as: repairing potholes/streets; keeping public areas healthy/safe/clean; maintaining neighborhood police patrols/9-1-1 emergency response/fire protection; supporting our economy/ general government use, shall the ordinance to update the City of Tracy business taxes be adopted with typical rates between 0.1% and 0.3% of gross receipts as described in the ordinance, providing an additional $3,200,000 annually, until ended by voters?

The new tax structure took effect on July 1, 2023 (Chapter 6.04). Under the new tax structure, the first $500,000 of a business's gross receipts pays a flat $50. Any gross receipts above $500,000 pay a percentage of gross receipts. The percentage applied to gross receipts over $500,000 ranges from $0.001 to $0.003, or $1 to $3 for every $1,000 in gross receipts, dependent upon the category of business.

Many cities have modernized their tax structure by using gross receipts as the method used for calculating business tax, pursuant to Government Code Section 37101, which allows for such taxes to be levied. While several cities still use employee count as the basis for calculating the tax due, this methodology has been something that cities are moving away from, as it is often perceived as a tax on jobs. Under Government Code section 37101(b), any city imposing a business tax must "levy the tax so that the measure of tax fairly reflects that proportion of the taxed activity actually carried on within the taxing jurisdiction." The use of gross receipts best meets this State law requirement and allows for a proportional way to collect tax, adjusting as the economy does.

Business Rate Categories	Minimum Fee	Business Rate Categories
GENERAL BUSINESS	$50 Flat Rate Annually (First $500K of GR)	0.001 X Gross Receipts
MANUFACTURING, WAREHOUSING, WHOLESALING		0.0015 X Gross Receipts
CONTRACTOR/SERVICE		0.002 X Gross Receipts
PROFESSIONALS/RENTAL		0.003 X Gross Receipts

The voter approved Measure B tax structure has four categories of businesses:

1) General Business, which includes retail, gas stations, restaurants, and auto sales.
2) Manufacturing, Warehouse, and Wholesale.
3) Contractors and Services, which includes construction, auto repair, janitorial services, salons, and other trades.
4) Professional and Rentals, which includes medical and dental offices, real estate, and attorneys.

The creation of the categories and their corresponding tax rate was based upon the profit margins associated with each category. Retail sales and general business being the lowest tax rate, as those industries tend to have a lower margin of profit.

ANALYSIS

Finance Committee Work

Staff presented an update on the revised Business Tax structure to the Finance Committee on October 23, 2023, along with options for amendments that would reduce impact to businesses but not require a new ballot measure to go back out to voters for approval. During that meeting, the Chamber of Commerce requested that the Committee not recommend any of the six options to Council and instead conduct a workshop on the Business Tax. The Committee action during the October 2023 meeting directed staff to return with a Finance Committee Workshop on the Business Tax.

Since the October 2023 Finance Committee meeting, staff has worked with the Chamber to conduct listening sessions with Tracy businesses that would allow staff to understand what changes the business community is looking to see in the business tax structure. During these meetings, the Chamber identified certain industries that they felt were disproportionately impacted, and the City has facilitated meetings with business managers from those impacted industries. Through those discussions, it was discovered that many of the gas station owners within Tracy inadvertently included pass-through taxes such as sales tax and gas tax in their

gross receipts calculation, resulting in an overpayment of their business tax. The City and their business tax consultant, HDL have been working directly with those businesses to correct their return and provide a credit or refund of their overpayment.

Through category audits, it was also identified that there are several businesses within Tracy that provide multiple services, crossing over more than one tax category, for example, a hair salon that sells retail products would report the gross receipts from professional services at the professional service tax rate and the retail sales in the general business category, which is a lower rate. The City and HDL continue their efforts to communicate with businesses that are believed to be due a credit or refund as a result of their business falling into multiple categories.

On March 22, 2024, the Chamber submitted a set of options for the Finance Committee's consideration to reduce the impact of the tax on local businesses. Within the options presented by the Chamber, there is also the request for the creation of two new categories: Cannabis and Gas Stations. The Chamber is requesting an additional category for cannabis businesses due to those businesses paying the City Cannabis tax and community benefit fee. There are currently four cannabis businesses in Tracy, with two more that could potentially open within the next year. The second requested category creation is for gas stations. The request for a category specific to gas stations is due to the lower profit margin in fuel. Currently, cannabis businesses and gas stations are reporting in the retail/general business category, which is the lowest tax rate category. Information regarding Chamber submitted options are detailed in Attachment A to the staff report.

