



TRACY CITY COUNCIL

REGULAR MEETING AGENDA

Tuesday, March 4, 2025, 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 2557 218 1290** 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 25572181290#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.*

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: February 28, 2025

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

1. Employee of the Month
2. Certificate of Appointment - Environmental Sustainability Commission

ORDER OF BUSINESS

1. CONSENT CALENDAR

- 1.A. Adoption of February 4, 2025 Special Meeting, February 18, 2025 Closed Session, Special Meeting and Regular Meeting Minutes.
- 1.B. Staff recommends that the City Council adopt an Ordinance adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code, establishing an administrative remedies procedure for challenges to fees, charges, and assessments.
- 1.C. The Tracy Homelessness Advisory Committee recommend that the City Council adopt a Resolution approving Amendment No. 2 to the General Services Agreement with United Site Services of California, Inc. at the Temporary Emergency Housing Facility, Capital Improvement Project 71112, at 370 West Arbor Avenue to: (1) extend the term from June 30, 2025 to June 30, 2026 and (2) increase the total not-to-exceed amount to \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services.
- 1.D. The Tracy Homelessness Advisory Committee recommend that the City Council adopt a resolution: (1) Authorizing the acceptance of a grant award from the Emergency Food and Shelter Program ARPA R allocation in the amount of \$18,282 to support the cost of meals and shelter bed nights at the Temporary Emergency Housing Facility Project Capital Improvement Project CIP 71112; and (2) Appropriating the full grant funds to the Parks, Recreation and Community Services Department, Homeless Services Division for Fiscal Year 2024-2025.
- 1.E. Staff recommends that the City Council adopt a resolution approving (1) making a determination that compliance with standard procurement process is not in the best interest of the City and dispensing with the procurement requirements for certain software services pursuant to Tracy Municipal Code Section 2.20.140; and (2) the execution of an amendment to an existing contract with Granicus adding services to redesign and modernize the City's website and extending the term for an additional 4 years for a total not-to-exceed amount of \$102,400 annually.
- 1.F. Staff recommends that the City Council adopt resolutions:
1) authorizing: A) the execution of a Master Professional Services Agreement with West Yost & Associates, Inc. to provide report writing consulting for an initial term of two years and a not-to-exceed amount of \$200,000 per fiscal year; and B) the execution of a Master Professional Services Agreement with EKI Environmental &

Water, Inc to provide report writing consulting for an initial term of two years and a not-to-exceed amount of \$200,000 per fiscal year, and C) the City Manager to administratively extend the length of one or both contracts for up to three additional years upon satisfactory performance and available budget authorization.

- 1.G. Staff recommends that the Tracy City Council (1) adopt a resolution amending the existing agreement with San Joaquin County Behavioral Health Services accepting the unused funding balance of \$206,406 for the Familiar Faces grant award received from the California Department of Health Services in partnership with the San Joaquin County Behavioral Health Services (2) extend the agreement to June 30, 2025, and (3) appropriate the remaining balance to the Police Department's operational budget.
- 1.H. Staff recommends that the City Council adopt a resolution 1) authorizing the increase of the annual Not to Exceed amount for fuel supply services at the Tracy Municipal Airport from \$500,000 per fiscal year to \$1,200,000 as part of the agreement with Avfuel Corporation for the remainder of the seven-year term and 2) appropriating \$700,000 to the Airport Operating fund (F561).
- 1.I. Staff recommends that the City Council adopt a resolution (1) awarding a construction contract to Tennyson Electric, LLC., of Livermore, CA, in the amount of \$797,850 for the Adaptive Traffic Signal System - Eleventh Street Project, Capital Improvement Project 72098, Federal Project Number STPCML-5192(051), (2) accepting the Surface Transportation Block Grant in the amount of \$379,161 (3) appropriating grant funds to project budget, and (4) authorizing the City Manager to approve change orders up to the contingency amount of \$79,785 and an overall project not-to-exceed budget of \$1,054,280.

2. ITEMS FROM THE AUDIENCE

3. REGULAR AGENDA

- 3.A. The Planning Commission recommends that the City Council conduct a public hearing, and upon its conclusion:
 1. Adopt a resolution that (A) certifies an Environmental Impact Report ("EIR") and adopts a mitigation monitoring and reporting program ("MMRP"), findings of fact and a statement of overriding considerations for the annexation and development of the Tracy Costco Depot Annex project, which consists of approximately 104.46 acres located at 16000 West Schulte Road, (B) approves a Development Review Permit for the Property for construction of two industrial warehouse buildings totaling approximately 1,736,724 square feet, provided that the Development Review Permit will not be effective until the first day following the effective date of San Joaquin County Local Agency Formation Commission's ("LAFCo") approval of the annexation of the Property to the City, and (C) authorizes the City Manager to submit a petition to LAFCo to annex that certain 104.46 acres located at 16000 West Schulte Road bearing Assessor's Parcel Number 209-230-02 (the "Property") to the City of Tracy; and 2. Introduce an ordinance approving the pre-zoning of that certain 104.46-acre property located at 16000 West Schulte Road bearing Assessor's Parcel Number 209-230-02 ("property") to light industrial (M-1); and determining that the actions authorized by this ordinance were adequately evaluated by that certain Environmental Impact Report certified by the City Council on March 4, 2025, in full compliance with the California Environmental Quality Act ("CEQA").

3.B. Planning Commission and Staff recommend that the City Council conduct a public hearing, and upon its conclusion, take the following actions: 1. Introduce an ordinance approving a Zoning Text Amendment, Application Number ZA22-0004, removing Tracy Municipal Code (TMC) Section 10.08.800, "Service Station" definition, adding TMC Section 10.08.175, "Car Wash" definition, add TMC Section 10.08.375, "Fuel Station" definition, and amending TMC Section 10.08.1080, Permitted Uses, Use Group No. 44, removing and replacing "Automobile Service Stations" with "Car Washes" and "Fuel Stations;" 2. Adopt a resolution: (a) granting a Conditional Use Permit to allow a car wash to be located at 4600 S. Corral Hollow Road, Application Number CUP24-0006; and (b) approving a Development Review Permit for construction of a car wash facility and related site improvements located at 4600 S. Corral Hollow Road, Application Number D22-0044.

3.C. Discuss interim solutions for Animal Services to address capacity and kennel space, and upon conclusion of such discussion, by motion, direct staff to proceed with specific solution(s).

4. ITEMS FROM THE AUDIENCE

5. STAFF ITEMS

6. COUNCIL ITEMS

7. ADJOURNMENT

TRACY CITY COUNCIL - SPECIAL MEETING MINUTES

February 4, 2025, 6:30 p.m.

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

1. Mayor Arriola called the meeting to order at 6:30 p.m.
2. There were no actions taken pursuant to AB 2449.
3. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola present. City Council had no declarations of conflict.
4. Items from the audience – There was no public comment.
5. **DISCUSSION ITEMS**

- 5.A. By motion, (1) Establish interview protocols to fill one vacancy on the City of Tracy Environmental Sustainability Commission; (2) Conduct interviews of one applicant for one vacancy; and (3) Upon conclusion of the interviews, appoint an applicant to fill one (1) vacancy and establish an eligibility list, if appropriate.

Mayor Arriola recused himself from item 5.A. in accordance with the Levine Act and will return for the 7:00 p.m. meeting.

Necy Lopez, Deputy City Clerk provided the staff report.

Council conducted interview.

Mayor Arriola announced the following selection: Gurdeep Shergill to serve the remainder of the vacated term that will begin upon appointment and end on December 31, 2027.

ACTION: Motion was made by Mayor Arriola and seconded by Council Member Nygard to appoint Gurdeep Shergill to serve the remainder of the vacated term that will begin upon appointment and end on December 31, 2027. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered.

Mayor Pro Tem Abercrombie requested that the policy to conduct Boards and Commission interviews be reviewed and go back to an Ad hoc committee rather than full Council interviews, Council Member Bedolla supported.

6. Adjournment Time: 6:53 p.m.

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

The above agenda was posted at the Tracy City Hall on January 30, 2025. 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

February 18, 2025, 5:00 p.m.

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

1. Mayor Arriola called the meeting to order at 5:01 p.m.
2. There were no actions taken pursuant to AB 2449.
3. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola present. City Council had no declarations of conflict.
4. Items from the audience – Robert Tanner apologized to the Council for his statement in the previous meeting when he thought that the Pledge of Allegiance had been overlooked.
5. DISCUSSION ITEMS

- 5.A. Staff recommends that City Council receive an update regarding the impending completion of Phase II construction of the Temporary Emergency Housing Facility (TEHF), CIP 71112, impacts to provision of services and provide input for future vision for the site.

Midori Lichtwardt, City Manager and Virginia Carney, Homeless Services Manager provided the staff report.

Council comments and questions.

Robert Tanner shared that option 4 would be great, option 1 or 2 is doable but option 4 would be best, asked what the success rate and how many unhoused people are there and are those beds currently at the shelter filled.

Alice English expressed that there was a lot of information and requested that staff be more transparent with information, shared that there were not many answers, and shared that Option 4 is too good to be true with a zero cost to the City, asked for clarification regarding City involvement, and shared that there are options within the City such as Emerson House and that Option 2 would be better, unsure of Options 3 and 4 and will this be open to unhoused residents from neighboring cities.

Vannie Dart urged that Council table this item and shared that staff has not provided enough information to decide at this time, inquired about the number of occupied beds, how many are using the shelter as a permanent solution, asked how far the City will go in increasing beds and expressed frustration that funds that can be used for infrastructure are used for the shelter expansion.

Arturo Sanchez, Assistant City Manager provided clarification regarding Option 4 and that other County residents cannot be prohibited from entering the shelter if the need exists.

Virginia Carney, Homeless Services Manager shared statistical information regarding the success rates, specifically in the areas of length of stay, housing referrals, job referrals and current wait lists.

Captain Juan Oregel from the Salvation Army shared that there are unhoused Tracy residents that have been transferred to neighboring cities because the services that those residents need are currently not provided in Tracy, is willing to reach out to work with partner organizations within San Joaquin County to be effective and shared that more and more are becoming homeless due to financial obstacles that may come about from job loss or illnesses.

Council questions continued.

Genevieve G. Valentine, Director of Behavioral Health Services provided additional information regarding the services that are currently provided at the Temporary Emergency Housing Facility.

Mayor Arriola shared that he is not in support of Option 4, City already tried and the needs that the community needed were not met. Regarding Phase 4 Options regarding the potential opportunities in working with Behavioral Health Services, see an opportunity to meet an unmet need regarding mental health, and provides an opportunity to lower costs by having new funding options. Regarding Phase 3, is in support of forming a new partnership with Cal Aim and Health Plan of San Joaquin to provide an unmet need to the elderly population and those with disabilities. Summarized support to Options 2 and 3 that amend Phases 2 and 3.

Pamela Lee from Health Plan of San Joaquin provided clarifying information for Phase 2.

Council Member Evans and shared his experience when visiting Pescadero Park and the neighboring homes in May 2022, the shelter and the laws put in place to protect the parks are beneficial for both the homeless population and the community at large, shared information regarding the amount of dollars spent and clarified that while there is a need throughout the City to improve on infrastructure and other needs the funds that are allocated for the shelter through grants, can only be spent on the shelter. The City has provided a pathway for people to get back on their feet, supports Option 1 and supports this item to return to Council with more information for Council to make an informed decision.

Council Member Nygard expressed support for Options 2 and 3 to expand services and agrees that these are unmet needs and if services can be provided it would ease the burden on the emergency rooms, where beds for mental health patients are limited, requested that staff develop cost recovery strategies and projection of potential reimbursements.

Council Member Bedolla asked for clarification on what the options would provide.

Arturo Sanchez, Assistant City Manager provided clarification of options available to Council.

Council Member Bedolla expressed support for Option 3 which amends Phase 4 and brings Behavioral Health Services on site, even if it reduces the number of beds. Thanked partners, non-profit organizations and staff for all their work.

Mayor Pro Tem Abercrombie supported working with Behavioral Health Services and Health Plan of San Joaquin and moving forward with Phase 2 and keep shelter under City control, requested more information for Option 4, thanked Salvation Army and staff.

Midori Lichtwardt City Manager summarized Council consensus;

- Build out Option 1 which is Phase 2
- Staff to explore more options and bring back to Council
- Bring back more information on Phases 3 and 4
- Get partner contracts/agreements solidified
- Clarified that a transition plan needs to be in place

Mayor Arriola stated that no official action was taken and shared that Council sentiments are:

- Continuation of services for Phase 2 with the Salvation Army through the remainder of their contract with the potential to continue partnership
- Potential amendment to Phase 4 with Behavioral Health Services to address individuals with severe needs
- Potential amendment of Phase 3 and partner with Health Plan of San Joaquin to look at recuperation efforts, specifically for the elderly, disabled and vulnerable population for shelter services

Virginia Carney, Homeless Services Manager reiterated that the process for a Request For Proposal needs to start soon since the current shelter operator contract is set to expire on October 31, 2025.

1. Adjournment Time: 7:02 p.m.

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

The above agenda was posted at the Tracy City Hall on February 13, 2025. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

February 18, 2025, 7:00 p.m.

City Hall, 333 Civic Center Plaza, Tracy

Web Site: www.cityoftracy.org

Mayor Arriola called the meeting to order at 7:08 p.m.

There were no actions taken pursuant to AB 2449.

Roll Call and Declaration of Conflicts – Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola present. City Council had no declarations of conflict.

Mayor Arriola led the Pledge of Allegiance.

Pastor Kal Waetzig, St. Paul's Lutheran Church offered the invocation.

Mayor Arriola presented a proclamation for National Cancer Prevention Month to Jass Sangha.

Mayor Arriola presented Certificates of Achievement to D.A.R.E. students that earned 500 community service points – Kailyn Gardner, Deliah Olsen, Owen Price, Ximena Soto-Garcia, and to the students that earned 1000 community service points - Thomas "Zay" Poole, Julienna Silva, Owen Castro were also recognized by Congressman Josh Harder's Office.

1. CONSENT CALENDAR – Andrew Shen, Interim City Attorney announced that the corrected resolution for Item 1.B was placed on the dais and clarified that the correction was specifically to the citation of the Tracy Municipal Code from 2.20.270 to 2.20.180.

Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to adopt the Consent Calendar. Council Member Evans pulled Item 1.B and 1.G, Council Member Nygard pulled Item 1.C. Roll call found all in favor; passed and so ordered.

- 1.A. Adoption of February 4, 2025 Closed Session and Regular Meeting Minutes. – Minutes were adopted.

- 1.B. Staff recommends that the City Council adopt a resolution by a four-fifths vote (1) making a determination that compliance with standard procurement process is not in the best interest of the City and dispense the bidding requirements for the purchase of a fully self-contained pre-manufactured commercial kitchen, from McGrath RentCorp, Inc., dba Kitchens To Go by Mobile Modular, pursuant to California Public Contract Code Section 22050 and Tracy Municipal Code Section 2.20.270(a); and (2) approving a Purchase Agreement with McGrath RentCorp, Inc., dba Kitchens To Go by Mobile Modular, of Livermore, California, a California Corporation, for the fully self-contained pre-manufactured commercial kitchen, comprised of a twelve (12) foot by thirty-eight (38) foot premanufactured structure with an attached eight (8) foot by ten (10) foot dual temperature walk in cooler, to be installed as part of the Phase II 2024 Site Improvements at the Temporary Emergency Housing Facility Project, CIP 71112, at 370 W. Arbor Avenue, for a Not-To-Exceed amount of \$859,891.

Brian MacDonald, Parks and Community Services Director provided the staff report.

Council comments and questions followed.

Robert Tanner asked if the budget that includes the Federal grant has been spent and if that is what is happening at the Federal level and asked about the use of redevelopment funds as they relate to the shelter.

Brian MacDonald, Parks and Community Services Director shared that the funding received was from the County and the funds are being spent on the current Phase 2 construction and explained how redevelopment funds were allocated to shelter.

ACTION: Motion was made by Council Member Evans and seconded by Council Member Bedolla to adopt **Resolution 2025-036** (1) determining that compliance with standard procurement process is not in the best interest of the city and dispensing with bidding requirements for the purchase of a fully self-contained pre-manufactured commercial kitchen, from McGrath RentCorp, dba Kitchens To Go by Mobile Modular, pursuant to Tracy Municipal Code Section 2.20.180(b)(4); and (2) approving a purchase agreement with McGrath RentCorp, Inc., dba Kitchens To Go by Mobile Modular, of Livermore, California, a California corporation, for the purchase of a fully self-contained pre-manufactured commercial kitchen, comprised of a twelve (12) foot by thirty-eight (38) foot pre-manufactured structure with an attached eight (8) foot by ten (10) foot dual temperature walk in cooler, to be installed as part of the Phase II 2024 site improvements at the Temporary Emergency Housing Facility project, CIP 71112, at 370 W. Arbor Avenue, for a not-to-exceed amount of \$859,891. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered.

1.C. Staff recommends that the City Council adopt a Resolution 1)authorizing the purchase of one new, unused MY 2023 Ford F-350 from Rush Truck Centers utilizing Sourcewell Cooperative Program in the amount of \$72,114 for the Building Maintenance Department and 2) declaring the existing F -250 as surplus and approving its disposition pursuant to Tracy Municipal Code Section 2.20.310.

David Murphy, Assistant Director of Operations, and Jim Thompson, Operations Fleet Manager provided the staff report.

Council comments and questions followed.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Bedolla to adopt **Resolution 2025-037** 1) authorizing the purchase of one new 2023 Ford F-350 from Rush Truck Centers utilizing a competitively bid Sourcewell Cooperative Program in the amount of \$72,114 for the Building Maintenance Department; and 2) declaring the existing F-250 as surplus and approving its disposition pursuant to Tracy Municipal Code Section 2.20.310. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered.

1.D. Staff recommends that the City Council adopt a resolution: 1) Approving the General Services Agreement with Imperial Bag & Paper Co. LLC for the janitorial supplies and delivery services for an initial term of two-years with compensation not to exceed \$39,000 annually. 2) Authorizing an administrative extension up to an additional five (5) years contingent upon satisfactory performance and budget availability. – Resolution 2025-026

1.E. Staff recommends that the City Council adopt a Resolution authorizing the execution of a Purchase Agreement with Public Restroom Company for the purchase of a premanufactured restroom building utilizing the Sourcewell Cooperative Program in the amount of \$363,496 pursuant to Tracy Municipal Code Section 2.20.220 for CIP 78170, Gretchen Talley Park – Phase III. – Resolution 2025-027

1.F. Staff recommends that the City Council adopt a resolution: 1) Approving the General Services Agreement with Pacific Star Chemical for the supply and delivery of swimming pool chemicals for an initial term of two-years with compensation not to exceed \$42,000 per fiscal year. 2) Authorizing an administrative extension up to an additional five (5) years contingent upon satisfactory performance and budget availability. – Resolution 2025-028

1.G. Staff recommends that the City Council adopt the following, each by separate resolution: (A) approving an On-Call List, for five years, of six qualified consultants for Entitlements and Land Development Plan Checking Engineering Services; and (B) approving (1) the execution of three separate Master Professional Services Agreements, each with an initial term of three years and a not-to-exceed fiscal year amount of \$600,000, with each of the listed qualified consultants: SNG & Associates, Inc., HALEY & ALDRICH, Inc., and NV5, Inc., and (2) an administrative extension for up to two years based on satisfactory performance for each Master Professional Services Agreement, if needed.

Sharat Bandugula, Acting Assistant City Engineer provided the staff report.

Council comments and questions followed.

Karin Schnaider, Assistant City Manager responded to Council questions regarding vacancies in the Engineering Department and the need of consultants.

Tim Silva shared his disagreement with staff recommendation, would rather those funds be utilized to fully staff City Hall, need to figure out how to retain staff and expressed concerns over use of community tax dollars and cited Capital Improvement Projects that are left undone, urged Council to focus on finding quality engineers and completing Capital Improvement Projects.

Alice English shared that staff needs to work better with the qualified people that are hired, urged Council to look into employee retention, expand the search for consultants rather than using the same group of consultants and expressed concerns about consultants getting paid for what needs to be done rather than what staff wants them to do.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to adopt approving an On-Call List, for five years, of six qualified consultants for Entitlements and Land Development Plan Checking Engineering Services **Resolution 2025-038**; and (B) approving (1) the execution of three separate Master Professional Services Agreements, each with an initial term of three years and a not-to-exceed fiscal year amount of \$600,000, with each of the listed qualified consultants: SNG & Associates, Inc. - **Resolution 2025-039**, HALEY & ALDRICH, Inc. – **Resolution 2025-040**, NV5, Inc. – **Resolution 2025-041** and (2) an administrative extension for up to two years based on satisfactory performance for each Master Professional Services Agreement, if needed. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered.

Council comments and questions continued.

Midori Lichtwardt, City Manager clarified that there will always be a need for consultants, the consultant for this on-call list is for specialized projects and are for an as-needed basis.

Karin Schnaider Assistant City Manager clarified that the consultants are paid for from fees and/or full cost recoverables, that would be paid for by the developers, if the consultants are working on a general fund project or a City project, general fund dollars may be used.