On April 3, 2024, the Committee conducted a workshop to discuss and explore options presented by both the Chamber and City staff. During the workshop, members of the business community were invited to speak and discuss the impacts of the tax with the Committee members. Upon the conclusion of the workshop, the Committee recommended six of the options return with further analysis to be completed by staff. Several of the options requested for analysis were industry specific adjustments aimed to make adjustments to the tax rate within industries that have been uniquely impacted by the tax.

May 21, 2024 City Council Meeting

Staff returned to the Committee on April 29, 2024, where the Committee made recommendations for Council consideration of specific options that reduce the impact of the Business Tax. These options included: an overall reduction by 25%, a reduction on gasoline sales, and an exemption for the cost of raw goods for manufacturers. On May 21, 2024, the City Council heard the Committee's recommendations and requested that staff return on June 4, 2024 for a discussion of all options that have been analyzed by staff. The City Council also directed the City Attorney to prepare and return on June 4, 2024 for the City Council's consideration, a draft Interim Urgency Ordinance that would impose a 45-day moratorium on the application of Chapter 6.04.

June 4, 2024 City Council Meeting

Staff returned to Council on June 4, 2024 to continue discussion on amendments to the Business Tax. Staff provided all previously analyzed options as well as a staff recommendation on taking a phased approach to the tax. The phased approach consisted of a 50% rate reduction in year one, 30% rate reduction in year two, and a 15% rate reduction in year three,

with the rate returning to the rate approved by voters in year four. During this meeting, Council approved an Interim Urgency Ordinance that placed a 45-day moratorium on the application of Chapter 6.04, temporarily halting the payment of Business Tax.

Council also directed staff to return to conduct up to two meetings during the Interim Urgency Ordinance period, to allow further discussion of amendments to Chapter 6.04.

Through discussions at the June 4, 2024 meeting, Council expressed the desire to address both industry specific amendments as well as overall rate amendments.

Industry Specific Amendments

Considering amendments to specific industries allows Council the ability to make specific amendments to industries that were negatively impacted by the structure of the new tax. Council has discussed the creation of new rate categories for specific industries. The new categories receive exemptions from the gross receipt rate, and instead pay a flat rate. The chart below outlines specific industries previously discussed by Council and the anticipated annual fiscal impact associated with the adjustment.

Industry	Exemption	Fiscal Impact
Cannabis	$50 Flat Rate	$50,000*
Gasoline Sales	$50 Flat Rate	$85,000
Car Dealerships	$50 Flat Rate	$200,000
Manufacturing	Raw Material Exemption	Unknown
*Estimated - Cannabis is a new industry to Tracy		

Overall Tax Rate Reduction

An overall rate reduction amongst all categories provides an equitable way to reduce the tax burden to businesses in Tracy. The chart below depicts three options for overall rate reductions and the corresponding amount of anticipated annual fiscal impact.

Business Rate Categories	Minimum Fee	Current Rate	Reduction of 25%	Reduction of 50%	Reduction of 75%
General Business	$50 Flat Rate Annually (First $500k of GR)	0.0010	0.00075	0.0005	0.00025
Manufacturing, Warehousing, Wholesaling		0.0015	0.001125	0.00075	0.000375
Contractor/Service		0.0020	0.0015	0.001	0.0005
Professionals/Rental		0.0030	0.00225	0.0015	0.00075
Fiscal Impact			**$1.5M**	**$4.5M**	**$6M**

The chart below provides context of the amount of tax charged to a business with $5M in gross receipts, by category, with the previous employee-based tax, current gross receipts tax, and at varying amounts of overall rate reductions.

Example of a Business with $5M Gross Receipts						
Business Rate Categories	Gross Reciepts	Previous Maximum Tax	Current Rate	Reduction of 25%	Reduction of 50%	Reduction of 75%
General Business	$5M	$2,018	$4,550	$3,425	$2,300	$1,175
Manufacturing, Warehousing, Wholesaling		$2,018	$6,800	$5,113	$3,425	$1,738
Contractor/Service		$2,018	$9,050	$6,800	$4,550	$2,300
Professionals/Rental		$2,018	$13,550	$10,175	$6,800	$3,425

Maximum Tax

Implementation of a maximum tax would reduce the tax burden for Tracy's highest earning businesses. While this method provides relief to all industries with a high amount of gross receipts, the tax becomes less equitable amongst small and large businesses when a maximum tax is implemented. In addition, this method of modification to the tax provides relief to a smaller amount of businesses. In the chart below, varying amounts of maximum tax, their corresponding anticipated annual fiscal impact, and the percentage of businesses that would receive relief is depicted.

Maximum Tax	Annual Fiscal Impact	Percentage of Businesses
$50,000	$2.5 Million	0.56%
$75,000	$2.4 Million	0.27%
$100,000	$2.1 Million	0.22%
$200,000	$1.4 Million	0.13%
$250,000	$1.0 Million	0.13%
$300,000	$800 Thousand	0.09%

Original Intent of Tax Reform

As noted above, Measure B and its codification to Chapter 6.04 of the TMC are the results of the City's Ad-Hoc Fiscal Sustainability Committee, which was looking at ways of increasing revenue to solve a budget deficit. The Business Tax was a particular focus of the Committee because the City's tax structure had not been amended since 1984 and relied on an outdated

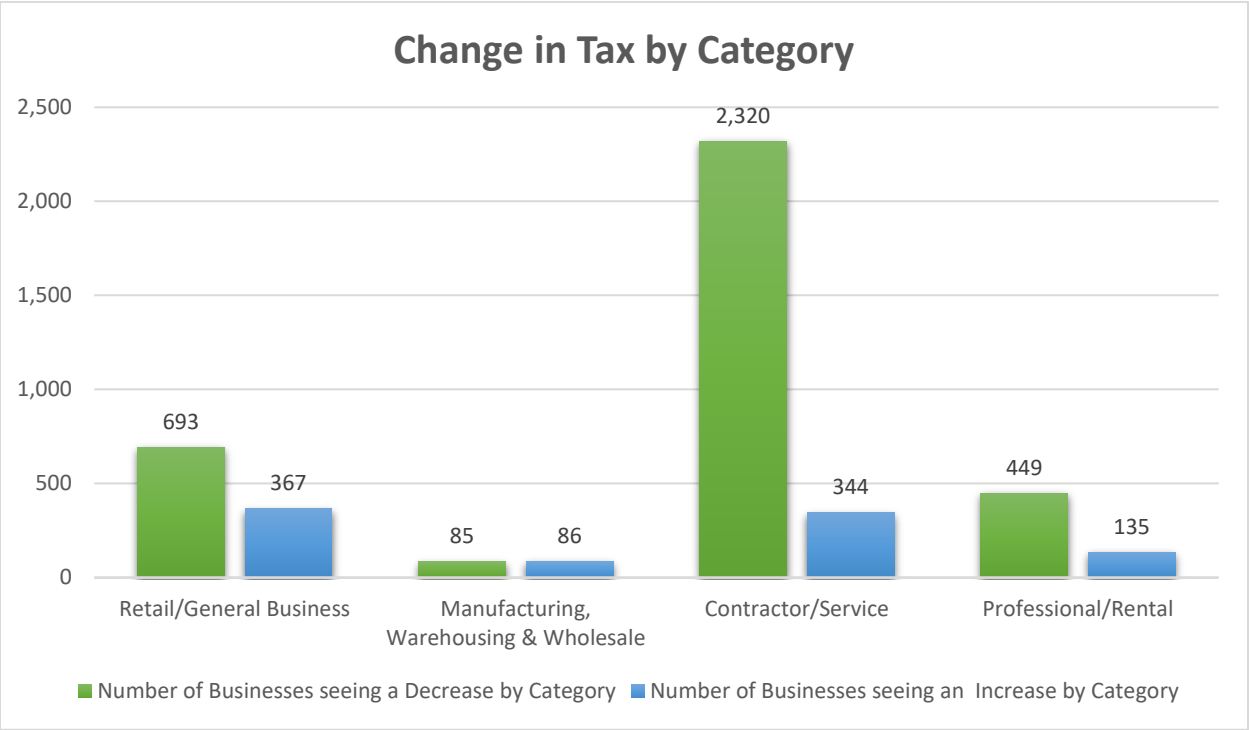
and ineffective methodology of employee count. Throughout the State, cities are using a gross receipts methodology, as it is a more sound manner of taxing businesses who operate in a jurisdiction.