- 1.H. Staff recommends that the City Council adopt a Resolution (1) accepting public improvements required pursuant to the Subdivision Improvement Agreement for Tract 3788 Tracy Hills Village 1A as complete and assume responsibility for the future maintenance and repairs, (2) authorizing the City Engineer to release the Developer furnished bonds in accordance with the Subdivision Improvement Agreements, and (3) authorizing the City Clerk to file Notices of Completion for Tract 3788 Tracy Hills Village 1A as amended, and Tract 3788 Tracy Hills Village 1A (for Parkway Landscaping) with the San Joaquin County Recorder's Office. – Resolution 2025-029

- 1.I. Staff recommends that the City Council adopt a resolution (1) accepting public improvements required pursuant to the Subdivision Improvement Agreement for Tract 3943 Tracy Hills Village 1B as complete and assume responsibility for the future maintenance and repairs, (2) accepting additional public improvements for Parkway Landscaping for Tract 3943 Tracy Hills Village 1B as complete and assume responsibility for the future maintenance and repairs, (3) accepting public improvements for Tracy Hills Phase 1A Palmer Street Extension as complete and assume responsibility for the future maintenance and repairs, (4) authorizing the City Engineer to release the Developer furnished bonds in accordance with the Improvement Agreements, and (5) authorizing the City Clerk to file Notices of Completion for Tract 3943 Tracy Hills Village 1B, as amended, Tract 3943 Tracy Hills Village 1B (for Parkway Landscaping), and Tracy Hills Phase 1A Palmer Street Extension with the San Joaquin County Recorder's Office. – Resolution 2025-030

1.J. Staff recommends that the City Council adopt a Resolution 1) approving permits under Tracy Municipal Code Chapter 4.40, to allow the consumption of alcoholic beverages on City streets for the following special events of community-wide interest occurring in 2025: 1) Downtown Block Parties (May 2, June 6, July 11, August 1, and September 5); 2) Brews and BBQ (October 4); (3) Girls Night Out – Witches and Broomsticks (October 24); (4) Tracy City Center Association Events (Taps on Tenth on April 5, Downtown Tracy Wine Stroll on September 20, and Car Show on September 27); (5) South Side Community Organization Event (September 13); and 2) delegating the authority to the City Manager to put required time and other restrictions on each permit. – Resolution 2025-031

1.K. Staff recommends that City Council adopt a resolution approving Amendment No 1. to Professional Services Agreement with West Yost & Associates, Inc. for Program Management for CIP No. 74168 Recycled Water Expansion Project and authorizing: 1) the City Manager to grant extensions up to an additional two-years, if requested, 2) billing rates may be increased annually 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; and 3) new billing rates retroactive to January 1, 2025. – Resolution 2025-032

1.L. Staff recommends that the City Council adopt a resolution (1) accepting public improvements in accordance with the Subdivision Improvement Agreement for Tract 3944, Tracy Hills Village 1C as complete, and assume responsibility for the future maintenance and repairs, (2) accepting additional public improvements for Parkway Landscaping for Tract 3944, Tracy Hills Village 1C as complete, and assume responsibility for the future maintenance and repairs, (3) authorizing the City Engineer to release the Developer furnished bonds in accordance with the Subdivision Improvement Agreement, and (4) authorizing the City Clerk to file Notices of Completion for Tract 3944 Tracy Hills Village 1C and Tract 3944 Tracy Hills Village 1C (for Parkway Landscaping) with the San Joaquin County Recorder's Office. – Resolution 2025-033

1.M. Staff recommends that the City Council adopt a Resolution approving and authorizing the execution and the recordation of two Subdivision Improvement Agreements, and three Offsite Improvement Agreements with Lennar Homes of California, LLC for the Residential Development Project commonly known as Phase 2 of the Tracy Hills Specific Plan. – Resolution 2025-034

1.N. Staff recommends that the City Council adopt a resolution: 1) Determining that compliance with the standard procurement processes is not in the best interests of the City pursuant to Tracy Municipal Code 2.20.140(b)(6) and dispensing such requirement for the procurement of security and alarm services for City facilities. (2) Reinstating the existing General Services Agreement with B.I.C SEC Security (Contractor) and authorizing execution of Amendment No. 2 to be effective retroactively from July 1, 2024; and (3) Authorizing payment in the amount of \$64,200 for security and alarm services, including equipment, monitoring, and inspections. (4) Authorizing an administrative option to extend the agreement on a month-to-month basis for up to an additional six (6) months. – Resolution 2025-035

DEVIATION: STAFF ITEMS

Midori Lichtwardt, City Manager shared updates regarding PG&E, at this point no date has been scheduled and the City has offered options to rent the Transit Center for their community meeting and provided PG&E with information to reach out to the school district for the potential use of a school district facility that might be a little easier for the affected community to attend.

For the animal control issues, planning on coming back on 3/18/2025 but staff is working to possibly bring back on 3/4/2025, still waiting on more information from the UC Davis staff.

Mike Souza, Project Manager from Tracy Hills provided an update regarding developer commitment to address concerns.

Chief Randall Bradley, South County Fire Authority shared the collaboration that has taken place with Tracy Hills developer, PG&E, and the Tracy Hills Community.

2. **ITEMS FROM THE AUDIENCE** –Robert Tanner expressed frustration regarding ongoing fireworks activities, urged Council to make all fireworks including the Safe and Sane Fireworks illegal, and the only fireworks should be the annual City sponsored event.

Alice English invited the community to the installation dinner for the Southside Community Organization, the Chamber will be having their mixer on Thursday from 5 to 7 p.m. that will be held at Southside Community Center and inquired about the low-income housing for seniors and requested a status.

Kristina from Tracy Dog Girls Rescue stated that the intake number from UC Davis may not be accurate since the dogs that they rescue were not accounted for and shared concerns regarding pregnant dogs and puppies being dumped and provided a handout to the Clerk.

Denise from Tracy Dog Girls Rescue shared the importance of having pets microchipped.

Several Community Members from Tracy Hills thanked Council for being proactive in the communication with PG&E, requested that PG&E, the developer, community and City staff all meet, shared their ongoing frustration regarding the high transmission lines and installation of the power poles, the impacts to their homeowners insurances and shared that if City approvals are pending, urged City to expedite those approvals.

Kathleen Bichtold expressed frustration on the conditions of the buildings on 11th Street and the impression that visitors may get if they take the route that is from freeway to freeway, urged Council to look into making the area look nicer and hold property owners accountable.

Community Member from Tracy Hills thanked the City and developer, expressed concerns regarding past and future potential fires and urged developer to put the power lines underground.

3. REGULAR AGENDA

3.A. Introduce an Ordinance adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code establishing an administrative remedies procedure for challenges to fees, charges, and assessments.

Karin Schnaider, Assistant City Manager, provided the staff report.

Council comments and questions.

There was no public comment.

Andrew Shen, Interim City Attorney noted a correction to the formatting of the Ordinance but that there were no substantive changes to the Ordinance proposed.

Necy Lopez, Acting City Clerk read the title of proposed Ordinance.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to waive full reading of text and introduce proposed ordinance of the City of Tracy adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code establishing an Administrative Remedies Procedure for challenges to fees, charges, and assessments. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered.

3.B. Receive the annual report of the Parks and Community Services Commission for Fiscal Year 2023-2024.

Matt Shrout, Parks and Community Services Commissioner provided the staff report.

Council comments and questions.

There was no public comment.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Nygard to receive the annual report of the Parks and Community Services Commission for Fiscal Year 2023-2024. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered.

3.C. Staff recommends that the City Council receive the annual informational report regarding the City of Tracy's Senior Services Program for 2024.

Justin Geibig, Recreation Program Coordinator provided the staff report.

Council comments and questions.

There was no public comment.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Evans to receive the annual informational report regarding the City of Tracy's Senior Services Program for 2024. Roll call found Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie and Mayor Arriola in favor; passed and so ordered.

4. ITEMS FROM THE AUDIENCE - Tracy Hills Community Member shared that the poles that PG&E have placed are obstructing the sunlight that reaches the solar panels on the roof of his home and urged that the City to enforce solar access laws and protect the safety of the community.

Kevin Tobeck shared his experience and background as a former City employee specifically as Maintenance and Operations Director, shared his frustration over the conditions of the parks and the City owned building next to the Grand Theatre and how nothing has been done with it and the second water tower, shared some historical information and hopes that the City can find some funding to fix that.

5. STAFF ITEMS – Midori Lichtwardt, City Manager shared that in November 2024, Council approved Resolution 2024-204 that approved the 2025 year, which included a cancellation of the second Council Meeting in May, in consideration of the One Voice travels that some Council Members will be participating. Recommended that Council is polled for a replacement Council meeting, specifically a special meeting, on May 13, 2025 at 7:00 p.m., this is in lieu of the May 20, 2025.

Announced that the Corral Hollow Zero Capacity Upgrades are continuing, and on Friday, February 21, 2025, Northbound Corral Hollow and Schulte Rd. Intersection will be partially closed from 8:00 a.m. to 6:00 p.m., Eastbound Schulte Rd. will be open but delays should be expected, Northbound Schulte and Golden Leaf Lane Intersection will be closed to through traffic, Golden Leaf to Western Pacific will also be affected between the hours of 8:00 a.m. to 6:00 p.m. and one lane will be open during non-working hours.

March 14, 2025, high school age students that reside or attend school in Tracy, will have the opportunity to participate in Student Government Day, can sign up at; <https://www.cityoftracy.org/our-city/departments/human-resources/student-government-day>

6. COUNCIL ITEMS – Council Member Nygard reported out on the various meetings attended including, AVA Energy, Valley Link Board of Directors Meeting and the South San Joaquin County Fire Authority Meeting and met with Tracy Hills and Animal Services and looks forward to receiving those updates. Requested that Council bring back the following items to discuss or negotiate:

- a Community Workforce Training Agreement for the City, Mayor Arriola supported
- Requested that Fire Chief Bradley come and present to City Staff and Council regarding the expansion of services, specifically the Ambulance Services, Council Member Evans supported
- Requested that staff work with the Environmental Sustainability Commission to draft a policy addressing the transition of the current vehicle fleet to clean energy fleet for the future, Mayor Arriola supported

Council Member Evans shared condolences to the loved ones of Tracy Soccer League Director Sherry McKay who passed on February 11, 2025, requested a status on the

low-income senior units and requested an update on that item, status on the Animal Shelter.

Karin Schnaider, Assistant City Manager shared that it has been roughly 6-months since the grant funding that was applied for was not received for 2024 and will reapply for the 2025 grant allocation for the low-income senior units.

Council Member Evans requested when the stray pet population item will come back to Council and requested the status on empty store front mitigation.

Midori Lichtwardt, City Manager shared that the animal population is scheduled to come back to Council March 18, 2025 if not March 4, 2025 and clarified the store front mitigation discussion will also come back on March 18, 2025.

Mayor Pro Tem Abercrombie requested that staff put a park bench in Legacy Fields in honor of Sherry McKay, seconded by Council Member Evans, and met with Tracy Hills and the Animal Shelter.

Council Member Bedolla recognized Maria Valenzuela from the Tracy Chamber of Commerce, best of luck on her professional journey after 23 years of service to the Tracy Community..

6. ADJOURNMENT – Time: 9:05 p.m.

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

The above agenda was posted at the Tracy City Hall on February 13, 2025. 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

February 18, 2025, 8:30 p.m.

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

1. Mayor Arriola called the meeting to order at 9:05 p.m.
2. There were no actions taken pursuant to AB 2449.
3. Roll Call and Declaration of Conflicts – Council Members Bedolla, Evans, Nygard, Mayor Pro Tem Abercrombie, and Mayor Arriola present. City Council had no declarations of conflict.
4. ITEMS FROM THE AUDIENCE – None.
5. Request to Conduct Closed Session: Time: 9:08 p.m.

5.A Conference with Labor Negotiators (Gov. Code § 54957.6)

- o City Negotiators
 - Midori Lichtwardt, City Manager
 - Kimberly Murdaugh, Director of Human Resources
 - JoAnn Weberg, Human Resources Manager
 - Sara Castro, Director of Finance
 - Andrew Shen, Interim City Attorney
 - Che Johnson, Special Counsel
- o Employee Organizations
 - General Teamsters Local No. 439, IBT
 - Tracy Mid Managers Bargaining Unit
 - Tracy Police Management Association
 - Tracy Police Officers' Association
 - Tracy Technical and Support Services Employee Association

There was no public comment on item 5.A.

ACTION: Motion was made by Mayor Pro Tem Abercrombie and seconded by Council Member Nygard to recess to closed session. Roll call found all in favor; passed and so ordered.

6. Reconvene to Open Session – Time: 9:23 p.m.
7. Report of Final Action – No report of final action.
8. Council Items and Comments – None.
9. Adjournment: Time: 9:26 p.m.

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

The above agenda was posted at the Tracy City Hall on February 13, 2025. The above are action minutes. A recording is available at the office of the City Clerk.

Mayor

ATTEST:

City Clerk

March 4, 2025

Agenda Item 1.B

RECOMMENDATION

Staff recommends that the City Council adopt an Ordinance adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code, establishing an administrative remedies procedure for challenges to fees, charges, and assessments.

BACKGROUND AND LEGISLATIVE HISTORY

At its February 18, 2025, regular meeting, the City Council unanimously approved the introduction of this Ordinance on a first reading. Additional background regarding the proposed Ordinance is set forth in the staff report provided in connection with that item, also attached here for reference.

ACTION REQUESTED OF THE CITY COUNCIL

Approve and adopt this Ordinance on a second reading, adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code, establishing an administrative remedies procedure for challenges to fees, charges, and assessments.

Prepared by: Necy Lopez, Acting City Clerk

Reviewed by: Arturo Sanchez, Assistant City Manager
Andrew Shen, Interim City Attorney

Approved by: Midori Lichtwardt, City Manager

Attachments:

A: Agenda Item 3.A from February 18, 2025, Regular Meeting

February 18, 2025

Agenda Item 3.A

RECOMMENDATION

Introduce an Ordinance adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code establishing an administrative remedies procedure for challenges to fees, charges, and assessments.

EXECUTIVE SUMMARY

Staff recommends that the City Council introduce an Ordinance adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code establishing an administrative remedies procedure for challenges to fees, charges, and assessments.

BACKGROUND AND LEGISLATIVE HISTORY

Proposition 218, enacted in 1996, amended the California Constitution to establish stricter requirements for local governments regarding property-related fees, charges, and assessments. Under Proposition 218, local governments must conduct a public hearing and allow property owners to file written protests against proposed fees, charges, and assessments. If a majority of property owners submit protests, the proposal is not adopted.

However, Proposition 218 does not provide a clear mechanism for addressing situations where ratepayers fail to raise timely objections during the protest process but later attempt to challenge the fees, charges, or assessments in court. Assembly Bill 2257 (2024) seeks to address this issue by providing a procedural safeguard that will limit the ability of ratepayers to challenge a fee, charge, or assessment after the close of the protest hearing if they failed to submit a timely written objection.

Adopting AB 2257 is consistent with Proposition 218 and provides an additional tool for local governments to ensure the integrity of the protest process. The bill strengthens the City's ability to defend against court challenges by clarifying that ratepayers must raise objections during the official protest period. This ordinance will help reduce frivolous or late legal challenges, which could undermine the City's fiscal stability.

ANALYSIS

This ordinance would prohibit a person or entity from bringing a judicial action or proceeding alleging noncompliance with the constitutional provisions for any new, increased, or extended fee or assessment, as defined, unless that person or entity has timely submitted to the local agency a written objection to that fee or assessment that specifies the grounds for alleging noncompliance, as specified. If the agency complies with the public process described by AB 2257, litigants would be required to participate in the City's public process prior to challenging an adopted fee or assessment. AB 2257 would also limit the scope of evidence that could be introduced in litigation.

Agenda Item 3.A

February 18, 2025

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This ordinance establishes the process the City must follow to limit challenges in this way. The City must:

1. Make the proposed fee, charge, or assessment publicly available at least 45 days before the deadline for submitting written objections;
2. Post a written basis for the proposed fee, charge, or assessment on the City's website and include a link to that website on public hearing notices regarding the proposed adoption of the proposed fee, charge, or assessment;
3. Mail the written basis for the proposed fee, charge, or assessment to ratepayers or property owners upon request;
4. Provide at least 45 days for ratepayers or property owners to submit written objections to the fee, charge, or assessment;
5. Respond in writing to any timely submitted objections with an explanation for keeping or changing the proposed fee, charge or assessment;
6. Present any timely submitted objections and responses thereto the City Council for its consideration, either before or during the public hearing on the proposed fee, charge or assessment;
7. Include on its public hearing notices a statement in bold-faced type of 12 points or larger:
 - a. that all written objections must be submitted to the City Clerk by the end of public comment period at the hearing, that a failure to timely object in writing bars any right to challenge that fee, charge, or assessment in court, and that any such action will be limited to issues identified in such objections; and
 - b. All substantive and procedural requirements for submitting an objection to the proposed fee, charge, or assessment.

FISCAL IMPACT

The development of the proposed ordinance is within the existing budget for staff's duties. The adoption and implementation of the proposed ordinance will have an uncertain, but expected to be positive, fiscal impact as it increases the defensibility of the City's water, sewer, and solid waste rates and other fees and assessments subject to Proposition 218.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The adoption of this Ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines sections 21065 and 15061(b)(3) as the establishment of an administrative remedies procedure will not result in a reasonably foreseeable direct or indirect physical change in the environment.

STRATEGIC PLAN

This agenda item supports the City's Governance Strategic Priority, with Goal 2: Ensure short and long-term fiscal health.

Agenda Item 3.A

February 18, 2025

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ACTION REQUESTED OF THE CITY COUNCIL

Introduce an Ordinance adding Section 1.24.040 to Chapter 1.24 of the Tracy Municipal Code establishing an administrative remedies procedure for challenges to fees, charges, and assessments.

Prepared by: Karin Schnaider, Assistant City Manager

Reviewed by: Sara Castro, Finance Director
Matthew Summers, Interim Assistant City Attorney

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Exhibit A - Ordinance

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

ORDINANCE

AN ORDINANCE OF THE CITY OF TRACY ADDING SECTION 1.24.040 TO CHAPTER 1.24 OF THE TRACY MUNICIPAL CODE ESTABLISHING AN ADMINISTRATIVE REMEDIES PROCEDURE FOR CHALLENGES TO FEES, CHARGES, AND ASSESSMENTS

Be it ordained by the Council of the City of Tracy:

SECTION 1. Authority. This Ordinance is authorized by the City's authority under California Constitution, article XI, sections 7 (police power) and 9 (utility power) as well as Government Code section 53759.1.

SECTION 2. Code Amendment. Chapter 1.24 of Title 1 of the Tracy Municipal Code is hereby amended to add a new section 1.24.040 to read as follows:

Section 1.24.040 — Exhaustion of administrative remedies for challenges to fees, charges, and assessments on real property.

A. Scope. The duty to exhaust administrative remedies imposed by this section extends to:

- (1) any fee or charge subject to articles XIII C or XIII D of the California Constitution,
- (2) any assessment on real property levied by the City, and
- (3) the methodology used to develop and levy such a fee, charge, or assessment.

B. "Hearing" as used in this section means the hearing referenced in paragraph 4 of subsection D of this section.

C. Duty to Exhaust Issues. No person may bring a judicial action or proceeding alleging noncompliance with the California Constitution or other applicable law for any new, increased, or extended fee, charge, or assessment levied by the City, unless that person submitted to the City Clerk a timely, written objection to that fee, charge, or assessment specifying the grounds for alleging noncompliance. The issues raised in any such action or proceeding shall be limited to those raised in such an objection unless a court finds the issue could not have been raised in such an objection by those exercising reasonable diligence.

D. Procedures. The City shall:

- (1) Make available to the public any proposed fee, charge, or assessment to which this section is to apply no less than 45 days before the deadline for a ratepayer or assessed property owner to submit an objection pursuant to paragraph 4 of this subsection D.
- (2) Post on its internet website a written basis for the fee, charge, or assessment, such as a cost-of-service analysis or an engineer's report, and include a link to the internet website in the written notice of the Hearing, including, but not limited to, a notice pursuant to subdivision (c) of Section 4 or paragraph (1) of subdivision (a) of Section 6 of Article XIII D of the California Constitution.
- (3) Mail the written basis described in paragraph 2 of this subsection D to a ratepayer or property owner on request.
- (4) Provide at least 45 days for a ratepayer or assessed property owner to review the proposed fee or assessment and to timely submit to the City Clerk a written objection to that fee, charge, or assessment that specifies the grounds for alleging noncompliance. Any objection shall be submitted before the end of the public comment portion of a Hearing on the rate, charge or assessment.
- (5) Include in a written notice of the Hearing, a statement in bold-faced type of 12 points or larger that:
 - (A) All written objections must be submitted to the City Clerk by the end of public comment period at the Hearing and that a failure to timely object in writing bars any right to challenge that fee, charge, or assessment in court and that any such action will be limited to issues identified in such objections.
 - (B) All substantive and procedural requirements for submitting an objection to the proposed fee, charge, or assessment such as those specified for a property-related fee under California Constitution, article XIII D, section 6(a) or for an assessment on real property under California Constitution, article XIII D, section 4(e).

E. Council Consideration; City Responses. Before or during the Hearing, the City Council shall consider and the City shall respond in writing to, any timely written objections. The City Council may adjourn the Hearing to another date if necessary to respond to comments received after the agenda is posted for the meeting at which the Hearing occurs. The City's responses shall explain the substantive basis for retaining or altering the proposed fee, charge, or assessment in response to written objections, including any reasons to reject requested amendments.

F. City Council Determinations. The City Council, in exercising its legislative discretion, shall determine whether:

- (1) The written objections and the City's response warrant clarifications to the proposed fee, charge, or assessment.
- (2) To reduce the proposed fee, charge or assessment.
- (3) To further review the proposed fee, charge, or assessment before determining whether clarification or reduction is needed.
- (4) To proceed with the Hearing, to continue it, or to abandon the proposal.

SECTION 3. CEQA Determination. The City Council finds that adoption of this Ordinance is exempt from CEQA because: (i) it is not a project within the meaning of Public Resources Code, section 21065 because it has no potential to alter the physical environment; (ii) and pursuant to CEQA Guidelines section 15061(b)(3), the so-called "common sense" exemption, for this same reason.

SECTION 4. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 5. Effective Date. This Ordinance shall become effective thirty days after its final adoption.

SECTION 6. Publication. The City Clerk is directed to publish this Ordinance in a manner required by law.

SECTION 7. Codification. This Ordinance shall be codified in the Tracy Municipal Code.

* * * * *

The foregoing Ordinance ____ was introduced at a regular meeting of the Tracy City Council on February 18, 2025, and finally adopted at a regular meeting of the Tracy City Council on the ____ day of ____, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST: _____
NECY LOPEZ
Acting City Clerk and Clerk of the Council of the
City of Tracy, California

March 4, 2025

Agenda Item 1.C

RECOMMENDATION

The Tracy Homelessness Advisory Committee recommend that the City Council adopt a Resolution approving Amendment No. 2 to the General Services Agreement with United Site Services of California, Inc. at the Temporary Emergency Housing Facility, Capital Improvement Project 71112, at 370 West Arbor Avenue to: (1) extend the term from June 30, 2025 to June 30, 2026 and (2) increase the total not-to-exceed amount to \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services.

EXECUTIVE SUMMARY

An Amendment No. 2 to the General Services Agreement (Agreement) with United Site Services of California, Inc. (Contractor) at the Temporary Emergency Housing Facility (TEHF), City Capital Improvement Project (CIP) 71112, located at 370 West Arbor Avenue, Tracy, CA 95304 (Project Site) is required to do the following: (1) extend the term from June 30, 2025 to June 30, 2026 and (2) increase the total not-to-exceed amount to \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services.

The Amendment No. 2 compensates the Contractor for the additional weekly service day of waste tank removal fee, three (3) hand washing stations rental fee and one (1) service two (2) days per week fees for each hand washing stations. The total compensation will include a one-time "delivery and pickup" charge and the fixed amount as set forth in Exhibits "B-2" of the Agreement. Contractor's total compensation under this Agreement as amended shall not exceed \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services.

The Tracy Homelessness Advisory Committee heard this item on February 20, 2025 and recommends that the City Council adopt the proposed Resolution.

BACKGROUND AND LEGISLATIVE HISTORY

On September 1, 2020, the City Council authorized the creation of a Capital Improvement Project (CIP) for the Temporary Emergency Housing Project on Arbor Avenue, CIP 71112 (Project) to create a safe and dignified facility for residents experiencing homelessness.

On July 5, 2023, as part of the Phase IV interim shelter facility improvements, the City Council authorized the purchase of eight (8) custom container dormitories from Linked Equipment under Resolution 2023-140. Phase IV- Custom Containers does not include permanent bathrooms, which are part of the construction under Phase II-Site Improvements.

On October 17, 2023, the City Council authorized United Site Services of California, Inc. to provide and maintain the temporary showers and restrooms to the Phase IV-Custom Containers

Agenda Item 1.C

March 4, 2025

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until permanent facilities are available providing safe and sanitary bathroom facilities to serve the occupants of Phase IV under resolution 2023-213.