As shown on the chart below, the City of Tracy's revised business tax structure using gross receipts is aligned with almost all of its neighboring cities, with the exception of Lathrop. Further, the chart demonstrates that the City's adoption of a gross receipts methodology has come years later than its neighbors.

City Name	Population	Tax Type	Exemption	Maximum Tax	Last Ordinance Revision
Manteca	81,592	Gross Receipts	$0	$1,250	1990
Modesto	214,221	Gross Receipts	$0	No	1997
Lathrop	23,284	Flat	$0	$661	2002
Stockton	307,000	Gross Receipts	$0	No	2005
Pleasanton	76,689	Gross Receipts	$0	No	2017
Livermore	86,493	Gross Receipts	$0	No	2018
Tracy	98,601	Gross Receipts	First $500K	No	2023

Staff believes the gross receipts methodology is important to maintain, regardless of any other amendments that may be considered by the City Council.

Additionally, the goal of the restructuring was to ensure that more "successful" businesses, such as in the wholesaling and manufacturing category, paid a proportionate share of the Business Tax. The chart below analyzing the City's fiscal year 2023-2024 Business Tax revenue shows that the new structure has achieved this goal. **More importantly, a large percentage of business (75%) in the City experienced a decline in tax burden from the prior year which was based on the old structure.**



Tax Burden Comparison with Other Cities

At the various meetings, certain speakers commented that the City's new Business Tax structure is far more burdensome than that of neighboring cities. A deeper analysis of this issue reveals that this is not fully the case.

As noted above, all neighboring cities except for Lathrop has a gross receipts methodology. Of these cities, Modesto has the closest tax structure to Tracy. Modesto's structure has categories for Commercial Retail, Commercial Service, and Home Businesses. Modesto has exempted their Warehouse industry with a flat $100 tax. Their rates are similar, ranging from .001 to .002, but there is an additional Downtown Improvement District tax charged with an annual cap of $1,500 in addition to the Business Tax.

What is distinctive is that many of these cities have a cap. So, when comparing a hypothetical business generating $1,000,000 in gross receipts with some of these other cities, here is the anticipated tax burden:

Type of Business	Tracy	Modesto	Stockton	Livermore	Pleasanton	Manteca	Lathrop
Retail or General Business	$550	$1,000	$900	$800	$300	$338	$661
Manufacturing/Wholesale	$800	$100	$250	$800	$300	$650	$661
Contractor/ Service	$1,050	$2,000	$500	$1,600	$300	$338	$661
Professional / Rentals	$1,550	$2,000	$2,000	$1,600	$300	$275	$661

*approximately 5% of Tracy's businesses report $1M in gross receipts.

Additionally, the chart below shows the anticipated tax burden of businesses generating $5M in gross receipts.

Example - Businesses with $5,000,000 in Gross Receipts							
Type of Business	**Tracy**	**Modesto**	**Stockton**	**Livermore**	**Pleasanton**	**Manteca**	**Lathrop**
Retail or General Business	$4,550	$5,000	$4,500	$4,000	$1,750	$1,250	$661
Manufacturing/Wholesale	$6,800	$100	$1,250	$4,000	$1,750	$1,250	$661
Contractor/ Service	$9,050	$10,000	$2,500	$4,000	$1,750	$1,250	$661
Professional / Rentals	$13,550	$10,000	$10,000	$8,000	$1,750	$1,250	$661

*approximately 3% of Tracy's businesses report $5M in gross receipts.

Importantly, even though the City of Manteca uses a gross receipts methodology, its structure has not been revised since 1990 and is currently evaluating a revision to its business tax structure. The City of Pleasanton does not have any defined Business Tax categories, but cities like Stockton and Livermore have many defined categories. Further, as noted above, Lathrop uses a flat tax methodology which is not aligned with current statewide practices.

Staff Recommendation

Through prior meetings, Council has expressed desire to make both overall rate reductions and industry specific amendments to Chapter 6.04. Staff recommends that any rate reduction be temporary, as 72% of voters approved Measure B. Any rate reduction that is not temporary will permanently reduce the rate and require another ballot measure to make any amendments up to the amount approved by voters. As such, staff recommends a temporary 50% overall rate reduction that would sunset June 30, 2026. Beginning July 1, 2026 the original rate approved by voters would be reinstated. Staff further recommends additional industry specific rate adjustments be included as new rate categories established with a $50 flat rate. Staff estimates the annual fiscal impact to be approximately $5 million. While the value of raw materials at Tracy's manufacturing-based businesses is unknown, it can be expected that a fiscal impact exists. Staff has estimated the fiscal impact to be $165,000 annually. In the chart below, a summary of staff recommendations is stated along with the anticipated annual fiscal impact.

Amendment to Chapter 6.04	Exemption	Fiscal Impact
Overall Rate Reduction of 50%	First $500k of GR=$50	$4,500,000
New Category: Cannabis	$50 Flat Rate	$50,000
New Category: Gasoline Sales	$50 Flat Rate	$85,000
New Category: Car Dealerships	$50 Flat Rate	$200,000
Manufacturing category amendment	Raw Material Exemption	$165,000 *
Total		**$5,000,000**
*Estimated Raw Material Exemption		

FISCAL IMPACT

Revenue collected from the City's Business Tax contributes to the City's General Fund. Any changes to the structure of the Business Tax will impact the City's budget and fiscal sustainability strategies.

Staff is currently preparing the FY2024-25 budget and has presented budget augmentations to both the Finance Committee and City Council that support the Council adopted Strategic Priorities and enhance City services and programs. In recognition of Council's desire to amend the Business Tax, staff has reduced the Business Tax revenues in the Proposed FY2024-25 budget to $1.3M. This amount is equivalent to the Business Tax revenue before the ballot measure was approved by voters. This reduction reduces the budget augmentations and defers capital projects or amendments to Council's fiscal sustainability strategies to balance the budget. Any further reduction to the Business Tax will result in further reduction of General Fund services such as Public Safety, and road repairs. Staff will return to Council with the proposed balanced budget on June 25, 2024. Council is legally required to adopt a budget by June 30, 2024 (Chapter 2.12 of Municipal Code) to allow continued payment to vendors and employees. If Council fails to adopt a budget prior to July 1, 2024, Chapter 2.12.090 requires Council to adopt an interim budget by resolution to continue City operations. Staff will return to Council to amend the budget to reflect actual Business Tax revenues anticipated once Chapter 6.04 has been amended.

Staff's recommendation has an estimated $5 million annual fiscal impact, which would bring annual Business Tax revenues to $3.3 million dollars; approximately $1 million less than the original Measure B ballot language estimated.

Separately, as has been discussed publicly, the City's sales tax allocation is expected to decrease in the near future, as changes to the structure of sales tax related to e-commerce are imminent with the State law. The amount of decrease to sales tax remains unknown at this time; however, the reduction could be as much as 30-50% ($20-$30 million) of the City's sales tax allocation.

The City's costs of operating City functions and providing essential services to Tracy residents continues to increase, and all existing revenue sources have been considered in the current year's budget. Staff recommends that as the City Council consider reductions to the Business Tax, such a reduction be temporary relief, in consideration of the City's financial position and future outlook. Any reduction that is not temporary will require future changes to return to voters.

STRATEGIC PLAN

This agenda item supports the Governance strategic priority, goal two, ensure short and long-term fiscal health.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council discuss options to amend chapter 6.04 (Business Taxes) of the Tracy Municipal Code and direct staff to return with a future ordinance 1) amending Chapter 6.04 to provide a temporary fifty percent rate reduction and industry specific amendments, or 2) through some other method of amending Chapter 6.04**.**

Prepared by: Sara Cowell, Director of Finance

Reviewed by: Bijal Patel, City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments

Attachment A: Options for Business Tax Modification

PREVIOUSLY ANALYZED OPTIONS FOR BUSINESS TAX MODIFICATION

Chamber Submitted Options:

Chamber Option 1 – Rate Reduction & Cannabis Category Creation

The Chamber's option 1 includes a reduced tax rate across all categories and the creation of a new cannabis category that would pay a flat $50 tax, due to those businesses paying the City cannabis tax and community benefit fee. This change would allow all businesses to see a reduction in the amount of tax paid. The rate reduction changes the allocation from General business being the lowest rate category to being the highest rate category. The amount of rate reduction in this option varies by category, with the General Business category at a 50% reduction, Manufacturing, Warehouse, and Wholesaling at an 80% reduction, Contractor/Service at 80% reduction and the Professional/rental category at an 88% reduction. The estimated fiscal impact associated with this option is $5.3M annually. This option provides a reduction to all categories, however, is a significant impact to the City.