On May 21, 2024, the City Council authorized an Amendment to increase the scope of Contractor's services to include the additional weekly service day of waste tank removal fee, three (3) hand washing stations rental fee and one (1) service two (2) days per week fees for each hand washing stations and increase the monthly service total by the amount of \$3,785.65 and extend the term from May 31, 2024 to June 30, 2025 which was approved under Resolution No. 2024-067.

Under Section 2.1 of the Agreement, the term of this Agreement ends on June 30, 2025. The proposed Amendment No. 2 extends the term of the Agreement to June 30, 2026. In addition to the extension of the term, there is an amendment to Section 3.1 of the Agreement, increase the total not-to-exceed amount to \$646,310 which would provide the additional funds needed for the current annual budget in the amount of \$135,183 and for the additional year with an annual budget of \$255,564.

ANALYSIS

The City previously determined that United Site Services of California, Inc. is a sole source vendor that provides and maintains self-contained and fully functional bathroom facilities and accessories.

The opening of the additional dormitories under Phase IV-Custom Containers increased the shelter capacity from 48 beds to 86 beds. The increase in clients caused an increase in septic waste from the use of the temporary restrooms and created a need to add hand washing stations throughout the TEHF due to lack of permanent water stations. Therefore, an amendment to the Agreement is required for Contractor to 1) add an additional service day of waste tank removal from two (2) days per week to three (3) days per week for the temporary restrooms and showers, and 2) adding three (3) hand washing stations will provide accessibility to clean water sources, increase sanitation in a congregate setting and reduce spread of viruses. This service was not included in the original scope of work.

The City and Contractor desire to amend the term of the Agreement by extending the expiration date of such term from June 30, 2025 to June 30, 2026 at the Temporary Housing Emergency Facility until the permanent facilities are installed as part of the Phase II construction.

The second Amendment compensates the Contractor for the continued weekly service day of waste tank removal fee, three (3) hand washing stations rental fee and one (1) service two (2) days per week fees for each hand washing stations. The total compensation will include a one-time "delivery and pickup" charge and the fixed amount as set forth in Exhibits "B-2" of the Agreement. Contractor's total compensation under this Agreement as amended shall not exceed \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services.

FISCAL IMPACT

Amendment No. 2 to the General Services Agreement with United Site Service of California, Inc. is to increase the Contractor's total compensation to a not-to-exceed amount of \$646,310 which provides the additional funds needed for Fiscal Year 2024-2025 in the amount of

Agenda Item 1.C

March 4, 2025

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\$135,183 to compensate the Contractor for the sanitation services provided at the shelter and for Fiscal Year 2025-2026 in the amount of \$255,564 to continue sanitation services.

The City funds Homeless Services through the General Fund and various grants. The Homeless Services General Fund operating budget has sufficient funds to cover the total expenditure of \$646,310 with United Site Services of California, Inc.

CEQA DETERMINATION

A Notice of Exemption was issued on October 16, 2020, for the TEHF in accordance with Government Code sections 65660-65662 for low barrier navigation Centers and Section 15269(c) of the CEQA Guidelines. The proposed contract amendment increasing cleaning and sanitation services, without any facility expansion, is consistent with the project considered in the Notice of Exemption and no further environmental review is necessary.

San Joaquin County, as the responsible entity under the National Environmental Protection Act (NEPA) for the federal grants related to this Project, conducted an Environmental Assessment in 2023 and released a Finding of No Significant Impact on January 18, 2024, in compliance with NEPA and applicable federal regulations.

STRATEGIC PLAN

This agenda item supports the Public Safety Strategic Priority, Implement the adopted Homelessness Strategic Plan.

ACTION REQUESTED OF THE CITY COUNCIL

The Tracy Homelessness Advisory Committee recommend that the City Council adopt a Resolution approving Amendment No. 2 to the General Services Agreement with United Site Services of California, Inc. at the Temporary Emergency Housing Facility, Capital Improvement Project 71112, at 370 West Arbor Avenue to: (1) extend the term from June 30, 2025 to June 30, 2026 and (2) increase the total not-to-exceed amount to \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services.

Prepared by: Virginia Carney, Homeless Services Manager

Reviewed by: Sara Castro, Director of Finance

Brian MacDonald, Director of Parks, Recreation and Community Services

Arturo M. Sanchez, Assistant City Manager

Matthew Summers, Interim Assistant City Attorney

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A- Amendment No. 2 to GSA-United Site Services of California, Inc.

Attachment B- Amendment No. 1 to GSA-United Site Services of California, Inc., eff. 05/01/24

Attachment C- Executed GSA and Reso for United Site Services of California, Inc. eff. 10/23/23

CITY OF TRACY
AMENDMENT NO. 2 TO
General Services Agreement with United Site Services of California, Inc.

This Amendment No. 2 (**Amendment**) to the General Service Agreement is made effective May 30, 2024 ("Effective Date") by and between the City of Tracy, a municipal corporation (**City**), and United Site Services of California, Inc., a California corporation (**Contractor**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A. The City and Contractor entered into a General Services Agreement (**Agreement**) for the Temporary Emergency Housing Facility (TEHF) to provide temporary shower and restrooms for Phase IV-Custom Containers occupants located at 370 W. Arbor Avenue, Tracy, CA 95304 which was approved by the City Council on October 17, 2023 under Resolution No. 2023-213.
- B. The opening of the additional dormitories under Phase IV-Custom Containers has caused an increase in septic waste from the use of the temporary restrooms and showers and City's requirement that Contractor add an additional service day of waste tank removal from two (2) days per week to three (3) days per week. The additional day of service will help maintain sanitary conditions by preventing the waste tanks from overflowing due to being too full.
- C. The opening of Phase IV-Custom Containers has increased the shelter capacity from 48 beds to 86 beds with additional increases to site capacity through 2025. The increase in shelter clients has created a need to add handwashing stations throughout the TEHF due lack of permanent water stations. The Contractor will install and provide three (3) handwashing stations and provide one (1) service, two (2) days per week for the handwashing stations. The handwashing stations will increase sanitation in a congregate setting, reduce spread of germs and increase the accessibility to clean water sources.
- D. On May 21, 2024 pursuant to Resolution No. 2024-067 , parties executed Amendment No. 1 to the Agreement to increase the scope of Contractor's services to include the additional weekly service day of waste tank removal fee, three (3) handwashing stations rental fee and one (1) service two (2) days per week fees for each handwashing stations **and** increase the monthly service total by the amount of \$3,785.65 and extend the term from May 31, 2024 to June 30, 2025.
- E. Parties desire to enter into Amendment No. 2 extending the expiration date of such term from June 30, 2025 to June 30, 2026 and increasing the total NTE to \$646,309.
- H. This Amendment is being executed pursuant to Resolution No._____ approved by Tracy City Council on_____, 2025.

Now therefore, the Parties mutually agree as follows:

1. Terms of Amendment.

A. Section 2.1 is hereby amended by deleting the text of Section 2 in its entirety and substituting in place thereof the following underlined text:

“2.1 Term. The term of this Agreement shall begin on October 23, 2023, and end on June 30, 2026, unless terminated in accordance with Section 6.”

B. Section 3.1 is hereby amended by deleting the text Section 3 in its entirety and substituting in place thereof the following underlined text:

“3.1 Not to Exceed Amount. Contractor’s total compensation under this Agreement shall not exceed \$646,309.09 which would provide the additional funds needed for the current annual budget in the amount of \$135,182.07 and for the additional year with an annual budget of \$255,563.51. 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.”

C. Exhibits.

Exhibit B-2 “Compensation” attached hereto shall replace Exhibit “B” of the Agreement. For services performed by Contractor under this Agreement, City shall pay Contractor on a time and expense basis, at the billing rates set forth in Exhibit “B-2”.

3. Incorporation by Reference. This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. All capitalized terms used herein and not defined herein shall have the meanings set forth in the Agreement.

4. Effect of Amendment. This Amendment represents the complete and entire agreement and understanding between the parties and supersedes any prior agreement and understanding (written or oral) concerning the subject matter contained herein. Except as expressly modified by this Amendment, all provisions of the Agreement will remain unchanged and in full force and effect. The parties hereto acknowledge and agree that the recitals set forth are true and correct and are incorporated into this Amendment. This Amendment will not be binding until fully executed by the parties.

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

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

City of Tracy

By: Dan Arriola

Title: Mayor

Date: _____

Attest:

Adrienne Richardson, City Clerk

United Site Services of California, Inc.

By: Jeff Dunlop

Title: Vice President

Date: 14 Feb 25

Federal Employer Tax ID No. 20-0968969

By: Sean McDowell

Title: Director of Contracts

Date: 14 Feb 25

Approved as to form:

By:

Kamal Gill, Deputy City Attorney

EXHIBITS:

B-2 Compensation

EXHIBIT B-2 Compensation

Temporary Restroom and Shower Trailers Billing Rates

Item	Unit Qty	Unit Price	Duration/Service Date	Charge Type	Total Charges	Taxable
Current Billing Period						
Restroom Trailer, Gold, Small (3-4 Stalls) (Restroom Trailer, Gold, Small)						
Rental Charge	1	\$2,375.00	11/1/2024 - 11/30/2024	Recurring	\$2,375.00	Y
3 Service per Week, Empty Waste Tank	1	\$1,828.00	11/1/2024 - 11/30/2024	Recurring	\$1,828.00	N
Restock Service	1	\$100.00	11/1/2024 - 11/30/2024	Recurring	\$100.00	N
Restroom Trailer, Gold, Small (3-4 Stalls) Subtotal					\$4,303.00	
Restroom Trailer, Gold, Compact (1-2 Stalls) - ADA Compliant (Restroom Trailer, Gold, Compact ADA)						
Rental Charge	1	\$2,715.00	11/1/2024 - 11/30/2024	Recurring	\$2,715.00	Y
3 Service per Week, Empty Waste Tank	1	\$1,828.00	11/1/2024 - 11/30/2024	Recurring	\$1,828.00	N
Restock Service	1	\$100.00	11/1/2024 - 11/30/2024	Recurring	\$100.00	N
Restroom Trailer, Gold, Compact (1-2 Stalls) - ADA Compliant Subtotal					\$4,643.00	
Shower Trailer, Gold, Large (7-8 Stalls) (Shower Trailer, Gold, Large)						
Rental Charge	1	\$7,000.00	11/1/2024 - 11/30/2024	Recurring	\$7,000.00	Y
3 Service per Week, Empty Waste Tank	1	\$3,290.00	11/1/2024 - 11/30/2024	Recurring	\$3,290.00	N
Restock Service	1	\$100.00	11/1/2024 - 11/30/2024	Recurring	\$100.00	N
Shower Trailer, Gold, Large (7-8 Stalls) Subtotal					\$10,390.00	
Site Subtotal Excluding Tax					\$19,336.00	
Site Tax					\$997.45	
Site Subtotal					\$20,333.45	

Invoice Total **\$20,333.45**

Other One-Time Charges

Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$2269.50	Y

Subtotal One-Time	\$2,269.50
Tax One-Time	\$187.29
Total One-Time	\$2,456.79

Grand Total	\$22,790.24
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EXHIBIT B-2 Compensation (continued)

Handwashing Station Billing Rates

Item	Unit Qty	Unit Price	Duration/Service Date	Charge Type	Total Charges	Taxable
Current Billing Period						
2 Station Hand Wash Sink (2 Stn Hand Sink)						
Rental Charge	3	\$43.00	11/1/2024 - 11/30/2024	Recurring	\$129.00	Y
1 Service 2 Days per Week	3	\$200.00	11/1/2024 - 11/30/2024	Recurring	\$600.00	N
2 Station Hand Wash Sink Subtotal					\$729.00	
Site Subtotal Excluding Tax					\$729.00	
Site Tax					\$10.65	
Site Subtotal					\$739.65	

Invoice Total	\$739.65
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Other One-Time Charges			
Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$212.00	Y

Subtotal Recurring	\$729.00
Tax Recurring	\$10.65
Total Recurring	\$739.65

Subtotal One-Time	\$212.00
Tax One-Time	\$17.52
Total One-Time	\$229.52

Grand Total	\$969.17
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EXHIBIT B-2 Compensation (continued)

Temporary Restroom and Shower Trailers Billing Rates

Subtotal Recurring	\$19,336.00
Tax Recurring	\$997.45
Total Recurring	\$20,333.45

Subtotal One-Time	\$2,269.50
Tax One-Time	\$187.29
Total One-Time	\$2,456.79

Handwashing Stations Billing Rates

Subtotal Recurring	\$729.00
Tax Recurring	\$10.65
Total Recurring	\$739.65

Subtotal One-Time	\$212.00
Tax One-Time	\$17.52
Total One-Time	\$229.52

Projected Rental Period: May 31, 2024 to June 30, 2026

Projected NTE: \$646,309.09

United Site Services	Contract #: 3500490	Funds
Vendor #: 12803	Original NTE:	\$ 255,563.51
	Expended in FY 23/24	\$ (136,582.97)
	Expended in FY 24/25 (As of 12.31.24)	\$ (107,390.56)
Temporary Restroom for Phase IV-Custom Containers. Addt'l waste removal service day and installing 3 handwashing stations.	Current NTE Balance:	\$ 11,589.98
	Total Projected to Spend in FY 24/25	\$ (146,772.05)
	Total difference = Additional needed for FY24/25	\$ 135,182.07
	Original NTE:	\$ 255,563.51
	Additional needed for FY24/25	\$ 135,182.07
	Projected Annual Budget FY 25/26	\$ 255,563.51
	Overall NTE Needed:	\$ 646,309.09

CITY OF TRACY
AMENDMENT NO. 1 TO
General Services Agreement with United Site Services of California, Inc.

This Amendment No. 1 (**Amendment**) to the General Service Agreement is made effective May 30, 2024 ("Effective Date") by and between the City of Tracy, a municipal corporation (**City**), and United Site Services of California, Inc., a California corporation (**Contractor**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A.** The City and Contractor entered into a General Services Agreement (**Agreement**) for the Temporary Emergency Housing Facility (TEHF) to provide temporary shower and restrooms for Phase IV-Custom Containers occupants located at 370 W. Arbor Avenue, Tracy, CA 95304 which was approved by the City Council on October 17, 2023 under Resolution No. 2023-213.
- B.** The opening of the additional dormitories under Phase IV-Custom Containers has caused an increase in septic waste from the use of the temporary restrooms and showers and City's requirement that Contractor add an additional service day of waste tank removal from two (2) days per week to three (3) days per week. The additional day of service will help maintain sanitary conditions by preventing the waste tanks from overflowing due to being too full.
- C.** The opening of Phase IV-Custom Containers has increased the shelter capacity from 48 beds to 86 beds. The increase in shelter clients has created a need to add handwashing stations throughout the TEHF due lack of permanent water stations. The Contractor will install and provide three (3) handwashing stations and provide one (1) service, two (2) days per week for the handwashing stations. The handwashing stations will increase sanitation in a congregate setting, reduce spread of germs and increase the accessibility to clean water sources.
- D.** The City and Contractor now seek to amend the Agreement to increase the scope of Contractor's services to include the additional weekly service day of waste tank removal fee, three (3) handwashing stations rental fee and one (1) service two (2) days per week fees for each handwashing stations **and** increase the monthly service total by the amount of \$3,785.65.
- E.** The City and Contractor desire to amend the term of the Agreement by extending the expiration date of such term from May 31,2024 to June 30, 2025.
- F.** This Amendment is being executed pursuant to Resolution No. 2024-067 approved by Tracy City Council on May 21, 2024.

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

Now therefore, the Parties mutually agree as follows:

1. Terms of Amendment.

A. Section 1 of the Agreement is hereby amended by deleting the text of Section 1 in its entirety and substituting in place thereof the following underlined text:

1. Scope of Work. Contractor shall perform the services described in Exhibit "A-1" attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: Ray Lomas IV, Territory Account Manager. Contractor shall not replace its Authorized Representative, nor shall Contractor replace any of the personnel listed in Exhibit "A-1" 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.

B. Section 2.1 is hereby amended by deleting the text of Section 2 in its entirety and substituting in place thereof the following underlined text:

"2.1 Term. The term of this Agreement shall begin on October 23, 2023, and end on June 30, 2025, unless terminated in accordance with Section 6."

C. Section 3 is hereby amended by deleting the text of the first paragraph of Section 3 only and substituting in place thereof the following underlined text:

"3. Compensation. City shall pay Contractor a fixed amount as set forth in Exhibits "B-1" attached and incorporated by reference for services performed under this Agreement. City shall also pay a one-time "delivery and pickup" charge."

D. Section 3.1 is hereby amended by deleting the text Section 3 in its entirety and substituting in place thereof the following underlined text:

"3.1 Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed \$255,563.51. 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.

E. Exhibits.

Exhibit A-1 "Scope of Services" attached hereto shall replace Exhibit "A" of the Agreement. Contractor is responsible for completing all task identified in Exhibit "A-1".

Exhibit B-1 "Compensation" attached hereto shall replace Exhibit "B" of the Agreement. For services performed by Contractor under this Agreement, City shall pay Contractor on a time and expense basis, at the billing rates set forth in Exhibit "B-1".

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

3. Incorporation by Reference. This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. All capitalized terms used herein and not defined herein shall have the meanings set forth in the Agreement.

4. Effect of Amendment. This Amendment represents the complete and entire agreement and understanding between the parties and supersedes any prior agreement and understanding (written or oral) concerning the subject matter contained herein. Except as expressly modified by this Amendment, all provisions of the Agreement will remain unchanged and in full force and effect. The parties hereto acknowledge and agree that the recitals set forth are true and correct and are incorporated into this Amendment. This Amendment will not be binding until fully executed by the parties.

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

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

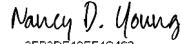
[SIGNATURES ON FOLLOWING PAGE]

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

City of Tracy

Signed by:

 Nancy D. Young

3FB3DE19EF4C462...

By: Nancy D. Young

Title: Mayor

Date: 9/26/2024 | 10:38 AM PDT

United Site Services of California, Inc.

DocuSigned by:

 Jeff Dunlop

EBF2D9614AE483...

By: Jeff Dunlop

Title: Vice President

Date: 9/3/2024 | 3:01 PM PDT

Federal Employer Tax ID No. 20-0968969

Attest:

DocuSigned by:

 Adrienne Richardson

9/26/2024 | 10:57 AM PDT

Adrienne Richardson, City Clerk

DocuSigned by:

 Sean McDowell

6B0725496C60449...

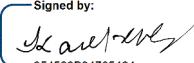
By: Sean McDowell

Title: Director of Contracts

Date: 9/6/2024 | 6:44 AM PDT

Approved as to form:

Signed by:

 Kamal Gill

9/26/2024 | 10:24 AM PDT

By: Kamal Gill, Deputy City Attorney for Bijal

M. Patel, City Attorney

EXHIBITS:

A-1 Scope of Work

B-1 Compensation

EXHIBIT A-1 Scope of Work

Installation and Service of Temporary Restrooms and Showers

Trailer Bundle Configuration:

- Restroom Trailer, Gold, Small (3-4 Stalls)
- Power Requirements: 1-3 20AMP 110V on separate breaker
- 3 Service per Week, Empty Waste Tank
- Restock Service

Trailer Bundle Configuration:

- Restroom Trailer, Gold, Compact (1-2 Stalls)-ADA Compliant
- Power Requirements: 1-3 20AMP 110V on separate breaker
- 3 Service per Week, Empty Waste Tank
- Restock Service

Trailer Bundle Configuration:

- Shower Trailer, Gold, Large (7-8 Stalls)
- Power Requirements: 2-4 20AMP 110V on separate breaker
- 3 Service per Week, Empty Waste Tank
- Restock Service
- Permit Fee

Hand Cleaning Bundle Configuration

- 2 Station Hand Wash Sink (3 Handwashing Stations)
- 1 Service 2 Days per Week for each handwashing station

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation

Temporary Restroom and Shower Trailers Billing Rates

Item	Unit	Unit Price	Qty	Charge Type	Total Charge	Tax
Trailer Bundle Configuration Estimated Delivery 03-02-24						
Restroom Trailer, Gold, Small (3-4 Stalls) Power Requirements: 1-4 20AMP 110V on separate breaker	EA	\$2375.00	1	Recurring	\$2375.00	Y
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
3 Service per Week, Empty Waste Tank	EA	\$1828.00	1	Recurring	\$1828.00	N
Trailer Bundle Configuration Estimated Delivery 03-02-24						
Restroom Trailer, Gold, Compact (1-2 Stalls) - ADA Compliant Power Requirements: 1-3 20AMP 110V on separate breaker	EA	\$2715.00	1	Recurring	\$2715.00	Y
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
3 Service per Week, Empty Waste Tank	EA	\$1828.00	1	Recurring	\$1828.00	N
Trailer Bundle Configuration Estimated Delivery 03-02-24						
Shower Trailer, Gold, Large (7-8 Stalls) Power Requirements: 2-4 20AMP 110V on separate breaker	EA	\$7000.00	1	Recurring	\$7000.00	Y
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
3 Service per Week, Empty Waste Tank	EA	\$3290.00	1	Recurring	\$3290.00	N
Permit Fee	EA	\$0.00	1	One-Time	\$0.00	N

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation (continued)

Other One-Time Charges

Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$2269.50	Y
Subtotal Recurring		\$19,336.00	
Tax Recurring		\$997.45	
Total Recurring		\$20,333.45	
Subtotal One-Time		\$2,269.50	
Tax One-Time		\$187.29	
Total One-Time		\$2,456.79	
Grand Total		\$22,790.24	

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation (continued)

Handwashing Station Billing Rates

Item	Unit	Unit Price	Qty	Charge Type	Total Charge	Tax
Hand Cleaning Bundle Configuration Estimated Delivery 04-16-24						
1 Service 2 Days per Week	EA	\$200.00	3	Recurring	\$600.00	N
2 Station Hand Wash Sink	EA	\$43.00	3	Recurring	\$129.00	Y

Other One-Time Charges

Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$212.00	Y
Subtotal Recurring		\$729.00	
Tax Recurring		\$10.65	
Total Recurring		\$739.65	
Subtotal One-Time		\$212.00	
Tax One-Time		\$17.52	
Total One-Time		\$229.52	
Grand Total		\$969.17	

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation (continued)

Temporary Restroom and Shower Trailers Billing Rates

Subtotal Recurring	\$19,336.00
Tax Recurring	\$997.45
Total Recurring	\$20,333.45

Subtotal One-Time	\$2,269.50
Tax One-Time	\$187.29
Total One-Time	\$2,456.79

Handwashing Stations Billing Rates

Subtotal Recurring	\$729.00
Tax Recurring	\$10.65
Total Recurring	\$739.65

Subtotal One-Time	\$212.00
Tax One-Time	\$17.52
Total One-Time	\$229.52

Temporary Restroom/Shower Trailers Monthly Rental Rate:	\$20,333.45
Handwashing Stations Monthly Rental Rate:	\$739.65
Total Recurring Monthly Rental Rate:	\$21,073.10

Temporary Restroom/Shower Trailers One-Time Fee:	\$2,456.79
Handwashing Stations One-Time Fee:	\$229.52
Total One-Time Fee	\$2,686.31

Projected Rental Period: June 1, 2024 to June 30,2025
Projected NTE: \$255,563.51

CITY OF TRACY
GENERAL SERVICES AGREEMENT WITH
United Site Services of California, Inc.