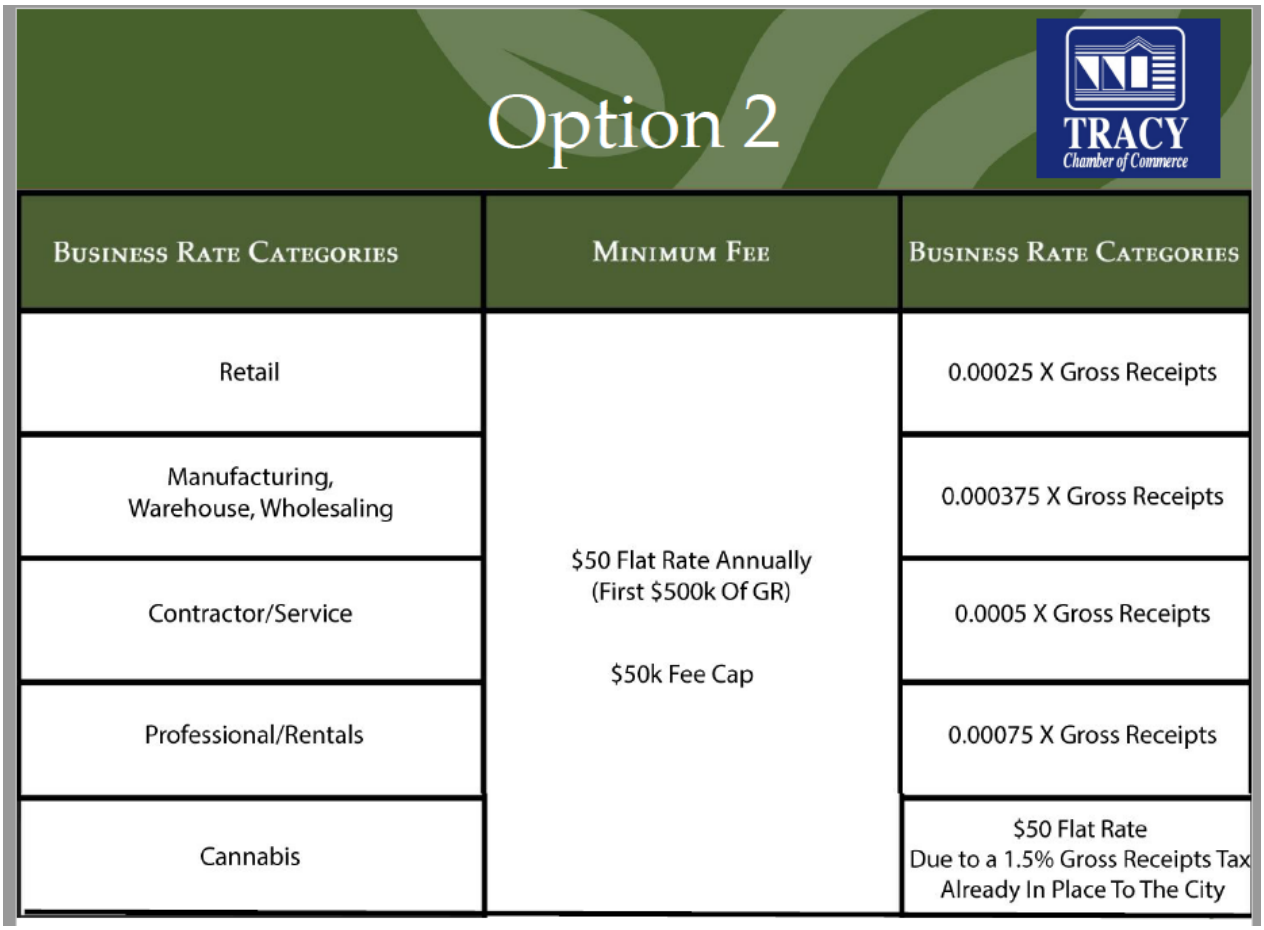
Option 1

TRACY Chamber of Commerce

Business Rate Categories	Minimum Fee	Business Rate Categories
Retail	$50 Flat Rate Annually (First $500k Of GR)	$0.50 Per $1000 Gross Receipts (0.0005)
Manufacturing, Warehouse, Wholesaling		$0.30 Per $1000 Gross Receipts (0.0003)
Contractor/Service		$0.40 Per $1000 Gross Receipts (0.0004)
Professional/Rentals		$0.40 Per $1000 Gross Receipts (0.0004)
Cannabis		$50 Flat Rate Due to a 1.5% Gross Receipts Tax Already In Place To The City

Chamber Option 2

The Chamber's option 2 includes a reduced tax rate across all categories, a maximum tax of $50,000 and the creation of a new cannabis category that would pay a flat $50 tax, due to those businesses paying the City cannabis tax and community benefit fee. In this option, the rates are reduced by 75% across all rate categories and caps the maximum amount of tax to be paid at $50,000. The estimated fiscal impact associated with this option is $6M annually. While this option provides a reduction in the tax, it does reduce City business tax revenues to an annual amount equal to the previous tax, creating a significant impact to the City.



Chamber Option 3

The Chamber's option 3 includes a reduced tax rate across all categories, a maximum tax of $25,000 and the creation of a new cannabis category that would pay a flat $50 tax, due to those businesses paying the City cannabis tax and community benefit fee. This option is similar in structure to option 2 but reduces the rate by 50% for the General Business, Contractor/Service, and Professional/Rental categories. The rate reduction is 90% for Manufacturing, Warehouse, and Wholesaling category. The estimated fiscal impact associated with this option is $5.5M annually. While this option provides a reduction in the tax, it does significantly reduce City business tax revenues to an annual amount that is approximately $500k higher than the previous tax.

Option 3

TRACY Chamber of Commerce

Business Rate Categories	Minimum Fee	Business Rate Categories
Retail	$50 Flat Rate Annually (First $500k Of GR) $25k Fee Cap	0.0005 X Gross Receipts
Manufacturing, Warehouse, Wholesaling		0.00075 X Gross Receipts
Contractor/Service		0.001 X Gross Receipts
Professional/Rentals		0.0015 X Gross Receipts
Cannabis		$50 Flat Rate Due to a 1.5% Gross Receipts Tax Already In Place To The City

Chamber Option 4 – 6

The Chamber's options 4-6 are specific to the creation of a category for gas stations. The Chamber supports the creation of a new category for the gas stations, as the profit margin for gasoline sales is low. These options assume a different tax rate for gasoline sales from the attached convenience stores retail sales. Staff's analysis of these three options proved to be challenging, as staff does not know how much of the businesses gross receipts are from gasoline sales or retail sales from the convenience store. The gross receipts are currently

reported as one number. Staff assumed a percentage split of 80% gasoline sales and 20% retail sales for the purpose of this analysis. The estimated fiscal impact associated with options 4-6 are shown below:

Chamber Option 4	estimated fiscal impact of $70,000 annually
Chamber Option 5	estimated fiscal impact of $100,000 annually
Chamber Option 6	estimated fiscal impact of $85,000 annually

While the creation of a category for gas stations has a smaller fiscal impact, this may not be equitable among other businesses that also have a low profit margin.

Gas Station Options

TRACY Chamber of Commerce

Business Rate Categories	Minimum Fee	Business Rate Categories
Gas Stations Option 1	$50 Flat Rate Annually (First $500k Of GR) Option 1- No Cap Option 2- $50k Fee Cap Option 3- $25k Fee Cap	$0.50 Per $1000 Retail GR $50 Flat Rate For Gas Sales GR
Gas Stations Option 2		0.00025 X Retail GR 0.00025 X Gas Sales GR
Gas Stations Option 3		0.0005 X Retail GR 0.000375 X Gas Sales GR

After reviewing each of the chamber options for gas stations, the Finance Committee recommended the creation of a category for gasoline sales. This category would pay a $50 flat rate for all gasoline sales and would pay the current retail rate for all retail sales at its convenience store.

City Options:

Increase Exemption to $1,000,000

Increase the exemption allowing businesses to pay a flat rate of $50, from $500,000 to $1,000,000. This change would allow more businesses to see a reduction in tax, with the impact reaching 3,965 businesses in Tracy. While some of the businesses are already seeing a reduction in the amount of tax paid from the prior tax structure, this change would equitably allow for more businesses to see a reduction. The estimated annual fiscal impact of this option is $615,000 annually.