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

Recitals

- A. City desires to enter into this Agreement with Contractor for Contractor to provide temporary shower and restrooms for Phase IV-Custom Containers occupants located at 370 W. Arbor Avenue, Tracy, CA 95304 (Project or Services) until permanent bathrooms are installed.
- B. 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.
- C. Pursuant to Resolution No. 2022-121, directed the City Manager to take immediate and emergency actions necessary to implement interim housing solutions for Tracy's unsheltered population until the completion and opening of the Temporary Emergency Housing Project on Arbor Road. Tracy Municipal Code Section 2.20.270(b), the City may enter into a contract without formal bidding if a contract is for a unique product available from only one source so that competitive bidding would be meaningless. For this exception to apply, the City Council must approve the contract by a resolution which includes findings as to why the product is unique and only one source exists.
- D. United Site Services of California, Inc. is a sole source vendor that provides and maintains self contained and fully functional bathroom facilities. These temporary facilities provide safe and sanitary facilities for showering and restroom use to the Phase IV-Custom Containers occupants.
- E. This Agreement is being executed pursuant to Resolution No. 2023-213.

Now therefore, the Parties mutually agree as follows:

1. **Scope of Work.** Upon request from and at the direction of the City, Contractor shall perform the Services and complete the Project, which include, but are not limited to, the services described in Exhibit "A" attached hereto and incorporated herein by this reference. The services shall be performed by, or under the direct supervision of, Contractor's Authorized Representative: United Site Services of California, Inc., nor shall Contractor use or replace any subcontractors or subcontractors, without City's prior written consent. The City may terminate this Agreement if Contractor makes any such change or replacement, or uses any unapproved subcontractor or subcontractor.
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. 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 may grant or deny such requests in its sole and absolute discretion.

2.1 Term. The term of this Agreement shall begin on October 23, 2023 and end on May 31, 2024, unless terminated in accordance with Section 6.

3. Compensation. City shall pay Contractor the fixed monthly amount, as set forth in Exhibit "B" attached hereto and incorporated herein by this reference, for the term of the Agreement. City shall also pay a one-time "delivery and pickup" charge.

3.1 Not to Exceed Amount. Contractor's total compensation under this Agreement shall not exceed \$125,000. It is understood and agreed that Contractor may not receive compensation up to this amount, and Contractor's total compensation under this Agreement will depend on the length of the term of this Agreement. 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. Notwithstanding anything contained herein to the contrary, the payment of any funds under this Agreement shall be subject to the City of Tracy's appropriation of funds for the Services. This Agreement shall terminate in the event that such funds are not appropriated.

3.2 Invoices. Contractor shall submit monthly invoices to the City that describe the services performed and dated time period reflecting services rendered. Reports reflecting greater detail of services are available upon request to the Contractor.

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.

3.3.1. The acceptance by Contractor of the final payment made under this Agreement shall constitute a release of City from all claims and liabilities for compensation to Contractor for anything completed, finished or relating to Contractor's services. Contractor agrees that payment by City shall not constitute nor be deemed a release of the responsibility and liability of Contractor or its employees, subcontractors, agents and subcontractors for the accuracy and competency of the information provided and/or services performed hereunder, nor shall such payment be deemed to be an assumption of responsibility or liability by City for any defect or error in the Services performed by Contractor, its employees, subcontractors, agents and subcontractors.

3.3.2. Contractor agrees to maintain books, accounts, payroll records and other information relating to the performance of Contractor's obligations under the Agreement, which shall adequately and correctly reflect the expenses incurred by the Contractor in the performance of Contractor's work under the Agreement. Such books and records shall be open to inspection and audit by the City during regular business hours for three years after expiration or termination of this Agreement.

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 negligence 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 the event there is a finding and/or determination that Contractor is not an independent contractor and/or is an employee of City, including but not limited to any such finding and/or determination made by the California Public Employees' Retirement System (CalPERS), the Department of Industrial Relations (DIR), or the Internal Revenue Service (IRS), Contractor shall, to the fullest extent permitted by law, indemnify, defend, and hold harmless the City from and against any all claims relating to or in connection with such a finding and/or determination.

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".

Contractor and City mutually waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

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

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

5.4.2 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.

5.5 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.

5.6 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.

5.7 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.

5.8 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.

5.9 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 in its sole and absolute discretion by giving ten (10) days' written notice to Contractor. Within five (5) days of such a termination, Contractor shall give the City all original documents relating to the Services in Contractor's possession or control, including, without limitation, preliminary drafts and supporting documents, and any other documents prepared by Contractor pursuant to 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 to serve as the mediator, shall be commenced within thirty (30) days of selection of a mediator, 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 mediator 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. Contractor shall be solely responsible for, and shall save the City harmless from, all matters relating to the payment of Contractor's employees, agents, and subcontractors, including compliance with social security requirements, federal and State income tax withholding and all other regulations governing employer-employee relations. The City reserves the right to contract with other firms and/or Contractors during the term of this Agreement to provide the City the same or similar services that Contractor is providing to the City under this Agreement. Nothing contained in this Agreement guarantees Contractor a certain amount of work, and the City may, in its sole and absolute discretion, allocate and/or delegate work to Contractor so as to satisfy the City's needs.

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, (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 any 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; to deduct from the contract price the value of the rebate, kickback, or other unlawful consideration; 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:

Brian MacDonald
Interim Assistant City Manager
City of Tracy
333 Civic Center Plaza
Tracy, CA 95376

With a copy to:

City Attorney
333 Civic Center Plaza
Tracy, CA 95376

To Contractor:

United Site Services of California, Inc.
118 Flanders Road, Ste. 1000
Westborough, MA 01581

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. No waiver shall be effective unless it is in writing and signed by the waiving party.

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

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.

14.14 Counterparts. City and Contractor agree that this Agreement may be executed in two or more counterparts, each of which shall be deemed an original.

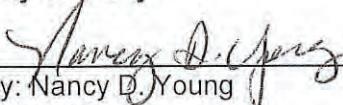
14.15 Expenses for Enforcement. Contractor and City agree that the prevailing party's reasonable costs, attorneys' fees and expenses, including investigation fees and expert witness fees, shall be paid by the non-prevailing party in any dispute involving the terms and conditions of this Agreement.

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]

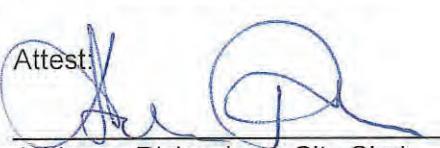
The Parties agree to the full performance of the terms set forth here.

City of Tracy


By: Nancy D. Young
Title: Mayor

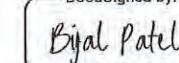
Date: 12-11-2023

Attest:


Adrienne Richardson, City Clerk

Approved as to form:

DocuSigned by:


Bijal M. Patel, City Attorney

United Site Services of California, Inc.


By: Jeff Dunlop
Title: Vice President

Date: 20 Sep 23

Federal Employer Tax ID No. 20-0968969


By: Sean McDowell
Title: Director of Contracts
Date: 20 Sep 23

Exhibits:

- A. Scope of Work
- B. Compensation

EXHIBIT A - Scope of Work

Installation and Service of Temporary Restrooms

Trailer Bundle Configuration:

- Restroom Trailer, Gold, Small (3-4 Stalls) Power Requirements: 1-3 20AMP 110V on separate breaker
- 2 Service per Week, Empty Waste Tank
- Restock Service

Trailer Bundle Configuration:

- Restroom Trailer, Gold, Small (1-2 Stalls)-ADA Compliant, Power Requirements: 1-3 20AMP 110V on separate breaker
- 2 Service per Week, Empty Waste Tank
- Restock Service

Trailer Bundle Configuration:

- Shower Trailer, Gold; Large (7-8 Stalls), Power Requirements: 2-4 20AMP 110V on separate breaker
- 2 Service per Week, Empty Waste Tank
- Restock Service
- Permit Fee

EXHIBIT B – Compensation

Item	Unit	Unit Price	Qty	Charge Type	Total Charge	Tax
Trailer Bundle Configuration						
Delivery 09-18-23						
Restroom Trailer, Gold, Small (3-4 Stalls) Power Requirements: 1-4 20AMP 110V on separate breaker	EA	\$2375.00	1	Recurring	\$2375.00	Y
2 Service per Week, Empty Waste Tank	EA	\$1100.00	1	Recurring	\$1100.00	N
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
Trailer Bundle Configuration						
Delivery 09-18-23						
Restroom Trailer, Gold, Compact (1-2 Stalls) - ADA Compliant Power Requirements: 1-3 20AMP 110V on separate breaker	EA	\$2715.00	1	Recurring	\$2715.00	Y
2 Service per Week, Empty Waste Tank	EA	\$1000.00	1	Recurring	\$1000.00	N
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
Trailer Bundle Configuration						
Delivery 09-18-23						
Shower Trailer, Gold, Large (7-8 Stalls) Power Requirements: 2-4 20AMP 110V on separate breaker	EA	\$7000.00	1	Recurring	\$7000.00	Y
2 Service per Week, Empty Waste Tank	EA	\$1800.00	1	Recurring	\$1800.00	N
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
Permit Fee	EA	\$0.00	1	One-Time	\$0.00	N

Other One-Time Charges

Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$1485.00	Y
Subtotal Recurring		\$16,290.00	
Tax Recurring		\$997.45	
Total Recurring		\$17,287.45	
Subtotal One-Time		\$1,485.00	
Tax One-Time		\$122.58	
Total One-Time		\$1,607.58	
Grand Total		\$18,895.03	

APPROVED AS TO FORM AND LEGALITY


CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. 2023-213

RESOLUTION (1) MAKING A DETERMINATION THAT UNITED SITE SERVICES OF CALIFORNIA, INC. PROVIDES UNIQUE PRODUCTS AND SERVICES THAT ARE NOT AVAILABLE FROM OTHER SOURCES, THEREFORE COMPLIANCE WITH THE STANDARD PROCUREMENT PROCESS IS NOT IN THE BEST INTEREST OF THE CITY PURSUANT TO TRACY MUNICIPAL CODE SECTION 2.20.180(B)(2) AND (2) APPROVING THE GENERAL SERVICES AGREEMENT WITH UNITED SITE SERVICES OF CALIFORNIA, INC., WITH A NOT-TO-EXCEED AMOUNT OF \$125,000, TO PROVIDE TEMPORARY SHOWERS AND RESTROOM TO PHASE IV-CUSTOM CONTAINER OCCUPANTS UNTIL PERMANENT BATHROOMS ARE INSTALLED UNDER PHASE II-SITE IMPROVEMENTS AT THE TEMPORARY EMERGENCY HOUSING FACILITY, CIP 71112, AT 370 WEST ARBOR AVENUE

WHEREAS, the City of Tracy, like many cities across California, is experiencing a shelter crisis; and

WHEREAS, on March 10, 2020, the City Council declared a shelter crisis through the adoption of Resolution 2020-052; and

WHEREAS, under the shelter crisis, the City is authorized to provide emergency housing, shelters, bridge housing communities, and other services to the unsheltered; and

WHEREAS, on September 1, 2020, the City Council authorized the creation of a Capital Improvement Project for the Temporary Emergency Housing Project on Arbor Avenue, CIP 71112 (Project) to create a safe and dignified facility for residents experiencing homelessness (Facility); and

WHEREAS, the City desires to provide interim housing solutions until the completion and opening of the Facility; and

WHEREAS, Government Code section 8698.4 exempts the application of the California Environmental Quality Act (CEQA) to various actions taken by public agencies to implement the construction of a homeless shelter in response to a declared shelter crisis; and

WHEREAS, a Notice of Exemption was issued on October 16, 2020, for the Temporary Emergency Housing site at 500 Arbor Avenue in accordance with Government Code sections 65660-65662 for Low Barrier Navigation Centers and Section 15269(c) of the CEQA Guidelines (14 Cal. Code Regs. 15269(c) for (Emergency Projects); and

WHEREAS, on August 16, 2022, the City Council approved Resolution 2022-121 and directed the City Manager to take immediate and emergency actions necessary to implement interim housing solutions for the City's unsheltered until the completion and opening of the Facility,

including negotiating with potential service providers and identifying potential sites for such interim housing solutions; and

WHEREAS, Tracy Municipal Code Section 2.20.180(b)(2), the City may enter into a contract without formal bidding if a contract is for a unique product available from only one source so that competitive bidding would be meaningless. For this exception to apply, the City Council must approve the contract by a resolution which includes findings as to why the product is unique and only one source exists; and

WHEREAS, on July 5, 2023, City Council authorized the purchase of eight (8) custom container dormitories, which will provide an additional 38 beds from Linked Equipment under Resolution 2023-140 for installation as part of Phase IV interim facilities; and

WHEREAS, Phase IV-Custom Containers do not include permanent bathrooms, which are part of the construction under Phase II-Site Improvements; and

WHEREAS, United Site Services of California, Inc. (Consultant) has agreed to provide and maintain the temporary showers and restrooms to the Phase IV-Custom Containers until permanent facilities are available providing safe and sanitary bathroom facilities to those occupants; and

WHEREAS, The Tracy Homelessness Advisory Committee heard this item on September 26, 2023 and recommended that the City Council adopt this proposed Resolution; and now, therefore, be it resolved as follows:

RESOLVED: That the City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Resolution; and be it

FURTHER RESOLVED: That United Site Services of California, Inc. is a sole source vendor, as set forth in Tracy Municipal Code Section 2.20.180(b)(2); and be it

FURTHER RESOLVED: That the City Council hereby approves general services agreement with Consultant (which includes a not-to-exceed amount of \$125,000). After review and approval by the City Attorney's office, City Council authorizes the execution of the General Services Agreement; and be it

FURTHER RESOLVED: The City Council finds that no further analysis under the California Environmental Quality Act (CEQA) for the actions authorized herein because: 1) Government Code section 8698.4 exempts the application of the various actions taken by public agencies to implement the construction of a homeless shelter in response to a declared shelter crisis; 2) the interim solutions taken thus far are in furtherance of and related to the permanent solution that will be implemented, referred to as the Temporary Emergency Housing Project on Arbor Avenue (CIP 71112); 3) A Notice of Exemption was issued on October 16, 2020 for the Temporary Emergency Housing site at 500 Arbor Avenue in accordance with Government Code sections 65660-65662 for Low Barrier Navigation Centers and Section 15269(c) of the CEQA Guidelines (14 Cal. Code Regs. 15269(c) for (Emergency Projects); and 4) No environmental impacts beyond those already analyzed for the CIP exist; and be it

FURTHER RESOLVED: That this resolution takes effect immediately upon its adoption.

The foregoing Resolution 2023-213 was adopted by the Tracy City Council on October 17, 2023, by the following vote:

AYES: COUNCIL MEMBERS: ARRIOLA, BEDOLLA, EVANS, DAVIS, YOUNG
NOES: COUNCIL MEMBERS: NONE
ABSENT: COUNCIL MEMBERS: NONE
ABSTENTION: COUNCIL MEMBERS: NONE


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

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

APPROVING AMENDMENT NO. 2 TO THE GENERAL SERVICES AGREEMENT WITH UNITED SITE SERVICES OF CALIFORNIA, INC. AT THE TEMPORARY EMERGENCY HOUSING FACILITY, CAPITAL IMPROVEMENT PROJECT 71112, AT 370 WEST ARBOR AVENUE TO: (1) EXTEND THE TERM FROM JUNE 30, 2025 TO JUNE 30, 2026; AND (2) TO INCREASE THE TOTAL NOT-TO-EXCEED AMOUNT TO \$646,310 WHICH WOULD PROVIDE THE ADDITIONAL FUNDS NEEDED FOR FISCAL YEAR 2024-2025 IN THE AMOUNT OF \$135,183 AND FOR FISCAL YEAR 2025-2026 IN THE AMOUNT OF \$255,564 FOR ADDITIONAL SANITATION SERVICES.

WHEREAS, the City of Tracy, like many cities across California, is experiencing a shelter crisis for unhoused people; and

WHEREAS, on March 10, 2020, the City Council declared a shelter crisis through the adoption of Resolution 2020-052; and

WHEREAS, under the shelter crisis, the City is authorized to provide emergency housing, shelters, bridge housing communities, and other services to the unsheltered; and

WHEREAS, on September 1, 2020, the City Council authorized the creation of a Capital Improvement Project for the Temporary Emergency Housing Project on Arbor Avenue, CIP 71112 (Project) to create a safe and dignified facility for residents experiencing homelessness located at 370 West Arbor Avenue, Tracy, CA 95304 (Project Site); and

WHEREAS, on July 5, 2023, City Council authorized the purchase of eight (8) custom container dormitories, which will provide an additional 38 beds from Linked Equipment under Resolution 2023-140 for installation as part of Phase IV interim facilities; and

WHEREAS, Phase IV-Custom Containers do not include permanent bathrooms, which are part of the construction under Phase II-Site Improvements; and

WHEREAS, on October 17, 2023, City Council authorized United Site Services of California, Inc. to provide and maintain the temporary showers and restrooms to the Phase IV-Custom Containers until permanent facilities are available providing safe and sanitary bathroom facilities to serve the occupants of Phase IV under resolution 2023-213; and

WHEREAS, after entering into the Agreement with Contractor, the opening of the additional dorms under Phase IV-Custom Containers increased the shelter capacity from 48 beds to 86 beds; The increase in clients caused an increase in septic waste from the use of the

temporary restrooms and created a need to add handwashing stations throughout the TEHF due to lack of permanent water stations; and

WHEREAS, on May 21, 2024, the City Council authorized an Amendment to the Agreement to increase the scope of Contractor's services to include the additional weekly service day of waste tank removal fee, three (3) handwashing stations rental fee and one (1) service two (2) days per week fees for each handwashing stations and increase the monthly service total by the amount of \$3,3786 and extend the term from May 31, 2024 to June 30, 2025 which was approved by under Resolution No. 2024-067.

WHEREAS, the Amendment No. 2 to the General Services Agreement (Agreement) with United Site Services of California, Inc. (Contractor) attached hereto as Attachment 1 is required to extend the term of the Agreement by extending the expiration date of such term from June 30, 2025 to June 30, 2026 to continue providing temporary shower and restrooms facilities to the Phase IV-Custom Containers occupants at the TEHF until the permanent bathrooms are installed in Phase II-Site Improvements; and

WHEREAS, the Amendment No. 2 will: increase the total not-to-exceed amount to \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564; and

WHEREAS, Amendment No. 2 compensates the Contractor for the additional weekly service day of waste tank removal fee, three (3) handwashing stations rental fee and one (1) service two (2) days per week fees for each handwashing stations. The total compensation will include a one-time "delivery and pickup" charge and the fixed amount as set forth in Exhibits "B-2" of the Agreement. Contractor's total compensation under this Agreement as amended shall not exceed \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services.; and

WHEREAS, a Notice of Exemption was issued on October 16, 2020, for the TEHF in accordance with Government Code sections 65660-65662 for low barrier navigation Centers and Section 15269(c) of the California Environment Quality Act Guidelines(CEQA) and this proposed contract amendment increasing cleaning and sanitation services, without any facility expansion, is consistent with the project considered in the Notice of Exemption and no further environmental review is necessary and San Joaquin County, as the responsible entity under the National Environmental Protection Act (NEPA) for the federal grants related to this Project, conducted an Environmental Assessment in 2023 and released a Finding of No Significant Impact on January 18, 2024, in compliance with NEPA and applicable federal regulations; and

WHEREAS, The Tracy Homelessness Advisory Committee heard this item on February 20, 2025 and recommended that the City Council adopt this proposed Resolution; and

NOW THEREFORE, be it

RESOLVED: That the City Council for the City of Tracy hereby finds the actions approved by this resolution exempt from California Environmental Quality Act (CEQA) pursuant to Government Code sections 65660-65662 for low barrier navigation Centers and Section 15269(c) of the CEQA Guidelines. The proposed contract amendment increasing cleaning and sanitation services, without any facility expansion, is consistent with the project considered in the Notice of Exemption and no further environmental review is necessary; and be it further

RESOLVED: That San Joaquin County, as the responsible entity under the National Environmental Protection Act (NEPA) for the federal grants related to this Project, conducted an Environmental Assessment in 2023 and released a Finding of No Significant Impact on January 18, 2024, in compliance with NEPA and applicable federal regulations; and be it further

RESOLVED: That the City Council for the City of Tracy hereby approves Amendment No. 2 to the General Services Agreement with United Site Services of California, Inc. at the Temporary Emergency Housing Facility, CIP 71112, at 370 West Arbor Avenue, Tracy, CA 95304 (1) extend the term from June 30, 2025 to June 30, 2026; and (2) increase the total not-to-exceed amount to \$646,310 which would provide the additional funds needed for Fiscal Year 2024-2025 in the amount of \$135,183 and for Fiscal Year 2025-2026 in the amount of \$255,564 for additional sanitation services, and authorizes its execution;

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on March 4, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST:_____

NECY LOPEZ

Acting City Clerk and Clerk of the Council of the
City of Tracy, California

Exhibits:

- (1) Amendment No. 2 to GSA-United Site Services of California, Inc.

Exhibit A

CITY OF TRACY AMENDMENT NO. 2 TO

General Services Agreement with United Site Services of California, Inc.

This Amendment No. 2 (**Amendment**) to the General Service Agreement is made effective May 30, 2024 ("Effective Date") by and between the City of Tracy, a municipal corporation (**City**), and United Site Services of California, Inc., a California corporation (**Contractor**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A. The City and Contractor entered into a General Services Agreement (**Agreement**) for the Temporary Emergency Housing Facility (TEHF) to provide temporary shower and restrooms for Phase IV-Custom Containers occupants located at 370 W. Arbor Avenue, Tracy, CA 95304 which was approved by the City Council on October 17, 2023 under Resolution No. 2023-213.
- B. The opening of the additional dormitories under Phase IV-Custom Containers has caused an increase in septic waste from the use of the temporary restrooms and showers and City's requirement that Contractor add an additional service day of waste tank removal from two (2) days per week to three (3) days per week. The additional day of service will help maintain sanitary conditions by preventing the waste tanks from overflowing due to being too full.
- C. The opening of Phase IV-Custom Containers has increased the shelter capacity from 48 beds to 86 beds with additional increases to site capacity through 2025. The increase in shelter clients has created a need to add handwashing stations throughout the TEHF due lack of permanent water stations. The Contractor will install and provide three (3) handwashing stations and provide one (1) service, two (2) days per week for the handwashing stations. The handwashing stations will increase sanitation in a congregate setting, reduce spread of germs and increase the accessibility to clean water sources.
- D. On May 21, 2024 pursuant to Resolution No. 2024-067, parties executed Amendment No. 1 to the Agreement to increase the scope of Contractor's services to include the additional weekly service day of waste tank removal fee, three (3) handwashing stations rental fee and one (1) service two (2) days per week fees for each handwashing stations **and** increase the monthly service total by the amount of \$3,785.65 and extend the term from May 31, 2024 to June 30, 2025.
- E. Parties desire to enter into Amendment No. 2 extending the expiration date of such term from June 30, 2025 to June 30, 2026 and increasing the total NTE to \$646,309.
- H. This Amendment is being executed pursuant to Resolution No._____ approved by Tracy City Council on_____, 2025.

Now therefore, the Parties mutually agree as follows:

1. Terms of Amendment.

A. Section 2.1 is hereby amended by deleting the text of Section 2 in its entirety and substituting in place thereof the following underlined text:

“2.1 Term. The term of this Agreement shall begin on October 23, 2023, and end on June 30, 2026, unless terminated in accordance with Section 6.”

B. Section 3.1 is hereby amended by deleting the text Section 3 in its entirety and substituting in place thereof the following underlined text:

“3.1 Not to Exceed Amount. Contractor’s total compensation under this Agreement shall not exceed \$646,309.09 which would provide the additional funds needed for the current annual budget in the amount of \$135,182.07 and for the additional year with an annual budget of \$255,563.51. 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.”

C. Exhibits.

Exhibit B-2 “Compensation” attached hereto shall replace Exhibit “B” of the Agreement. For services performed by Contractor under this Agreement, City shall pay Contractor on a time and expense basis, at the billing rates set forth in Exhibit “B-2”.

3. Incorporation by Reference. This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. All capitalized terms used herein and not defined herein shall have the meanings set forth in the Agreement.

4. Effect of Amendment. This Amendment represents the complete and entire agreement and understanding between the parties and supersedes any prior agreement and understanding (written or oral) concerning the subject matter contained herein. Except as expressly modified by this Amendment, all provisions of the Agreement will remain unchanged and in full force and effect. The parties hereto acknowledge and agree that the recitals set forth are true and correct and are incorporated into this Amendment. This Amendment will not be binding until fully executed by the parties.

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

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

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

City of Tracy

By: Dan Arriola

Title: Mayor

Date: _____

Attest:

Adrienne Richardson, City Clerk

United Site Services of California, Inc.

By: Jeff Dunlop

Title: Vice President

Date: 14 Feb 25

Federal Employer Tax ID No. 20-0968969

By: Sean McDowell

Title: Director of Contracts

Date: 14 Feb 25

Approved as to form:

By:

Kamal Gill, Deputy City Attorney

EXHIBITS:

B-2 Compensation

EXHIBIT B-2 Compensation

Temporary Restroom and Shower Trailers Billing Rates

Item	Unit Qty	Unit Price	Duration/Service Date	Charge Type	Total Charges	Taxable
Current Billing Period						
Restroom Trailer, Gold, Small (3-4 Stalls) (Restroom Trailer, Gold, Small)						
Rental Charge	1	\$2,375.00	11/1/2024 - 11/30/2024	Recurring	\$2,375.00	Y
3 Service per Week, Empty Waste Tank	1	\$1,828.00	11/1/2024 - 11/30/2024	Recurring	\$1,828.00	N
Restock Service	1	\$100.00	11/1/2024 - 11/30/2024	Recurring	\$100.00	N
Restroom Trailer, Gold, Small (3-4 Stalls) Subtotal					\$4,303.00	
Restroom Trailer, Gold, Compact (1-2 Stalls) - ADA Compliant (Restroom Trailer, Gold, Compact ADA)						
Rental Charge	1	\$2,715.00	11/1/2024 - 11/30/2024	Recurring	\$2,715.00	Y
3 Service per Week, Empty Waste Tank	1	\$1,828.00	11/1/2024 - 11/30/2024	Recurring	\$1,828.00	N
Restock Service	1	\$100.00	11/1/2024 - 11/30/2024	Recurring	\$100.00	N
Restroom Trailer, Gold, Compact (1-2 Stalls) - ADA Compliant Subtotal					\$4,643.00	
Shower Trailer, Gold, Large (7-8 Stalls) (Shower Trailer, Gold, Large)						
Rental Charge	1	\$7,000.00	11/1/2024 - 11/30/2024	Recurring	\$7,000.00	Y
3 Service per Week, Empty Waste Tank	1	\$3,290.00	11/1/2024 - 11/30/2024	Recurring	\$3,290.00	N
Restock Service	1	\$100.00	11/1/2024 - 11/30/2024	Recurring	\$100.00	N
Shower Trailer, Gold, Large (7-8 Stalls) Subtotal					\$10,390.00	
Site Subtotal Excluding Tax					\$19,336.00	
Site Tax					\$997.45	
Site Subtotal					\$20,333.45	

Invoice Total	\$20,333.45
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Other One-Time Charges

Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$2269.50	Y

Subtotal One-Time	\$2,269.50
Tax One-Time	\$187.29
Total One-Time	\$2,456.79

Grand Total	\$22,790.24
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EXHIBIT B-2 Compensation (continued)

Handwashing Station Billing Rates

Item	Unit Qty	Unit Price	Duration/Service Date	Charge Type	Total Charges	Taxable
Current Billing Period						
2 Station Hand Wash Sink (2 Stn Hand Sink)						
Rental Charge	3	\$43.00	11/1/2024 - 11/30/2024	Recurring	\$129.00	Y
1 Service 2 Days per Week	3	\$200.00	11/1/2024 - 11/30/2024	Recurring	\$600.00	N
2 Station Hand Wash Sink Subtotal					\$729.00	
Site Subtotal Excluding Tax					\$729.00	
Site Tax					\$10.65	
Site Subtotal					\$739.65	

Invoice Total	\$739.65
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Other One-Time Charges			
Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$212.00	Y

Subtotal Recurring	\$729.00
Tax Recurring	\$10.65
Total Recurring	\$739.65

Subtotal One-Time	\$212.00
Tax One-Time	\$17.52
Total One-Time	\$229.52

Grand Total	\$969.17
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EXHIBIT B-2 Compensation (continued)

Temporary Restroom and Shower Trailers Billing Rates

Subtotal Recurring	\$19,336.00
Tax Recurring	\$997.45
Total Recurring	\$20,333.45

Subtotal One-Time	\$2,269.50
Tax One-Time	\$187.29
Total One-Time	\$2,456.79

Handwashing Stations Billing Rates

Subtotal Recurring	\$729.00
Tax Recurring	\$10.65
Total Recurring	\$739.65

Subtotal One-Time	\$212.00
Tax One-Time	\$17.52
Total One-Time	\$229.52

Projected Rental Period: May 31, 2024 to June 30, 2026

Projected NTE: \$646,309.09

United Site Services	Contract #: 3500490	Funds
Vendor #: 12803	Original NTE:	\$ 255,563.51
	Expended in FY 23/24	\$ (136,582.97)
	Expended in FY 24/25 (As of 12.31.24)	\$ (107,390.56)
Temporary Restroom for Phase IV-Custom Containers. Addt'l waste removal service day and installing 3 handwashing stations.	Current NTE Balance:	\$ 11,589.98
	Total Projected to Spend in FY 24/25	\$ (146,772.05)
	Total difference = Additional needed for FY24/25	\$ 135,182.07
	Original NTE:	\$ 255,563.51
	Additional needed for FY24/25	\$ 135,182.07
	Projected Annual Budget FY 25/26	\$ 255,563.51
	Overall NTE Needed: \$ 646,309.09	

CITY OF TRACY
AMENDMENT NO. 1 TO
General Services Agreement with United Site Services of California, Inc.

This Amendment No. 1 (**Amendment**) to the General Service Agreement is made effective May 30, 2024 ("Effective Date") by and between the City of Tracy, a municipal corporation (**City**), and United Site Services of California, Inc., a California corporation (**Contractor**). City and Consultant are referred to individually as "**Party**" and collectively as "**Parties**."

Recitals

- A.** The City and Contractor entered into a General Services Agreement (**Agreement**) for the Temporary Emergency Housing Facility (TEHF) to provide temporary shower and restrooms for Phase IV-Custom Containers occupants located at 370 W. Arbor Avenue, Tracy, CA 95304 which was approved by the City Council on October 17, 2023 under Resolution No. 2023-213.
- B.** The opening of the additional dormitories under Phase IV-Custom Containers has caused an increase in septic waste from the use of the temporary restrooms and showers and City's requirement that Contractor add an additional service day of waste tank removal from two (2) days per week to three (3) days per week. The additional day of service will help maintain sanitary conditions by preventing the waste tanks from overflowing due to being too full.
- C.** The opening of Phase IV-Custom Containers has increased the shelter capacity from 48 beds to 86 beds. The increase in shelter clients has created a need to add handwashing stations throughout the TEHF due lack of permanent water stations. The Contractor will install and provide three (3) handwashing stations and provide one (1) service, two (2) days per week for the handwashing stations. The handwashing stations will increase sanitation in a congregate setting, reduce spread of germs and increase the accessibility to clean water sources.
- D.** The City and Contractor now seek to amend the Agreement to increase the scope of Contractor's services to include the additional weekly service day of waste tank removal fee, three (3) handwashing stations rental fee and one (1) service two (2) days per week fees for each handwashing stations **and** increase the monthly service total by the amount of \$3,785.65.
- E.** The City and Contractor desire to amend the term of the Agreement by extending the expiration date of such term from May 31,2024 to June 30, 2025.
- F.** This Amendment is being executed pursuant to Resolution No. 2024-067 approved by Tracy City Council on May 21, 2024.

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

Now therefore, the Parties mutually agree as follows:

1. Terms of Amendment.

A. Section 1 of the Agreement is hereby amended by deleting the text of Section 1 in its entirety and substituting in place thereof the following underlined text:

1. Scope of Work. Contractor shall perform the services described in Exhibit “A-1” attached and incorporated by reference. The services shall be performed by, or under the direct supervision of, Contractor’s Authorized Representative: Ray Lomas IV, Territory Account Manager. Contractor shall not replace its Authorized Representative, nor shall Contractor replace any of the personnel listed in Exhibit “A-1” 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.

B. Section 2.1 is hereby amended by deleting the text of Section 2 in its entirety and substituting in place thereof the following underlined text:

“2.1 Term. The term of this Agreement shall begin on October 23, 2023, and end on June 30, 2025, unless terminated in accordance with Section 6.”

C. Section 3 is hereby amended by deleting the text of the first paragraph of Section 3 only and substituting in place thereof the following underlined text:

“3. Compensation. City shall pay Contractor a fixed amount as set forth in Exhibits “B-1” attached and incorporated by reference for services performed under this Agreement. City shall also pay a one-time “delivery and pickup” charge.”

D. Section 3.1 is hereby amended by deleting the text Section 3 in its entirety and substituting in place thereof the following underlined text:

“3.1 Not to Exceed Amount. Contractor’s total compensation under this Agreement shall not exceed \$255,563.51. 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.

E. Exhibits.

Exhibit A-1 “Scope of Services” attached hereto shall replace Exhibit “A” of the Agreement. Contractor is responsible for completing all task identified in Exhibit “A-1”.

Exhibit B-1 “Compensation” attached hereto shall replace Exhibit “B” of the Agreement. For services performed by Contractor under this Agreement, City shall pay Contractor on a time and expense basis, at the billing rates set forth in Exhibit “B-1”.

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

3. Incorporation by Reference. This Amendment incorporates by reference all terms set forth in the Agreement, unless specifically modified by this Amendment. All capitalized terms used herein and not defined herein shall have the meanings set forth in the Agreement.

4. Effect of Amendment. This Amendment represents the complete and entire agreement and understanding between the parties and supersedes any prior agreement and understanding (written or oral) concerning the subject matter contained herein. Except as expressly modified by this Amendment, all provisions of the Agreement will remain unchanged and in full force and effect. The parties hereto acknowledge and agree that the recitals set forth are true and correct and are incorporated into this Amendment. This Amendment will not be binding until fully executed by the parties.

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

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

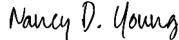
[SIGNATURES ON FOLLOWING PAGE]

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the Effective Date.

City of Tracy

Signed by:

 Nancy D. Young

3FB3DE19EF4C462...

By: Nancy D. Young

Title: Mayor

Date: 9/26/2024 | 10:38 AM PDT

United Site Services of California, Inc.

DocuSigned by:

 Jeff Dunlop

EBF2DD9614AE483...

By: Jeff Dunlop

Title: Vice President

Date: 9/3/2024 | 3:01 PM PDT

Federal Employer Tax ID No. 20-0968969

Attest:

DocuSigned by:

 Adrienne Richardson

9/26/2024 | 10:57 AM PDT

Adrienne Richardson, City Clerk

DocuSigned by:

 Sean McDowell

6B0725496C60449...

By: Sean McDowell

Title: Director of Contracts

Date: 9/6/2024 | 6:44 AM PDT

Approved as to form:

Signed by:

By:

 Kamal Gill

9/26/2024 | 10:24 AM PDT

Deputy City Attorney for Bijal

M. Patel, City Attorney

EXHIBITS:

A-1 Scope of Work

B-1 Compensation

EXHIBIT A-1 Scope of Work

Installation and Service of Temporary Restrooms and Showers

Trailer Bundle Configuration:

- Restroom Trailer, Gold, Small (3-4 Stalls)
- Power Requirements: 1-3 20AMP 110V on separate breaker
- 3 Service per Week, Empty Waste Tank
- Restock Service

Trailer Bundle Configuration:

- Restroom Trailer, Gold, Compact (1-2 Stalls)-ADA Compliant
- Power Requirements: 1-3 20AMP 110V on separate breaker
- 3 Service per Week, Empty Waste Tank
- Restock Service

Trailer Bundle Configuration:

- Shower Trailer, Gold, Large (7-8 Stalls)
- Power Requirements: 2-4 20AMP 110V on separate breaker
- 3 Service per Week, Empty Waste Tank
- Restock Service
- Permit Fee

Hand Cleaning Bundle Configuration

- 2 Station Hand Wash Sink (3 Handwashing Stations)
- 1 Service 2 Days per Week for each handwashing station

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation

Temporary Restroom and Shower Trailers Billing Rates

Item	Unit	Unit Price	Qty	Charge Type	Total Charge	Tax
Trailer Bundle Configuration Estimated Delivery 03-02-24						
Restroom Trailer, Gold, Small (3-4 Stalls) Power Requirements: 1-4 20AMP 110V on separate breaker	EA	\$2375.00	1	Recurring	\$2375.00	Y
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
3 Service per Week, Empty Waste Tank	EA	\$1828.00	1	Recurring	\$1828.00	N
Trailer Bundle Configuration Estimated Delivery 03-02-24						
Restroom Trailer, Gold, Compact (1-2 Stalls) - ADA Compliant Power Requirements: 1-3 20AMP 110V on separate breaker	EA	\$2715.00	1	Recurring	\$2715.00	Y
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
3 Service per Week, Empty Waste Tank	EA	\$1828.00	1	Recurring	\$1828.00	N
Trailer Bundle Configuration Estimated Delivery 03-02-24						
Shower Trailer, Gold, Large (7-8 Stalls) Power Requirements: 2-4 20AMP 110V on separate breaker	EA	\$7000.00	1	Recurring	\$7000.00	Y
Restock Service	EA	\$100.00	1	Recurring	\$100.00	N
3 Service per Week, Empty Waste Tank	EA	\$3290.00	1	Recurring	\$3290.00	N
Permit Fee	EA	\$0.00	1	One-Time	\$0.00	N

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation (continued)

Other One-Time Charges

Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$2269.50	Y
Subtotal Recurring		\$19,336.00	
Tax Recurring		\$997.45	
Total Recurring		\$20,333.45	
Subtotal One-Time		\$2,269.50	
Tax One-Time		\$187.29	
Total One-Time		\$2,456.79	
Grand Total		\$22,790.24	

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation (continued)

Handwashing Station Billing Rates

Item	Unit	Unit Price	Qty	Charge Type	Total Charge	Tax
Hand Cleaning Bundle Configuration Estimated Delivery 04-16-24						
1 Service 2 Days per Week	EA	\$200.00	3	Recurring	\$600.00	N
2 Station Hand Wash Sink	EA	\$43.00	3	Recurring	\$129.00	Y

Other One-Time Charges

Item	Charge Type	Total Charge	Tax
Delivery and Pickup	One-Time	\$212.00	Y
Subtotal Recurring		\$729.00	
Tax Recurring		\$10.65	
Total Recurring		\$739.65	
Subtotal One-Time		\$212.00	
Tax One-Time		\$17.52	
Total One-Time		\$229.52	
Grand Total		\$969.17	

City of Tracy – Amendment No. 1 to the General Services Agreement with United Site Services of California, Inc.

EXHIBIT B-1 Compensation (continued)

Temporary Restroom and Shower Trailers Billing Rates

Subtotal Recurring	\$19,336.00
Tax Recurring	\$997.45
Total Recurring	\$20,333.45

Subtotal One-Time	\$2,269.50
Tax One-Time	\$187.29
Total One-Time	\$2,456.79

Handwashing Stations Billing Rates

Subtotal Recurring	\$729.00
Tax Recurring	\$10.65
Total Recurring	\$739.65

Subtotal One-Time	\$212.00
Tax One-Time	\$17.52
Total One-Time	\$229.52

Temporary Restroom/Shower Trailers Monthly Rental Rate:	\$20,333.45
Handwashing Stations Monthly Rental Rate:	\$739.65
Total Recurring Monthly Rental Rate:	\$21,073.10

Temporary Restroom/Shower Trailers One-Time Fee:	\$2,456.79
Handwashing Stations One-Time Fee:	\$229.52
Total One-Time Fee	\$2,686.31

Projected Rental Period: June 1, 2024 to June 30, 2025
Projected NTE: \$255,563.51

March 4, 2025

Agenda Item 1.D

RECOMMENDATION

The Tracy Homelessness Advisory Committee recommend that the City Council adopt a resolution: (1) Authorizing the acceptance of a grant award from the Emergency Food and Shelter Program ARPA R allocation in the amount of \$18,282 to support the cost of meals and shelter bed nights at the Temporary Emergency Housing Facility Project Capital Improvement Project CIP 71112; and (2) Appropriating the full grant funds to the Parks, Recreation and Community Services Department, Homeless Services Division for Fiscal Year 2024-2025.

EXECUTIVE SUMMARY

This agenda item seeks adoption of a resolution by the City Council authorizing the acceptance of a grant of \$18,282 from the Emergency Food and Shelter Program (EFSP) ARPA R allocation to support the cost of meals and shelter bed nights at the Temporary Emergency Housing Facility Project (TEHF), Capital Improvement Project (CIP) 71112. Staff also requests the City Council appropriate the full grant funds to the Parks, Recreation and Community Services Department, Homeless Service Division, for Fiscal Year 2024-2025 (FY24/25). No match from the City of Tracy (City) is required to receive this grant.

The Tracy Homelessness Advisory Committee heard this item on February 20, 2025 and recommends that the City Council adopt the proposed Resolution.

BACKGROUND AND LEGISLATIVE HISTORY

The Emergency Food and Shelter Program (EFSP) was created by Congress in 1983 to help meet the needs of hungry and unhoused people throughout the United States and its territories by allocating federal funds for the provision of food and shelter.

Pursuant to Council's reaffirmation of the emergency shelter crisis in August of 2022, the City Manager authorized staff to identify interim housing options for the unsheltered population within the City limits. This effort not only focuses on the housing and support, but also to prepare the residents for self-sufficiency. As a result, the development of a "Campus Concept" emerged where temporary housing and supportive services would be provided to the unsheltered population. The work to develop and provide services at this "campus" has continued and has grown to include identifying and applying for ways to offset the cost of construction, services and support provided to the unhoused residents of the campus, which has been named the Temporary Emergency Housing Facility (TEHF).

The 2024 San Joaquin County Continuum of Care Point In Time Count found that 200 unsheltered homeless individuals are living within Tracy's city limits, with 98 of them in shelter. Recognizing the importance of responding to quality-of-life issues, including the human services needs of the City's unsheltered population, the City has devoted significant resources toward addressing the impacts of homelessness within the community. Staff continues to coordinate efforts between various departments to conduct bi-weekly clean-ups of public spaces, foster partnerships with non-profit organizations to

share information on services and programs with the unsheltered, secure grants to support homeless services, and continue with the construction activities of the TEHF. City staff has worked vigorously to balance the circumstances of the unsheltered, as well as the needs of the community.

In May of 2024, the City was notified by United Way of San Joaquin County that funding was made available under the Emergency Food and Shelter Program board, Phase 41, to be utilized to supplement or extend existing resources for shelter bed nights and meals at the TEHF. In May of 2024, the City submitted a proposal, budget and Homeless Management Information System report verifying shelter bed nights to the EFSP through San Joaquin County United Way. On July 29, 2024, the City was notified that funding was awarded to the City in the amount of \$12,968 to be utilized for the costs of meals and shelter bed nights at the TEHF. The City was eligible for this funding because we are operating a shelter, offering shelter beds, and supplying meals to unsheltered residents. In addition, on December 13, 2024, the City was made aware of an additional allocation of ARPA R funds of \$18,282 which was made possible by the City's original Phase 41 application.

ANALYSIS AND DISCUSSION

The EFSP was created by Congress in 1983 to help meet the needs of hungry and unsheltered people throughout the United States and its territories by allocating federal funds for the provision of food and shelter. The EFSP supplements the amount of money available for the cost of shelter bed nights and meals to eligible organizations on a yearly basis. Money is available every year as phases and is tracked through the EFSP portal. This is the City's very first year applying for this funding stream and the funding allocated to the City was based on the services shelter bed nights and meals that were provided to unsheltered between July 1, 2022-June 30, 2023. Based on the information provided by the City the EFSP provided \$12,968 in grant funds to be used to supplement/extend existing resources and not to substitute or reimburse ongoing programs and services. In addition, on December 13, 2024, the City was made aware of an additional allocation of ARPA R funds of \$18,282 which was made possible by the City's original Phase 41 application.

FISCAL IMPACT

The Parks, Recreation and Community Services Department, Homeless Services Division will receive an additional \$18,282 dollars in grant funds from the Emergency Food and Shelter Program ARPA R allocation. The \$18,282 dollar grant is to be appropriated to the FY24/25 Homeless Services Division operating budget. No City match is required.

CEQA DETERMINATION

A Notice of Exemption was issued on October 16, 2020, for the TEHF in accordance with Government Code sections 65660-65662 for low barrier navigation Centers and Section 15269(c) of the CEQA Guidelines. This action is consistent with the project considered in the Notice of Exemption and no further environmental review is necessary.

San Joaquin County, as the responsible entity under the National Environmental Protection Act (NEPA) for the federal grants related to this Project, conducted an Environmental Assessment in 2023 and released a Finding of No Significant Impact on January 18, 2024, in compliance with NEPA and applicable federal regulations.

STRATEGIC PLAN

This agenda item supports City Council's Homelessness Strategic Plan.

ACTION REQUESTED OF THE CITY COUNCIL

The Tracy Homelessness Advisory Committee recommend that the City Council adopt a resolution: (1) Authorizing the acceptance of a grant award from the Emergency Food and Shelter Program ARPA R allocation in the amount of \$18,282 to support the cost of meals and shelter bed nights at the Temporary Emergency Housing Facility Project Capital Improvement Project CIP 71112; and (2) Appropriating the full grant funds to the Parks, Recreation and Community Services Department, Homeless Services Division for Fiscal Year 2024-2025.