Creation of a cap on the maximum tax to be paid

This change would provide relief to a smaller percentage of businesses, benefitting those with a larger amount of gross receipts. For example, creation of a maximum tax of $50,000 would provide relief for twenty-five businesses and would reduce the equity of the tax paid per capita between small and larger businesses. The estimated fiscal impact of a $50,000 maximum tax would be around $2.5M. This option results in the City's large businesses paying a lower proportionate share based on gross receipts and would benefit only a small number of City businesses. The chart below depicts the fiscal impact estimated with various levels of a cap on the maximum amount of tax to be paid.

Maximum Tax	Annual Fiscal Impact
$50,000	$2.5 Million
$75,000	$2.4 Million
$100,000	$2.1 Million
$200,000	$1.4 Million
$250,000	$1.0 Million
$300,000	$800 Thousand

Raw Materials Exemption

Allow an exemption for the cost of purchased raw materials. This change would provide relief to manufacturing, packing and processing businesses, primarily in the warehouse business category. A deduction for the value of raw materials at the time it enters the manufacturing process would allow for the business tax to be calculated only on the value of the manufactured product. There are 66 businesses in Tracy that are classified as manufacturing businesses that could see relief from this option. The fiscal impacts of this option are unknown, as the City does not have information on the value of raw materials that would potentially be deducted from the business's gross receipts. It is important to note that this category was segregated out in Tracy's Business Tax due to the potential threat of losses e-commerce sales tax revenue from the City's warehouses. The Business Tax revenue was modernized to provide an increase revenue to the City and mitigate the potential loss from sales tax.

Car Dealerships

Allowing a rate category specific to car dealerships would be another option to address an impacted industry. The Chart below depicts the fiscal impacts associated with three different options for making modification to the tax for this industry.

Car Dealership Options	
Reduce Rate by 50%	$100,000
Reduce Rate by 75%	$150,000
Flat $50 on Auto Sales	200,000

Overall Rate Reduction

Reduce the tax rate for all categories. A reduction to the tax rate would equitably reduce taxes across all categories. An example of a 25% reduction to the tax rate is depicted below. The estimated fiscal impact associated with reducing the tax rate by 25% would cause the City's business tax revenue to decline by $1.5M. The chart below depicts the fiscal impact of overall rate reductions at various levels.

Business Rate Categories	Minimum Fee	Current Rate	Reduction of 25%	Reduction of 50%	Reduction of 75%
General Business	$50 Flat Rate Annually (First $500k of GR)	0.0010	0.00075	0.0005	0.00025
Manufacturing, Warehousing, Wholesaling		0.0015	0.001125	0.00075	0.000375
Contractor/Service		0.0020	0.0015	0.001	0.0005
Professionals/Rental		0.0030	0.00225	0.0015	0.00075
Fiscal Impact			**$1.5M**	**$4.5M**	**$6M**

Combination of Overall Rate Reduction and Cap on Maximum Tax

Combining the two options together would provide relief amongst all categories, however, the most significant relief would be amongst the largest businesses. The fiscal impact of combining a 25% rate reduction with a $250,000 cap on the maximum amount of tax paid is approximately $2.5M annually. Combining the 25% rate reduction with only $100,000 cap would cause a fiscal impact of $3.7M annually.

Phased Approach

Initially discussed in October 2023 with the Finance Committee. Under this phased approach to the business tax structure, the business tax would be phased be phased phasing would be in 25% increments. While this option provides the largest amount of relief to the Tracy business community, reduction of the rate in year one of this option to 25% of the voter approved rate would reduce the annual business tax revenue to the prior business tax structure amount.

Estimated Annual Fiscal Impact:

FY2024-25 $6M
FY2025-26 $4.5M
FY2026-27 $1.5M
FY2027-28 $0

Business Category	Minimum Fee	Current Tax Rate	FY2024-25 Tax Rate	FY2025-26 Tax Rate	FY2026-27 Tax Rate	FY2027-28 Tax Rate
General Business	$50 Flat Rate Annually (First $500k of Gross Receipts)	0.0010	0.00025	0.00050	0.00075	0.0010
Manufacturing, Warehousing, Wholesaling		0.0015	0.000375	0.00075	0.00125	0.0015
Contractor/Service		0.002	0.00050	0.00100	0.00150	0.0020
Professionals/Rental		0.003	0.00075	0.00150	0.00225	0.0030