Prepared by: Virginia Carney, Homeless Services Manager

Reviewed by: Sara Castro, Director of Finance

Brian MacDonald, Director of Parks, Recreation and Community Services

Arturo M. Sanchez, Assistant City Manager

Matthew Summers, Interim Assistant City Attorney

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Emergency Food and Shelter National Board Program Phase 41 ARPA R Local Recipient Organization Certification

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM PHASE ARPAR LOCAL RECIPIENT ORGANIZATION CERTIFICATION

By signing this Local Recipient Organization (LRO) Certification Form, our agency certifies we have read and understand the Emergency Food and Shelter Program (EFSP) Phase 39 and ARPAR Responsibilities and Requirements Manual, including the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions as well as the Eligible and Ineligible Costs and Documentation sections and agree to comply with all program requirements. Our agency understands that all parties will be held accountable for complying with the provisions of the grant as well as full compliance with applicable requirements of all other Federal laws, Executive Orders, regulations, and policies governing this program including those not specifically stated in the Manual. All appropriate staff and volunteers have been informed of EFSP requirements. The Local Board has been provided and we have retained a copy of this form for our records.

I certify that my public or private agency:

- Has the capability to provide emergency food and/or shelter services.
- Will use funds to supplement/extend existing resources and not to substitute or reimburse ongoing programs and services.
- Is nonprofit or an agency of government.
- Will not use EFSP funds as a cost-match for other Federal funds or programs.
- Has an accounting system, and will pay all vendors by an approved method of payment.
- Understands that cash payments (including petty cash) are not eligible under EFSP.
- Conducts an independent annual review if receiving \$50,000-\$99,999/an independent annual audit if receiving \$100,000 or more in EFSP funds, and follows OMB's Uniformed Guidance if receiving \$750,000 or more in Federal funding.
- **Has not received an adverse or no opinion audit.**
- Is not debarred or suspended from receiving Federal funds.
- Has provided a Federal Employer Identification Number (FEIN) to EFSP.
- Has provided a Data Universal Number System (DUNS) number issued by Dun & Bradstreet (D&B) and required associated information to EFSP.
- Practices non-discrimination (agencies with a religious affiliation, will not refuse service to an applicant based on religion, nor engage in religious proselytizing or religious counseling in any program receiving Federal funds).
- Will not charge a fee to clients for EFSP funded services.
- Has a voluntary board if private, not-for-profit.
- Will provide all required reports to the Local Board in a timely manner; (i.e., Second Payment/Interim Request and Final Reports).
- Will expend monies only on eligible costs and keep complete documentation (copies of canceled LRO checks -- front and back, other proof of payment, invoices, receipts, etc.) on all expenditures for a minimum of three years after end-of-program date, and for compliance issues until resolved.
- Will spend all funds and close-out the program by my jurisdiction's selected end-of-program date and return any unused funds (\$5.00 or more) to the National Board.
- Will provide complete, accurate documentation of expenses to the Local Board, if requested, following my jurisdiction's selected end-of-program date.
- Has no known EFSP compliance exceptions in this or any other jurisdiction.
- Will not use EFSP funding for any lobbying activities and if receiving \$100,000 or more, will provide the "Certification Regarding Lobbying" and, if applicable, will complete Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- Will not and will ensure its employees, volunteers or other individuals associated with the program will not engage in any trafficking of persons during the period this award is in effect.
- Will not and will ensure its employees, volunteers or other individuals associated with the program will not use EFSP funds to support access to classified national security information.

PLEASE ENSURE THIS INFORMATION IS ACCURATE BEFORE SIGNING.

LRO ID #: 086000033
 FEIN #: 94-6000442
 DUNS#: **EWFNF9GM6U4**
 LRO Legal Name: City of Tracy
 Address: 333 Civic Center Plaza Tracy CALIFORNIA 95304
 Phone #: 209-831-6119
 Fax #:
 Email: virginia.carney@cityoftracy.org
 LRO Contact: Virginia Carney

Signature:

Dan Arriola/Mayor

Date:

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

(1) AUTHORIZING THE ACCEPTANCE OF A GRANT AWARD FROM EMERGENCY FOOD AND SHELTER PROGRAM ARPA R ALLOCATION IN THE AMOUNT OF \$18,282 TO SUPPORT THE COST OF MEALS AND SHELTER BED NIGHTS AT THE TEMPORARY EMERGENCY HOUSING FACILITY PROJECT (CIP 71112); AND

(2) APPROPRIATING THE FULL GRANT FUNDS TO THE PARKS, RECREATION AND COMMUNITY SERVICES DEPARTMENT, HOMELESS SERVICES DIVISION FOR FISCAL YEAR 2024/2025

WHEREAS, pursuant to the City Council's reaffirmation of the emergency shelter crisis in August of 2022, the City Manager authorized staff to identify permanent and emergency alternative housing options for the unsheltered population within the city limits; and

WHEREAS, this effort not only focuses on the housing and support, but also to prepare the residents for self-sufficiency which resulted in the development of a "Campus Concept" where temporary housing and Supportive Services would be provided to the unsheltered population; and

WHEREAS, the work to develop and provide services at this "campus" has continued and has grown to include identifying and applying for ways to offset the cost of construction, services and support provided to the unhoused residents of the campus, which has been named the Temporary Emergency Housing Facility (TEHF); and

WHEREAS, the 2024 San Joaquin County Continuum of Care Point In Time Count reflects 200 unsheltered homeless individuals living within Tracy's city limits, with 98 of them in TEHF; and

WHEREAS, staff continues to coordinate efforts between various departments to conduct bi-weekly clean-ups of public spaces, foster partnerships with non-profit organizations to share information on services and programs with the unsheltered, secure grants to support homeless services, and continue with the construction activities of the TEHF; and

WHEREAS, in May of 2024, the City of Tracy was notified that funding was made available to apply for under the Emergency Food and Shelter Program Phase 41 through United Way of San Joaquin County to be reimbursed for shelter bed nights and meals at the Temporary Emergency Housing Facility; and

WHEREAS, in May of 2024, the City of Tracy submitted a proposal and budget to the Emergency Food and Shelter Program administrative entity, the United Way of San Joaquin County for reimbursement of shelter bed nights and meals at the Temporary Emergency Housing Facility; and

WHEREAS, on December 13, 2024, the City of Tracy was notified that funding was awarded to the City of Tracy for reimbursement of the cost of meals and shelter bed nights at the Temporary Emergency Housing Facility; and

WHEREAS, the Temporary Emergency Housing Facility is part of the overall shelter campus project, parts of which are in various phases of design, development, and/or construction; and

WHEREAS, the grant funding will be used to cover operations expenses of shelter bed nights and meals, for those seeking shelter within the City limits; and

WHEREAS, the City of Tracy will collaborate with the Emergency Food and Shelter Program to provide additional resources and support to the City's unsheltered population as they are housed; and

WHEREAS, there is no local match required for the acceptance of this grant; and

WHEREAS, a Notice of Exemption was issued on October 16, 2020, for the TEHF in accordance with Government Code sections 65660-65662 for low barrier navigation Centers and Section 15269(c) of the CEQA Guidelines. This action is consistent with the project considered in the Notice of Exemption and no further environmental review is necessary. San Joaquin County, as the responsible entity under the National Environmental Protection Act (NEPA) for the federal grants related to this Project, conducted an Environmental Assessment in 2023 and released a Finding of No Significant Impact on January 18, 2024, in compliance with NEPA and applicable federal regulations; and

WHEREAS, The Tracy Homelessness Advisory Committee heard this item on February 20, 2025 and recommended that the City Council adopt the proposed Resolution; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby accepts the grant award from the Emergency Food and Shelter Program ARPA R allocation in the amount of \$18,282 dollars as reflected in Exhibit A, to support operation costs at the Temporary Emergency Housing Facility, (CIP 71112) and authorizes the execution of relevant documents needed to effectuate the grant; and be it

FURTHER RESOLVED: That the City Council hereby appropriates the \$18,282 dollars of the total grant funds to Parks, Recreation and Community Services Department, Homeless Services Division; and be it

FURTHER RESOLVED: That the City Council finds that this action is exempt from California Environmental Quality Act (CEQA) pursuant to the Notice of Exemption issued on October 16, 2020, for the TEHF in accordance with Government Code sections 65660-65662 for low barrier navigation Centers and Section 15269(c) of the CEQA Guidelines and this action is consistent with the project considered in the Notice of Exemption and no further environmental review is necessary. San Joaquin County, as the responsible entity under the National Environmental Protection Act (NEPA) for the federal grants related to this Project, conducted an Environmental Assessment in 2023 and released a Finding of No Significant Impact on January 18, 2024, in compliance with NEPA and applicable federal regulations.

The foregoing Resolution 2025-____ was adopted by the Tracy City Council on March 4, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST: _____
NECY LOPEZ
Acting City Clerk and Clerk of the
Council of the City of Tracy, California

Exhibits:

(A) Emergency Food and Shelter National Board Program Phase 41 ARPA R Local
Recipient Organization Certification

EMERGENCY FOOD AND SHELTER NATIONAL BOARD PROGRAM PHASE ARPAR LOCAL RECIPIENT ORGANIZATION CERTIFICATION

By signing this Local Recipient Organization (LRO) Certification Form, our agency certifies we have read and understand the Emergency Food and Shelter Program (EFSP) Phase 39 and ARPAR Responsibilities and Requirements Manual, including the Grant Agreement Articles, Financial Terms and Conditions, and Other Terms and Conditions as well as the Eligible and Ineligible Costs and Documentation sections and agree to comply with all program requirements. Our agency understands that all parties will be held accountable for complying with the provisions of the grant as well as full compliance with applicable requirements of all other Federal laws, Executive Orders, regulations, and policies governing this program including those not specifically stated in the Manual. All appropriate staff and volunteers have been informed of EFSP requirements. The Local Board has been provided and we have retained a copy of this form for our records.

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- Understands that cash payments (including petty cash) are not eligible under EFSP.
- Conducts an independent annual review if receiving \$50,000-\$99,999/an independent annual audit if receiving \$100,000 or more in EFSP funds, and follows OMB's Uniformed Guidance if receiving \$750,000 or more in Federal funding.
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- Will not use EFSP funding for any lobbying activities and if receiving \$100,000 or more, will provide the "Certification Regarding Lobbying" and, if applicable, will complete Standard Form LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- Will not and will ensure its employees, volunteers or other individuals associated with the program will not engage in any trafficking of persons during the period this award is in effect.
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PLEASE ENSURE THIS INFORMATION IS ACCURATE BEFORE SIGNING.

LRO ID #: 086000033
 FEIN #: 94-6000442
 DUNS#: **EWFNF9GM6U4**
 LRO Legal Name: City of Tracy
 Address: 333 Civic Center Plaza Tracy CALIFORNIA 95304
 Phone #: 209-831-6119
 Fax #:
 Email: virginia.carney@cityoftracy.org
 LRO Contact: Virginia Carney

Signature:
Dan Arriola/Mayor

Date:

March 4, 2025

Agenda Item 1.E

RECOMMENDATION

Staff recommends that the City Council adopt a resolution approving (1) making a determination that compliance with standard procurement process is not in the best interest of the City and dispensing with the procurement requirements for certain software services pursuant to Tracy Municipal Code Section 2.20.140; and (2) the execution of an amendment to an existing contract with Granicus adding services to redesign and modernize the City's website and extending the term for an additional 4 years for a total not-to exceed amount of \$102,400 annually.

EXECUTIVE SUMMARY

The City of Tracy has been utilizing Granicus, LLC services since 2017 to support agenda management, live streaming of City Council meetings, and other government transparency initiatives. To further enhance the City's digital web presence and meet website ADA compliance requirements by the January 1, 2026, deadline, staff proposes migrating to a new Content Management System (CMS) and conducting a complete website redesign.

This initiative will significantly improve the user experience through a robust implementation process, including content cleanup and restructuring of the City's information architecture. Additionally, the new CMS will integrate digital forms, enabling on-demand services for residents. This will allow the City to digitize services and PDFs, providing self-service options for residents and simplifying how staff receive and manage submissions.

BACKGROUND AND LEGISLATIVE HISTORY

The City of Tracy first began using the Granicus software in 2017 with a Master Service Agreement for the purchase of the Granicus Open Platform and Government Transparency Suite that supports and enables unlimited government public meeting content streaming, storage, and distribution. This includes integration and timestamps with agenda items to index the video. Also included is a hardware encoder that allows for live and on-demand streaming on computers, tables, phones, etc. This appliance supports the use of HTML4 and Flash compatible streaming delivery.

The second amendment to the Granicus Service Agreement, dated June 22, 2017, adds a product called Peak Agenda Management. This software as a Service Solution enables government organizations to simplify the agenda management process of the City Clerk's Office. It allows Clerks to streamline the way they compile and produce agendas for public meetings.

The third amendment also dated June 22, 2017, adds the product called govAccess and includes its implementation. The govAccess product allows staff to create and manage content that informs, engages, and serves the community. It has a web-front end that is mobile friendly and has a built-in content management system all hosted by Granicus, LLC.

The fourth amendment is an upgrade of the encoding device to Standard Definition for TVs at a resolution of 720p streaming. This amendment is also dated June 22, 2017.

The fifth amendment also dated June 22, 2017, is for the content migration of 1,100 pages into the new govAccess website.

A new contract was approved by City Council on December 5, 2023 for an annual not to exceed amount of \$93,564. This amendment adds services and extends the duration out for 5 years.

In summary, the Granicus software has provided efficiencies and met the expectations of the organization. Granicus, LLC. is the market leader in providing agenda management, streaming, and transparency products for many agencies, including cities, community service districts, and other government and not for profit agencies, etc.

The reasons for the City of Tracy's continued use of Granicus, LLC. services as a sole provider and to dispense the procurement requirements for this Agreement pursuant to Tracy Municipal Code Section 2.20.140(b):

- The City has gained much experience in using the Granicus Suite of products.
- Granicus, LLC. is the market leader and offers high quality mature products and services.
- Granicus, LLC. support for their products has been adequate.
- The cost to switch and the time required to switch from Granicus, LLC. services would distract the team from reaching the City's Strategic Objectives.
- The cost to renew the software and services has been stable and predictable.
- The application meets IT Security Standards.
- The organization has been fully trained on how to use the products and services. Continued training will be provided from Granicus, LLC. once the website moves to the new CMS.

The proposed additional services align with the City's strategic goals to enhance community outreach and engagement and ensure compliance with new ADA standard requirements that will be put in place on January 1, 2026. With the existing contracts in place between Granicus and the City, adjusting the scope of work to include the new CMS for the website will allow the City to move quickly and meet the January 1, 2026, deadline for ADA compliance. Since the City currently uses Granicus for a variety of services it is paramount in meeting the above deadline to have proposed additional services so the City may have a seamless and speedy integration with other services that are contracted through Granicus. Approving the proposed contract with Granicus is in the best interest of the City as this software provider is best suited to complete the needed improvements to the City's website, a critical public communications and safety tool, quickly.

The additional services from Granicus, LLC. include:

1. Migration to a New CMS and Website Redesign:
 - A complete redesign of the City's website to improve user experience which will allow residents and stakeholders to easily find relevant and updated information.
 - Content cleanup and restructuring of the information architecture which will remove outdated information.
 - Ensuring ADA compliance by the January 1, 2026, deadline helping to ensure that everyone can access information.

2. Digital Forms Integration:

- Digitization of services and PDFs to enable self-service functions for residents.
- Simplification of submission management for City staff.

Table 1: Financial Summary by year.

Solution(s)	Period of Performance					
	One Time Fee	Year 1	Year 2	Year 3	Year 4	Year 5
Granicus Web - Enhanced Package	\$31,500.00					
Government Transparency Suite		\$12,204.07	\$12,204.07	\$12,204.07	\$12,204.07	\$12,204.07
Upgrade to SDI 720p Streaming		\$2,650.73	\$2,836.28	\$3,034.82	\$3,247.26	\$3,474.26
Granicus Encoding Appliance Software (GT)		\$1,753.46	\$1,876.21	\$2,007.54	\$2,148.07	\$2,298.43
Open Platform Suite		\$5,960.02	\$6,377.22	\$6,823.62	\$7,301.28	\$7,812.37
Agenda Automation - Tier 1		\$13,336.16	\$14,269.69	\$15,268.57	\$16,337.37	\$17,480.98
Community Engagement - Tier 1		\$5,334.22	\$5,707.62	\$6,107.15	\$6,534.65	\$6,992.08
Meeting Management - Tier 1		\$10,001.50	\$10,701.61	\$11,450.72	\$12,252.27	\$13,109.93
Laserfiche Integration - Tier 1		\$2,461.00	\$2,633.27	\$2,817.60	\$3,014.84	\$3,225.87
OpenForms Team License		\$5,467.75	\$5,850.49	\$6,260.02	\$6,698.22	\$7,167.10
OpenCities SaaS License		\$18,742.51	\$20,054.48	\$21,458.30	\$22,960.38	\$24,567.60
OpenForms Add-on: Workflow		\$1,811.26	\$1,938.05	\$2,073.71	\$2,218.87	\$2,374.19
AzureAD Connector License		\$1,250.00	\$1,337.50	\$1,431.12	\$1,531.30	\$1,638.49
SUBTOTAL	\$31,500.00	\$80,972.68	\$85,786.49	\$90,937.24	\$96,448.58	\$102,345.37

FISCAL IMPACT

The proposed agreement includes a one-time expense of \$31,500 for the new CMS migration and website redesign and an annual ongoing cost of not to exceed \$102,400 for ongoing services. These costs will be funded through the Innovation and Technology Internal Service Fund's budget, which has sufficient funds allocated for this purpose.

STRATEGIC PLAN

This proposal supports the City Council's Governance Strategic Priority:

Goal 3: Enhance community outreach and engagement to all Tracy residents by providing transparency and easier access to important information.

Goal 4: Ensure compliance with ADA standards to provide inclusive and accessible communication channels.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt a resolution approving

(1) making a determination that compliance with standard procurement process is not in the best interest of the City and dispensing with the procurement requirements for certain software services pursuant to Tracy Municipal Code Section 2.20.140; and (2) the execution of an amendment to an existing contract with Granicus adding services to redesign and modernize the City's website and extending the term for an additional 4 years for a total not-to exceed amount of \$102,400 annually.

Prepared by: Norbert Ruijling, Chief Innovation Officer
Kyla Glucky, Public Information Officer

Reviewed by: Sara Castro, Director of Finance
Andrew Chen, Interim City Attorney
Arturo Sanchez, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments:

A – Quote from Granicus

First Amendment to the Granicus Service Agreement between Granicus, LLC and City of Tracy, CA

This First Amendment to the Granicus, LLC Service Agreement is effective on the date this document is signed and entered into by and between Granicus, LLC, a Minnesota Limited Liability Company d/b/a Granicus (hereinafter referred to as "Granicus"), and City of Tracy, CA (hereinafter referred to as "Client"), with reference to the following:

WHEREAS, the Client and Granicus entered into an Agreement effective 01 Nov 2023 (the "Agreement"); and

WHEREAS, in addition to Client's existing solution, Client wishes to add certain products and services as detailed in Q-393001, which is attached as Exhibit A and incorporated herein by reference; and

NOW, THEREFORE, in consideration of the premises, the parties intend that the Agreement be amended as follows:

1. Compensation shall be amended to include the fees detailed in Exhibit A. Exhibit A is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of the Client to provide applicable exemption certificate(s).
2. Except as amended by this First Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.
3. In the event of any inconsistency between the provisions of this First Amendment and the documents comprising the Agreement, the provisions of this First Amendment shall prevail.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed by their duly authorized representatives.

Agreement and Acceptance

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

City of Tracy, CA

Signature:

Name:

Title:

Date:

Granicus

Signature:

Name:

Title:

Date:

THIS IS NOT AN INVOICE

Exhibit A
Prepared for
City of Tracy, CA

Exhibit A

ORDER DETAILS

Prepared By: Vanessa Melgarejo
Phone:
Email:
Order #: Q-393001
Prepared On: 17 Jan 2025
Expires On: 18 Mar 2025

ORDER TERMS

Currency: USD
Payment Terms: Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)
Current Billing Term
End Date: 31 Oct 2025

PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Terminating Subscriptions		
Solution	Quantity/Unit	Prior Annual Fee
govAccess - Maintenance, Hosting, & Licensing Fee - Core	0 Each	\$12,246.38
SUBTOTAL:		\$12,246.38

Upon the signing of this Agreement, annual fees for the terminating subscription(s) shall cease. Any pre-paid fees for the terminating subscription(s) after the signing of this Agreement will be prorated from the signing of this Agreement to the end of the Client's then-current billing term, credited, and such credit applied to the annual fees for new subscriptions.

Client will continue to have access to and use the terminating solution until the new subscription(s) is/are deployed.

Upon the deployment of Client's new solution as determined at Granicus' sole discretion, Granicus shall remove access to the Client's terminating subscription(s).

Existing Subscriptions			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Government Transparency Suite	Annual	1 Each	\$12,204.07
Upgrade to SDI 720p Streaming	Annual	1 Each	\$2,650.73
Granicus Encoding Appliance Software (GT)	Annual	1 Each	\$1,753.46
Open Platform Suite	Annual	1 Each	\$5,960.02
Agenda Automation - Tier 1	Annual	1 Each	\$13,336.16
govDelivery for Integrations	Annual	1 Each	\$0.00
Community Engagement - Tier 1	Annual	1 Each	\$5,334.22
Meeting Management - Tier 1	Annual	1 Each	\$10,001.50
Laserfiche Integration - Tier 1	Annual	1 Each	\$2,461.00

One-Time Fees			
Solution	Billing Frequency	Quantity/Unit	One-Time Fee
Granicus Web - Enhanced Package	Milestones - 40/30/30	1 Each	\$31,500.00
Setup and configuration package: OpenForms License	Up Front	1 Each	\$0.00
Training: OpenForms	Upon Delivery	1 Each	\$0.00
OpenCities Security License - Services Setup and Configuration Package	Up Front	1 Hours	\$0.00
Setup and configuration package: OpenForms Workflow add-on	Up Front	1 Each	\$0.00
AzureAD Connector - Services Setup and Configuration Package	Up Front	1 Each	\$0.00
SUBTOTAL:			\$31,500.00

New Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
OpenForms Team License	Annual	1 Each	\$5,467.75
OpenCities SaaS License	Annual	1 Each	\$18,742.51
OpenCities Cloud Security License	Annual	1 Each	\$0.00
OpenForms Add-on: Workflow	Annual	1 Each	\$1,811.26
AzureAD Connector License	Annual	1 Each	\$1,250.00
SUBTOTAL:			\$27,271.52

Please note, annual fees for new subscriptions will be prorated to align to Client's then-current billing term. Exceptions include Recurring Captioning Services, SMS, and Targeted Messages. Additional volume purchased will cover the period of 18 Mar 2025 - 31 Oct 2025. The additional volume and annual fees will be added to City of Tracy, CA's standard subscription and will be included in the next renewal period.

FUTURE YEAR PRICING

Solution(s)	Period of Performance			
	Year 2	Year 3	Year 4	Year 5
Government Transparency Suite	\$12,204.07	\$12,204.07	\$12,204.07	\$12,204.07
Upgrade to SDI 720p Streaming	\$2,836.28	\$3,034.82	\$3,247.26	\$3,474.56
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Open Platform Suite	\$6,377.22	\$6,823.62	\$7,301.28	\$7,812.37
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OpenCities SaaS License	\$20,054.48	\$21,458.30	\$22,960.38	\$24,567.60
OpenCities Cloud Security License	\$0.00	\$0.00	\$0.00	\$0.00
OpenForms Add-on: Workflow	\$1,938.05	\$2,073.71	\$2,218.87	\$2,374.19
AzureAD Connector License	\$1,337.50	\$1,431.12	\$1,531.30	\$1,638.49
SUBTOTAL:	\$85,786.49	\$90,937.24	\$96,448.58	\$102,345.67

PRODUCT DESCRIPTIONS

Solution	Description
Government Transparency Suite	Government Transparency are the live in-meeting functions. Streaming of an event, pushing of documents, and indexing of events.
Upgrade to SDI 720p Streaming	Upgrade to SDI 720p Streaming (requires Digital encoder and HD feed)
Granicus Encoding Appliance Software (GT)	Granicus Encoding Appliance Software (GT) This includes the LiveManager Software solution where webcasts are started/stopped, agendas amended and indexed, votes and attendance recorded, and minutes created.
Open Platform Suite	Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable viewpage.
Agenda Automation - Tier 1	Agenda Automation - Tier 1Includes: 2 workflows, 1 post workflow, 2 forms and up to 4 meeting types
govDelivery for Integrations	<p>Send notification bulletins directly to constituents who subscribe to receive updates directly through Granicus (powered by govDelivery). Receive a monthly metrics report delivered via email to show subscriber growth and engagement activity for the past month of bulletin sends, and grow subscribers through access to the Granicus Advanced Network.</p> <p>Note: govDelivery integrations is dependent on an active subscription to the relevant govMeetings agenda or govAccess CMS solutions.</p>
Community Engagement - Tier 1	Community Engagement - Tier 1. Includes: Public Comment and Public Speaker Management
Meeting Management - Tier 1	Meeting Management - Tier 1Includes: 2 workflows, 1 post workflow
Laserfiche Integration - Tier 1	Laserfiche Integration - Tier 1

Solution	Description
Granicus Web - Enhanced Package	<p>The Enhanced package provides a citizen-focused website with a robust UX process. This package utilizes standard CMS functionality to create a modular homepage layout. It is recommended for organizations that have a small/medium website implementation team with the capacity to engage in a design process to feature their existing branding using proven design patterns for digital transformation.</p> <p>This package includes:</p> <ul style="list-style-type: none"> • Professional Project Management <ul style="list-style-type: none"> ◦ Weekly / bi-weekly communication • Basic UX Consultation, which may include one (1) or more of the following based on consultation with client: <ul style="list-style-type: none"> ◦ One (1) site analytics report based on Google Analytics ◦ One (1) homepage heatmap analytics visualization ◦ One (1) internal stakeholder survey ◦ One (1) Community survey export ◦ One (1) modular homepage wireframe based on predefined building blocks ◦ Information Architecture (IA) best practices review • One (1) Content Rationalization Package (basic) <ul style="list-style-type: none"> ◦ Best practices review, one (1) hour session ◦ Site scrape loaded into AIM framework document • One (1) Visual Design Package <ul style="list-style-type: none"> ◦ One (1) homepage design concept ◦ Interior page sample ◦ Mobile version sample ◦ Up to three (3) rounds of design revisions • Up to two (2) CX features <ul style="list-style-type: none"> ◦ choose from Granicus library • Development/CMS Implementation • Content Migration - up to one hundred (100) pages • QA & Accessibility Report • Remote Training <ul style="list-style-type: none"> ◦ Delivered in three (3) non-consecutive sessions eight (8) hours total ◦ Up to ten (10) people

Solution	Description
OpenForms Team License	<p>OpenForms is a digital forms builder specifically designed for Government. Government services can be complicated, but the experience for the residents accessing them shouldn't have to be. OpenForms is perfect for the business of government, with capabilities that will help you convert complex, multi-page forms and processes into simple, step-by-step online forms that adjust based on customers responses.</p> <p>The Team plan enables powerful form building for up to:</p> <ul style="list-style-type: none">• 5 users, 50 published forms. <p>Key features include:</p> <ul style="list-style-type: none">• Drag and drop form builder• Display logic and calculations• Payments• Insights dashboard• Form analytics• Support team access• Save responses• Unlimited responses• Data connections and API access• Up to: 10GB file uploads, 1,000 web API calls per hour <p>This package does not include premium features such as workflow, workspaces, form versioning or custom documents. For these features, please consider OpenForms Enterprise.</p>

Solution	Description
OpenCities SaaS License	<p>The OpenCities platform allows you to launch modern, easy to use websites that evolve to put the needs of your community at the center. The SaaS License includes:</p> <ul style="list-style-type: none"> • All OpenCities out of the box functionality (excluding optional/premium modules priced separately) • Platform setup and full project management • Managed cloud hosting via Microsoft AzureGov • Ongoing security updates • Ongoing product updates and enhancements • WCAG AA Accessibility maintained perpetually • 99.9% up-time guarantee and 24/7 support for Priority 1 issues (per SLA) • Comprehensive SLA and Support Ticketing system <p>See subscription agreement for details.</p>
OpenCities Cloud Security License	<p>Deployment of Imperva Security and Content Delivery Network (CDN). Providing leading caching and security resulting in enhanced protection from malicious attacks.</p> <p>Once configured, it continuously monitors and blocks attacks. With a global 24/7/365 security operations center, it provides an expertly managed web application firewall, distributed denial of service attack protection and advanced bot detection.</p>
Setup and configuration package: OpenForms License	Setup and configuration of OpenForms
Training: OpenForms	1.5 hour OpenForms Training session for up to 25 people, delivered online.
OpenForms Add-on: Workflow	With workflow, once a resident hits submit on a form, OpenForms will allow you to set up multiple steps with automatic or decision based transitions to manage form response workflows.
OpenCities Security License - Services Setup and Configuration Package	Setup and configuration of OpenCities Imperva Security License

Solution	Description
Setup and configuration package: OpenForms Workflow add-on	Setup and configuration of workflow for OpenForms Team License
AzureAD Connector License	<p>OpenCities integrates with your Microsoft Active Directories (via AzureAD not on-prem), giving staff the convenience of a single sign-on experience and automatically mapping the appropriate roles and permissions in OpenCities to relevant AD users.</p> <p>For your OpenCities intranet, the Azure AD connector powers your staff directory and organisation chart to ensure they are dynamically updated on a regular basis.</p> <p>This may be used for your web, intranet and subsites.</p>
AzureAD Connector - Services Setup and Configuration Package	Set up and configuration of AzureAD Connector

GRANICUS ADVANCED NETWORK AND SUBSCRIBER INFORMATION

- Granicus Communications Suite Subscriber Information.
 - Data provided by the Client and contact information gathered through the Client's own web properties or activities will remain the property of the Client ('Direct Subscriber'), including any and all personally identifiable information (PII). Granicus will not release the data without the express written permission of the Client, unless required by law.
 - Granicus shall: (i) not disclose the Client's data except to any third parties as necessary to operate the Granicus Products and Services (provided that the Client hereby grants to Granicus a perpetual, non-cancelable, worldwide, non-exclusive license to utilize any data, on an anonymous or aggregate basis only, that arises from the use of the Granicus Products by the Client, whether disclosed on, subsequent to, or prior to the Effective Date, to improve the functionality of the Granicus Products and any other legitimate business purpose, including the right to sublicense such data to third parties, subject to all legal restrictions regarding the use and disclosure of such information).
- Data obtained through the Granicus Advanced Network.
 - Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscribe to other Granicus Client's digital communication (the 'Advanced Network'). When a Direct Subscriber signs up through one of the recommendations of the Advanced Network, that subscriber is a 'Network Subscriber' to the agency it subscribed to through the Advanced Network.
 - Network Subscribers are available for use while the Client is under an active subscription with Granicus. Network Subscribers will not transfer to the Client upon termination of any Granicus

City of Tracy, CA

Order, SOW, or Exhibit. The Client shall not use or transfer any of the Network Subscribers after termination of its Order, SOW, or Exhibit placed under this agreement. All information related to Network Subscribers must be destroyed by the Client within 15 calendar days of the Order, SOW, or Exhibit placed under this agreement terminating.

- Opt-In. During the last 10 calendar days of the Client's subscription, the Client may send an opt-in email to Network Subscribers that shall include an explanation of the Client's relationship with Granicus terminating and that the Network Subscribers may visit the Client's website to subscribe to further updates from the Client in the future. Any Network Subscriber that does not opt-in will not be transferred with the subscriber list provided to the Client upon termination.

UPDATES TO SHARED SHORT CODES FOR SMS/TEXT MESSAGING (US CLIENTS ONLY):

- Granicus will be migrating all clients with SMS/Text Messaging Solutions using a shared short code option to a unique standard toll-free number within the United States (International numbers not supported). Short Codes are recommended for Text-to-Subscribe functionalities, if enabled where available, for an additional fee.
- Client must have explicit opt-in for all destinations sent to and adhere to all CTIA guidelines for the duration of its use.

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL
RESOLUTION NO. _____

- (1) MAKING A DETERMINATION THAT COMPLIANCE WITH STANDARD PROCUREMENT PROCEDURES FOR CERTAIN SOFTWARE SERVICES IS NOT IN THE BEST INTERESTS OF THE CITY AND DISPENSING WITH THESE REQUIREMENTS PURSUANT TO TRACY MUNICIPAL CODE SECTION 2.20.140**
- (2) APPROVING THE EXECUTION OF AN AMENDMENT TO AN EXISTING CONTRACT WITH GRANICUS LLC. ADDING SERVICES TO REDESIGN AND MODERNIZE CITY'S WEBSITE AND EXTENDING THE TERM FOR AN ADDITIONAL FOUR YEARS FOR A TOTAL NOT-TO-EXCEED AMOUNT OF \$102,400 ANNUALLY.**

WHEREAS, the City of Tracy is proposing to enter into a contract amendment with Granicus, LLC. for an additional term of four years and continue its existing software license with Granicus, LLC. which will add services to redesign and modernize the City's website and continue with existing software that supports agenda management, website hosting and a newer version of the Content Management System, Channel 26 streaming and expand with closed captioning services; and

WHEREAS, staff has been using Granicus products for several years and the tools have provided great productivity for staff both in agenda management and for Channel 26; and

WHEREAS, staff recommends that it is in the best interest of the City to continue with Granicus, LLC. and not switch providers due to the market leadership that Granicus, LLC. has, as well as the proven track record with the City of Tracy; and

WHEREAS, staff recommends that the City enter into a four-year contract amendment with Granicus, LLC. and procure additional services to further improve the website and provide tools that make the website ADA accessible by January 1, 2026; and

WHEREAS, the City's existing agreement with Granicus, LLC. for the current suite of software is \$95,564 and the additional costs for the website redesign and more advanced Content Management System that enables ADA compliance will raise the not to exceed amount to \$102,400 annually, which surpasses the City Manager's signing authority; and

WHEREAS, staff is requesting that the City Council adopt a resolution approving an agreement with Granicus, LLC. for the licensing of Granicus, LLC. suite of products, pursuant to Tracy Municipal Code section 2.20.140;

WHEREAS, the contract amendment shall not exceed \$102,400 per fiscal year and extend the contract with an additional 4 years; now therefore be it

RESOLVED: That the City Council hereby determines that compliance with standard procurement procedures is not in the best interest of the City and dispense these requirements pursuant to Tracy Municipal Code Section 2.20.140; and therefore be it;

FURTHER RESOLVED: That the City Council of the City of Tracy hereby approves the execution of contract amendment 1 attached as Exhibit A with Granicus, LLC. adding services to redesign and modernize the City's website and extending the term for an additional 4 years for a total not-to exceed amount of \$102,400 annually, finding the proposed contract with Granicus is in the best interest of the City as this software provider is best suited to complete the needed improvements to the City's website, a critical public communications and safety tool, quickly under Tracy Municipal Code Section 2.20.140.

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 4th day of March 2025 by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST:_____

NECY LOPEZ
Acting City Clerk and Clerk of the Council of the
City of Tracy, California

Exhibits:

A. Granicus LLC. Contract Quote Amendment 1

First Amendment to the Granicus Service Agreement between Granicus, LLC and City of Tracy, CA

This First Amendment to the Granicus, LLC Service Agreement is effective on the date this document is signed and entered into by and between Granicus, LLC, a Minnesota Limited Liability Company d/b/a Granicus (hereinafter referred to as "Granicus"), and City of Tracy, CA (hereinafter referred to as "Client"), with reference to the following:

WHEREAS, the Client and Granicus entered into an Agreement effective 01 Nov 2023 (the "Agreement"); and

WHEREAS, in addition to Client's existing solution, Client wishes to add certain products and services as detailed in Q-393001, which is attached as Exhibit A and incorporated herein by reference; and

NOW, THEREFORE, in consideration of the premises, the parties intend that the Agreement be amended as follows:

1. Compensation shall be amended to include the fees detailed in Exhibit A. Exhibit A is exclusive of applicable state, local, and federal taxes, which, if any, will be included in the invoice. It is the responsibility of the Client to provide applicable exemption certificate(s).
2. Except as amended by this First Amendment, all other terms and conditions of the Agreement shall remain in full force and effect.
3. In the event of any inconsistency between the provisions of this First Amendment and the documents comprising the Agreement, the provisions of this First Amendment shall prevail.

IN WITNESS WHEREOF, the parties have caused this First Amendment to be executed by their duly authorized representatives.

Agreement and Acceptance

By signing this document, the undersigned certifies they have authority to enter the agreement. The undersigned also understands the services and terms.

City of Tracy, CA

Signature:

Name:

Title:

Date:

Granicus

Signature:

Name:

Title:

Date:

THIS IS NOT AN INVOICE

Exhibit A
Prepared for
City of Tracy, CA

Exhibit A

ORDER DETAILS

Prepared By: Vanessa Melgarejo
Phone:
Email:
Order #: Q-393001
Prepared On: 17 Jan 2025
Expires On: 18 Mar 2025

ORDER TERMS

Currency: USD
Payment Terms: Net 30 (Payments for subscriptions are due at the beginning of the period of performance.)
Current Billing Term
End Date: 31 Oct 2025

PRICING SUMMARY

The pricing and terms within this Proposal are specific to the products and volumes contained within this Proposal.

Terminating Subscriptions		
Solution	Quantity/Unit	Prior Annual Fee
govAccess - Maintenance, Hosting, & Licensing Fee - Core	0 Each	\$12,246.38
SUBTOTAL:		\$12,246.38

Upon the signing of this Agreement, annual fees for the terminating subscription(s) shall cease. Any pre-paid fees for the terminating subscription(s) after the signing of this Agreement will be prorated from the signing of this Agreement to the end of the Client's then-current billing term, credited, and such credit applied to the annual fees for new subscriptions.

Client will continue to have access to and use the terminating solution until the new subscription(s) is/are deployed.

Upon the deployment of Client's new solution as determined at Granicus' sole discretion, Granicus shall remove access to the Client's terminating subscription(s).

Existing Subscriptions			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
Government Transparency Suite	Annual	1 Each	\$12,204.07
Upgrade to SDI 720p Streaming	Annual	1 Each	\$2,650.73
Granicus Encoding Appliance Software (GT)	Annual	1 Each	\$1,753.46
Open Platform Suite	Annual	1 Each	\$5,960.02
Agenda Automation - Tier 1	Annual	1 Each	\$13,336.16
govDelivery for Integrations	Annual	1 Each	\$0.00
Community Engagement - Tier 1	Annual	1 Each	\$5,334.22
Meeting Management - Tier 1	Annual	1 Each	\$10,001.50
Laserfiche Integration - Tier 1	Annual	1 Each	\$2,461.00

One-Time Fees			
Solution	Billing Frequency	Quantity/Unit	One-Time Fee
Granicus Web - Enhanced Package	Milestones - 40/30/30	1 Each	\$31,500.00
Setup and configuration package: OpenForms License	Up Front	1 Each	\$0.00
Training: OpenForms	Upon Delivery	1 Each	\$0.00
OpenCities Security License - Services Setup and Configuration Package	Up Front	1 Hours	\$0.00
Setup and configuration package: OpenForms Workflow add-on	Up Front	1 Each	\$0.00
AzureAD Connector - Services Setup and Configuration Package	Up Front	1 Each	\$0.00
SUBTOTAL:			\$31,500.00

New Subscription Fees			
Solution	Billing Frequency	Quantity/Unit	Annual Fee
OpenForms Team License	Annual	1 Each	\$5,467.75
OpenCities SaaS License	Annual	1 Each	\$18,742.51
OpenCities Cloud Security License	Annual	1 Each	\$0.00
OpenForms Add-on: Workflow	Annual	1 Each	\$1,811.26
AzureAD Connector License	Annual	1 Each	\$1,250.00
SUBTOTAL:			\$27,271.52

Please note, annual fees for new subscriptions will be prorated to align to Client's then-current billing term. Exceptions include Recurring Captioning Services, SMS, and Targeted Messages. Additional volume purchased will cover the period of 18 Mar 2025 - 31 Oct 2025. The additional volume and annual fees will be added to City of Tracy, CA's standard subscription and will be included in the next renewal period.

FUTURE YEAR PRICING

Solution(s)	Period of Performance			
	Year 2	Year 3	Year 4	Year 5
Government Transparency Suite	\$12,204.07	\$12,204.07	\$12,204.07	\$12,204.07
Upgrade to SDI 720p Streaming	\$2,836.28	\$3,034.82	\$3,247.26	\$3,474.56
Granicus Encoding Appliance Software (GT)	\$1,876.21	\$2,007.54	\$2,148.07	\$2,298.43
Open Platform Suite	\$6,377.22	\$6,823.62	\$7,301.28	\$7,812.37
Agenda Automation - Tier 1	\$14,269.69	\$15,268.57	\$16,337.37	\$17,480.98
govDelivery for Integrations	\$0.00	\$0.00	\$0.00	\$0.00
Community Engagement - Tier 1	\$5,707.62	\$6,107.15	\$6,534.65	\$6,992.08
Meeting Management - Tier 1	\$10,701.61	\$11,450.72	\$12,252.27	\$13,109.93
Laserfiche Integration - Tier 1	\$2,633.27	\$2,817.60	\$3,014.84	\$3,225.87
OpenForms Team License	\$5,850.49	\$6,260.02	\$6,698.22	\$7,167.10
OpenCities SaaS License	\$20,054.48	\$21,458.30	\$22,960.38	\$24,567.60
OpenCities Cloud Security License	\$0.00	\$0.00	\$0.00	\$0.00
OpenForms Add-on: Workflow	\$1,938.05	\$2,073.71	\$2,218.87	\$2,374.19
AzureAD Connector License	\$1,337.50	\$1,431.12	\$1,531.30	\$1,638.49
SUBTOTAL:	\$85,786.49	\$90,937.24	\$96,448.58	\$102,345.67

PRODUCT DESCRIPTIONS

Solution	Description
Government Transparency Suite	Government Transparency are the live in-meeting functions. Streaming of an event, pushing of documents, and indexing of events.
Upgrade to SDI 720p Streaming	Upgrade to SDI 720p Streaming (requires Digital encoder and HD feed)
Granicus Encoding Appliance Software (GT)	Granicus Encoding Appliance Software (GT) This includes the LiveManager Software solution where webcasts are started/stopped, agendas amended and indexed, votes and attendance recorded, and minutes created.
Open Platform Suite	Open Platform is access to MediaManager, upload of archives, ability to post agendas/documents, and index of archives. These are able to be published and accessible through a searchable viewpage.
Agenda Automation - Tier 1	Agenda Automation - Tier 1Includes: 2 workflows, 1 post workflow, 2 forms and up to 4 meeting types
govDelivery for Integrations	<p>Send notification bulletins directly to constituents who subscribe to receive updates directly through Granicus (powered by govDelivery). Receive a monthly metrics report delivered via email to show subscriber growth and engagement activity for the past month of bulletin sends, and grow subscribers through access to the Granicus Advanced Network.</p> <p>Note: govDelivery integrations is dependent on an active subscription to the relevant govMeetings agenda or govAccess CMS solutions.</p>
Community Engagement - Tier 1	Community Engagement - Tier 1. Includes: Public Comment and Public Speaker Management
Meeting Management - Tier 1	Meeting Management - Tier 1Includes: 2 workflows, 1 post workflow
Laserfiche Integration - Tier 1	Laserfiche Integration - Tier 1

Solution	Description
Granicus Web - Enhanced Package	<p>The Enhanced package provides a citizen-focused website with a robust UX process. This package utilizes standard CMS functionality to create a modular homepage layout. It is recommended for organizations that have a small/medium website implementation team with the capacity to engage in a design process to feature their existing branding using proven design patterns for digital transformation.</p> <p>This package includes:</p> <ul style="list-style-type: none"> • Professional Project Management <ul style="list-style-type: none"> ◦ Weekly / bi-weekly communication • Basic UX Consultation, which may include one (1) or more of the following based on consultation with client: <ul style="list-style-type: none"> ◦ One (1) site analytics report based on Google Analytics ◦ One (1) homepage heatmap analytics visualization ◦ One (1) internal stakeholder survey ◦ One (1) Community survey export ◦ One (1) modular homepage wireframe based on predefined building blocks ◦ Information Architecture (IA) best practices review • One (1) Content Rationalization Package (basic) <ul style="list-style-type: none"> ◦ Best practices review, one (1) hour session ◦ Site scrape loaded into AIM framework document • One (1) Visual Design Package <ul style="list-style-type: none"> ◦ One (1) homepage design concept ◦ Interior page sample ◦ Mobile version sample ◦ Up to three (3) rounds of design revisions • Up to two (2) CX features <ul style="list-style-type: none"> ◦ choose from Granicus library • Development/CMS Implementation • Content Migration - up to one hundred (100) pages • QA & Accessibility Report • Remote Training <ul style="list-style-type: none"> ◦ Delivered in three (3) non-consecutive sessions eight (8) hours total ◦ Up to ten (10) people

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Setup and configuration package: OpenForms License	Setup and configuration of OpenForms
Training: OpenForms	1.5 hour OpenForms Training session for up to 25 people, delivered online.
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OpenCities Security License - Services Setup and Configuration Package	Setup and configuration of OpenCities Imperva Security License

Solution	Description
Setup and configuration package: OpenForms Workflow add-on	Setup and configuration of workflow for OpenForms Team License
AzureAD Connector License	<p>OpenCities integrates with your Microsoft Active Directories (via AzureAD not on-prem), giving staff the convenience of a single sign-on experience and automatically mapping the appropriate roles and permissions in OpenCities to relevant AD users.</p> <p>For your OpenCities intranet, the Azure AD connector powers your staff directory and organisation chart to ensure they are dynamically updated on a regular basis.</p> <p>This may be used for your web, intranet and subsites.</p>
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- Data obtained through the Granicus Advanced Network.
 - Granicus offers a SaaS product, known as the Communications Cloud, that offers Direct Subscribers recommendations to subscribe to other Granicus Client's digital communication (the 'Advanced Network'). When a Direct Subscriber signs up through one of the recommendations of the Advanced Network, that subscriber is a 'Network Subscriber' to the agency it subscribed to through the Advanced Network.
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City of Tracy, CA

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- Client must have explicit opt-in for all destinations sent to and adhere to all CTIA guidelines for the duration of its use.

March 4, 2025

Agenda Item 1.F

RECOMMENDATION

Staff recommends that the City Council adopt resolutions:

1) authorizing:

- A) the execution of a Master Professional Services Agreement with West Yost & Associates, Inc, to provide report writing consulting for an initial term of two years and a not-to-exceed amount of \$200,000 per fiscal year; and**
- B) the execution of a Master Professional Services Agreement with EKI Environmental & Water, Inc to provide report writing consulting for an initial term of two years and a not-to-exceed amount of \$200,000 per fiscal year, and**
- C) the City Manager to administratively extend the length of one or both contracts for up to three additional years upon satisfactory performance and available budget authorization.**

EXECUTIVE SUMMARY

The City of Tracy must provide complex Water Operations reports to maintain compliance with various Federal, State, and Local regulatory agencies. In order for the City to provide these reports in a timely manner, it is vital that the data required be thoroughly analyzed and staff understand the background of the information requested in the reports. Due to the complexity of the reports and the amount of data needed, these reports generally require the assistance of a consultant familiar with the subject matter. This agenda item seeks adoption of resolutions approving an On-Call Professional Services List for various water-related reports for five years; authorization to execute a Master Professional Services Agreement with West Yost & Associates, Inc, and EKI Environmental & Water, Inc, selected from the approved On-Call List, for an initial term of two years and a not-to-exceed amount of \$200,000 per fiscal year, per contract. Staff is also seeking authorization for administrative extensions by the City Manager to administratively extend the length of contract up to three years.

The Utilities Division has reviewed all four (4) proposals received in the Request for Proposal (RFP) soliciting experienced and qualified consultants to provide various water-related report writing. The Division has determined that all four (4) consultants possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City. The Division is recommending that all four (4) consultants be deemed qualified to remain on the On-Call List. Two (2) of the four (4) contracts are being submitted for approval in this request, while the other two (2) were approved by Council on January 21, 2025 per Resolution 2025-002.

BACKGROUND AND LEGISLATIVE HISTORY

The City of Tracy must provide complex Water Operations reports in varying time ranges (monthly, quarterly, annually, every five years, etc.) to maintain compliance with Federal, State, and Local regulatory agencies. Examples of such reports are AWWA Urban Water Loss Audit and Validation, Water Management Plan Annual report, Annual water Supply and Demand

Assessment Report, Urban Water Management Plan updates, Water Management Plan update, Watershed Sanitary Survey, America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments and AWIA Emergency Response Plan. Due to the complexity of the reports, the amount of data needed, the coordination of data from other departments, the analysis of the data, and understanding the outcomes of that data, the City requires the assistance of a consultant familiar with the subject matter. Staff recommends obtaining these consultant services by establishing an On-Call Professional Services List for various water-related reports.

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 the qualified consultants.

On September 23, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposal (RFP) to solicit experienced and qualified consultants to provide on-call services to produce and deliver a variety of water-related reports required by local, State and Federal agencies. Staff also requested that consultants be able to assist with additional reports or staff development when new regulations are implemented or updated.

On October 28, 2024, the City received four (4) proposals. The Utilities Division carefully evaluated these received based on the criteria described in the On-Call RFP and determined that all four (4) consultants possess the skills, experience, competence, professional qualifications, and certifications required to provide the services requested by the City. Staff is recommending that all four (4) consultants be placed on the On-Call List. Two (2) of the four (4) contracts are being submitted for approval, while the other two (2) were approved by Council on January 21, 2025 per Resolution 2025-002.

Consultants	Status
Black Water Consulting Engineers	Contract approved by City Council 1/21/2025
Cavanaugh and Associates, P.A.	Contract approved by City Council 1/21/2025
West Yost and Associates	Contract signed by consultant
EKI Environmental Engineering	Contract signed by consultant

ANALYSIS

The proposed Master Professional Service Agreements will allow staff to increase their current workload capacity to keep up with the demand to complete both new and ongoing local, State and Federal mandated reporting.

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 and through necessity. By Council approval of these contracts for each consultant on the list, staff 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. This allows for efficiencies in both time and the ability to meet new and upcoming reporting mandates.

FISCAL IMPACT

The MPSA agreement for an On-Call Professional Service List will be funded from the Water Fund (511), other funds related to water revenues and future grants. Extensions to the MPSAs will be granted subject to budget appropriation. The funding for the MPSAs also exists on an annual basis within the department's annual adopted budget and the MPSAs included the ability to terminate if there is insufficient budget availability.

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 and CEQA Guidelines sections 15061(b)(3) and 15378(b)(5) and thus exempt from review under the California Environmental Quality Act.

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.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council adopt resolutions:

- 1) authorizing:
 - A) the execution of a Master Professional Services Agreement with West Yost & Associates, Inc, to provide report writing consulting for an initial term of two years and a not-to-exceed amount of \$200,000 per fiscal year; and
 - B) the execution of a Master Professional Services Agreement with EKI Environmental & Water, Inc to provide report writing consulting for an initial term of two years and a not-to-exceed amount of \$200,000 per fiscal year, and
 - C) the City Manager to administratively extend the length of one or both contracts for up to three additional years upon satisfactory performance and available budget authorization.

Prepared by: Robin Kloepfer, Management Analyst

Reviewed by: Stephanie Reyna-Hiestand, Assistant Director of Utilities
Gordon MacKay, Interim Public Works Director
Sara Castro, Director of Finance
Kamalpreet Gill, Deputy City Attorney
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS:

Attachment A – Master Professional Service Agreement with West Yost & Associates, Inc
Attachment B - Master Professional Service Agreement with EKI Environmental & Water, Inc

City of Tracy – Master Professional Services Agreement with West Yost & Associates

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
West Yost & Associates, Inc. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost & Associates, 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 on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.
- B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) 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. An On-Call Professional Service list was approved on January 21, 2025 by City Council Resolution No. _____.
- E. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(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: Elizabeth Drayer. 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 or designee ("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 March 4, 2025 and expire and terminate automatically on March 3, 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 three 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 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2025, Consultant's billing rates under this Agreement may be annually increased in January of each year by 4.5%. 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:

Office of the Director of Public Works
520 S. Tracy Blvd
Tracy, CA 95376
publicworks@cityoftracy.org

To Consultant:

West Yost & Associates, Inc
2020 Research Park Dr #100
Davis, CA 95618

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 subcontractor, 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: Dan Arriola

Title: Mayor

Date: _____

Attest:

_____, City Clerk

Approved as to form:

Andrew Shen, Interim City Attorney

Consultant

West Yost & Associates, Inc. A California Corporation

Signed by:

Elizabeth Drayer

By: Elizabeth Drayer

Title: Vice President

Date: 1/24/2025 | 9:13 AM PST

Federal Employer Tax ID No. 68-0370826

Signed by:

Lindsay Smith

By: Lindsay Smith

Title: Treasurer

Date: 1/24/2025 | 10:24 AM PST

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

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: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due October
- Water Management Plan Annual Report (USBR) – Due April
- Annual Water Supply and Demand Assessment Report (DWR) – Due July

Examples of Five Year Plans and Reports:

- Urban Water Management Plan (DWR) – Due July 2025
- Water Management Plan Update (USBR) – Due December 2028
- Watershed Sanitary Survey (SWRCB) – Due Jan 2025
- America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments (EPA) – Dec 2025
- AWIA Emergency Response Plan (EPA) – June 2026

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

EXHIBIT B
Compensation

04 // BILLING RATES



2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	\$373
Engineer/Scientist/Geologist Manager I / II	\$352 / \$369
Principal Engineer/Scientist/Geologist I / II	\$317 / \$338
Senior Engineer/Scientist/Geologist I / II	\$286 / \$300
Associate Engineer/Scientist/Geologist I / II	\$237 / \$255
Engineer/Scientist/Geologist I / II	\$185 / \$215
Engineering Aide	\$111
Field Monitoring Services	\$138
Administrative I / II / III / IV	\$102 / \$127 / \$152 / \$168
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	\$366 / \$369
Principal Tech Specialist I / II	\$336 / \$348
Senior Tech Specialist I / II	\$308 / \$321
Senior GIS Analyst	\$278
GIS Analyst	\$264
Technical Specialist I / II / III / IV	\$196 / \$224 / \$251 / \$280
Technical Analyst I / II	\$141 / \$168
Technical Analyst Intern	\$113
Cross-Connection Control Specialist I / II / III / IV	\$147 / \$159 / \$179 / \$198
CAD Manager	\$222
CAD Designer I / II	\$172 / \$194
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	\$355
Construction Manager I / II / III / IV	\$211 / \$226 / \$239 / \$303
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	\$190 / \$211 / \$235 / \$244
Apprentice Inspector	\$172
CM Administrative I / II	\$91 / \$124
Field Services	\$244

- Hourly rates include charges for technology and communication, such as general and CAD computer software, telephone calls, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside services, such as vendor reproductions, prints, and shipping; major West Yost reproduction efforts; as well as engineering supplies, etc., will be billed at the actual cost plus 15%.
- The Federal Mileage Rate will be used for mileage charges and will be based on the Federal Mileage Rate applicable to when the mileage costs were incurred. Travel other than mileage will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness services, research, technical review, analysis, preparation, and meetings will be billed at 150% of standard hourly rates. Expert witness testimony and depositions will be billed at 200% of standard hourly rates.
- A finance charge of 1.5% per month (an annual rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually



2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

Equipment Charges

EQUIPMENT	BILLING RATES
2" Purge Pump & Control Box	\$300 / day
Aquacalc / Pygmy or AA Flow Meter	\$28 / day
Emergency SCADA System	\$35 / day
Field Vehicles (Groundwater)	\$1.02 / mile
Gas Detector	\$80 / day
Generator	\$60 / day
Hydrant Pressure Gauge	\$10 / day
Hydrant Pressure Recorder, Impulse (Transient)	\$55 / day
Hydrant Pressure Recorder, Standard	\$40 / day
Low Flow Pump Back Pack	\$135 / day
Low Flow Pump Controller	\$200 / day
Powers Water Level Meter	\$32 / day
Precision Water Level Meter 300ft	\$30 / day
Precision Water Level Meter 500ft	\$40 / day
Precision Water Level Meter 700ft	\$45 / day
QED Sample Pro Bladder Pump	\$65 / day
Skydio 2+ Drone (2 hour minimum)	\$100 / hour
Storage Tank	\$20 / day
Sump Pump	\$24 / day
Transducer Communications Cable	\$10 / day
Transducer Components (per installation)	\$23 / day
Trimble GPS – Geo 7x	\$220 / day
Tube Length Counter	\$22 / day
Turbidity Meter	\$30 / day
Turbidity Meter (2100Q Portable)	\$35 / day
Vehicle (Construction Management)	\$10 / hour
Water Flow Probe Meter	\$20 / day
Water Quality Meter	\$50 / day
Water Quality Multimeter	\$185 / day
Well Sounder	\$30 / day

* This schedule is updated annually

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

City of Tracy – Master Professional Services Agreement with EKI Environmental & Water, Inc.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
EKI Environmental & Water, Inc. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and EKI Environmental & Water, 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 on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.

B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) 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. An On-Call Professional Service list was approved on January 21, 2025 by City Council Resolution No. _____.

E. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(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: Dave Umezaki. 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 or designee ("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 March 4, 2025 and expire and terminate automatically on March 5, 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 three 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 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2027, Consultant's billing rates under this Agreement may be annually increased in January of each year by 4.5%. 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 occurrence/ \$2,000,000 annual aggregate.

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.

5.5.3 Coverage shall allow and be endorsed to include a waiver of subrogation in favor of the City and its officers, officials, employees, and agents.

5.6 Notice of Cancellation. Consultant shall provide notification to the City at least 30-days prior to cancellations of the policy. 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 upon 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. Notwithstanding the foregoing, Consultant may keep one copy of all documents and drafts for the completion of its business records.

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:

Office of the Director of Public Works
520 S. Tracy Blvd
Tracy, CA 95376
publicworks@cityoftracy.org

To Consultant:

EKI Environmental & Water, Inc
2001 Junipero Serra Blvd,
Daly City, CA 94014

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]

City of Tracy – Master Professional Services Agreement with EKI Environmental & Water, Inc.

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: Dan Arriola

Title: Mayor

Date: _____

Attest:

Adrienne Richardson, City Clerk

Approved as to form:

Andrew Shen, Interim City Attorney

Consultant

EKI Environmental & Water, Inc. A California Corporation

Signed by:

Ashley Dutton

2025/01/24 10:34

By: Ashley Dutton

Title: Vice President

Date: 2/4/2025 | 1:34 PM PST

94-3087395

Federal Employer Tax ID No. _____

DocuSigned by:

Gary Kawakita

2025/01/24 10:41

By: Gary Kawakita

Title: CFO

Date: 1/22/2025 | 10:48 AM PST

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

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: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due October
- Water Management Plan Annual Report (USBR) – Due April
- Annual Water Supply and Demand Assessment Report (DWR) – Due July

Examples of Five-Year Plans and Reports:

- Urban Water Management Plan (DWR) – Due July 2025
- Water Management Plan Update (USBR) – Due December 2028
- Watershed Sanitary Survey (SWRCB) – Due Jan 2025
- America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments (EPA) – Dec 2025
- AWIA Emergency Response Plan (EPA) – June 2026

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

EXHIBIT B
Compensation=

3. BILLING RATES

SCHEDULE OF CHARGES

EKI Personnel Classification	Hourly Rate 2024
Officer and Chief Engineer-Scientist	345
Principal Engineer-Scientist	333
Supervising I, Engineer-Scientist	323
Supervising II, Engineer-Scientist	310
Senior I, Engineer-Scientist	297
Senior II, Engineer-Scientist	286
Associate I, Engineer-Scientist	275
Associate II, Engineer-Scientist	259
Engineer-Scientist, Grade 1	241
Engineer-Scientist, Grade 2	227
Engineer-Scientist, Grade 3	209
Engineer-Scientist, Grade 4	187
Engineer-Scientist, Grade 5	165
Engineer-Scientist, Grade 6	144
Project Assistant	135
Technician	129
Senior GIS / Database Analyst	170
CADD Operator / GIS Analyst	148
Senior Administrative Assistant	162
Administrative Assistant	128
Secretary	108

DIRECT EXPENSES

Reimbursement for direct expenses, as listed below, incurred in connection with the work will be at cost plus fifteen percent (15%) for items such as:

- a. Maps, photographs, reproductions, printing, equipment rental, and special supplies related to the work.
- b. Consultants, soils engineers, surveyors, drillers, laboratories, and contractors.
- c. Rented vehicles, local public transportation and taxis, travel, and subsistence.
- d. Special fees, insurance, permits, and licenses applicable to the work.
- e. Outside computer processing, computation, and proprietary programs purchased for the work.

A Communication charge for e-mail access, web conferencing, cellphone calls, messaging and data access, file sharing, local and long distance telephone calls and conferences, facsimile transmittals, standard delivery U.S. postage, and incidental in-house copying will be charged at a rate of 4% of labor charges. Large volume copying of project documents, e.g., bound reports for distribution or project-specific reference files, will be charged as a project expense as described above.

Reimbursement for company-owned automobiles, except trucks and four-wheel drive vehicles, used in connection with the work will be at the rate of sixty cents (\$0.60) per mile. The rate for company-owned trucks and four-wheel drive vehicles will be seventy-five cents (\$0.75) per mile. There will be an additional charge of thirty dollars (\$30.00) per day for vehicles used for field work. Reimbursement for use of personal vehicles will be at the federally allowed rate plus fifteen percent (15%).

CADD and other specialized software computer time will be charged at twenty dollars (\$20.00) per hour. In-house material and equipment charges will be in accordance with the current rate schedule or special quotation. Excise taxes, if any, will be added as a direct expense.

Rate for professional staff for legal proceedings or as expert witnesses will be at a rate of one and one-half times the Hourly Rates specified above.

The foregoing Schedule of Charges is incorporated into the Agreement for the Services of EKI Environment & Water, Inc. and may be updated annually.

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 AGREEMENT WITH WEST YOST & ASSOCIATES, INC, TO PROVIDE REPORT WRITING CONSULTING FOR AN INITIAL TERM OF TWO YEARS FOR A NOT TO EXCEED AMOUNT OF \$200,000 PER FISCAL YEAR, AND B) THE CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH FOR UP TO THREE ADDITIONAL YEARS UPON SATISFACTORY PERFORMANCE AND AVAILABLE BUDGET AUTHORIZATION.

WHEREAS, the City must provide complex Water Operations reports in varying time ranges (monthly, quarterly, annually, every five years, etc.) to maintain compliance with Federal, State, and Local regulatory agencies; and

WHEREAS, to provide these reports in a timely manner, it is vital that the data required be thoroughly analyzed and staff understand the background of the information requested in the reports; and

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

WHEREAS, on September 23, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposal (RFP) to solicit experienced and qualified consultants to provide on-call services to produce and deliver a variety of water-related reports required by local, State and Federal agencies; and

WHEREAS, examples of reports that could be requested are AWWA Urban Water Loss Audit and Validation, Water Management Plan Annual report, Annual water Supply and Demand Assessment Report, Urban Water Management Plan updates, Water Management Plan update, Watershed Sanitary Survey, America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments and AWIA Emergency Response Plan. Staff also requested that consultants be able to assist with additional reports or staff development when new regulations are implemented or updated; and

WHEREAS, concurrently with Resolution 2025-002, City Council approve an On-Call List of qualified consultants to provide on-call water report writing services; and

WHEREAS, West Yost & Associates, Inc is on the On-Call List; 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; now, therefore, be it be it

RESOLVED: That the City Council of the City of Tracy, hereby approves the execution of the Master Professional Service Agreement, to provide On-Call Service for Various Water-Related Reports with West Yost & Associates, Inc, attached hereto as Exhibit 1, with an initial term of two years, and annual not to exceed budget of \$200,000; and be it

FURTHER RESOLVED: The City Manager is authorized to administratively extend the term of Agreement for up to three 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 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 and CEQA Guidelines sections 15061(b)(3) and 15378(b)(5) and thus exempt from review under the California Environmental Quality Act.

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on 4th day of March, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST:_____

NECY LOPEZ

Acting City Clerk and Clerk of the Council of the
City of Tracy, California

EXHIBITS: Exhibit A - Master Professional Service Agreement with West Yost & Associates, Inc

City of Tracy – Master Professional Services Agreement with West Yost & Associates

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
West Yost & Associates, Inc. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and West Yost & Associates, 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 on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.
- B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) 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. An On-Call Professional Service list was approved on January 21, 2025 by City Council Resolution No. _____.
- E. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(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: Elizabeth Drayer. 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 or designee ("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 March 4, 2025 and expire and terminate automatically on March 3, 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 three 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 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2025, Consultant's billing rates under this Agreement may be annually increased in January of each year by 4.5%. 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:

Office of the Director of Public Works
520 S. Tracy Blvd
Tracy, CA 95376
publicworks@cityoftracy.org

To Consultant:

West Yost & Associates, Inc
2020 Research Park Dr #100
Davis, CA 95618

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 subcontractor, 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: Dan Arriola

Title: Mayor

Date: _____

Attest:

_____, City Clerk

Approved as to form:

Andrew Shen, Interim City Attorney

Consultant

West Yost & Associates, Inc. A California Corporation

Signed by:

Elizabeth Drayer

By: Elizabeth Drayer

Title: Vice President

Date: 1/24/2025 | 9:13 AM PST

Federal Employer Tax ID No. 68-0370826

Signed by:
Lindsay Smith

By: Lindsay Smith

Title: Treasurer

Date: 1/24/2025 | 10:24 AM PST

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

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: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due October
- Water Management Plan Annual Report (USBR) – Due April
- Annual Water Supply and Demand Assessment Report (DWR) – Due July

Examples of Five Year Plans and Reports:

- Urban Water Management Plan (DWR) – Due July 2025
- Water Management Plan Update (USBR) – Due December 2028
- Watershed Sanitary Survey (SWRCB) – Due Jan 2025
- America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments (EPA) – Dec 2025
- AWIA Emergency Response Plan (EPA) – June 2026

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

EXHIBIT B
Compensation

04 // BILLING RATES



2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

POSITIONS	LABOR CHARGES (DOLLARS PER HOUR)
ENGINEERING	
Principal/Vice President	\$373
Engineer/Scientist/Geologist Manager I / II	\$352 / \$369
Principal Engineer/Scientist/Geologist I / II	\$317 / \$338
Senior Engineer/Scientist/Geologist I / II	\$286 / \$300
Associate Engineer/Scientist/Geologist I / II	\$237 / \$255
Engineer/Scientist/Geologist I / II	\$185 / \$215
Engineering Aide	\$111
Field Monitoring Services	\$138
Administrative I / II / III / IV	\$102 / \$127 / \$152 / \$168
ENGINEERING TECHNOLOGY	
Engineering Tech Manager I / II	\$366 / \$369
Principal Tech Specialist I / II	\$336 / \$348
Senior Tech Specialist I / II	\$308 / \$321
Senior GIS Analyst	\$278
GIS Analyst	\$264
Technical Specialist I / II / III / IV	\$196 / \$224 / \$251 / \$280
Technical Analyst I / II	\$141 / \$168
Technical Analyst Intern	\$113
Cross-Connection Control Specialist I / II / III / IV	\$147 / \$159 / \$179 / \$198
CAD Manager	\$222
CAD Designer I / II	\$172 / \$194
CONSTRUCTION MANAGEMENT	
Senior Construction Manager	\$355
Construction Manager I / II / III / IV	\$211 / \$226 / \$239 / \$303
Resident Inspector (Prevailing Wage Groups 4 / 3 / 2 / 1)	\$190 / \$211 / \$235 / \$244
Apprentice Inspector	\$172
CM Administrative I / II	\$91 / \$124
Field Services	\$244

- Hourly rates include charges for technology and communication, such as general and CAD computer software, telephone calls, routine in-house copies/prints, postage, miscellaneous supplies, and other incidental project expenses.
- Outside services, such as vendor reproductions, prints, and shipping; major West Yost reproduction efforts; as well as engineering supplies, etc., will be billed at the actual cost plus 15%.
- The Federal Mileage Rate will be used for mileage charges and will be based on the Federal Mileage Rate applicable to when the mileage costs were incurred. Travel other than mileage will be billed at cost.
- Subconsultants will be billed at actual cost plus 10%.
- Expert witness services, research, technical review, analysis, preparation, and meetings will be billed at 150% of standard hourly rates. Expert witness testimony and depositions will be billed at 200% of standard hourly rates.
- A finance charge of 1.5% per month (an annual rate of 18%) on the unpaid balance will be added to invoice amounts if not paid within 45 days from the date of the invoice.

* This schedule is updated annually



2025 Billing Rate Schedule

(Effective January 1, 2025, through December 31, 2025)*

Equipment Charges

EQUIPMENT	BILLING RATES
2" Purge Pump & Control Box	\$300 / day
Aquacalc / Pygmy or AA Flow Meter	\$28 / day
Emergency SCADA System	\$35 / day
Field Vehicles (Groundwater)	\$1.02 / mile
Gas Detector	\$80 / day
Generator	\$60 / day
Hydrant Pressure Gauge	\$10 / day
Hydrant Pressure Recorder, Impulse (Transient)	\$55 / day
Hydrant Pressure Recorder, Standard	\$40 / day
Low Flow Pump Back Pack	\$135 / day
Low Flow Pump Controller	\$200 / day
Powers Water Level Meter	\$32 / day
Precision Water Level Meter 300ft	\$30 / day
Precision Water Level Meter 500ft	\$40 / day
Precision Water Level Meter 700ft	\$45 / day
QED Sample Pro Bladder Pump	\$65 / day
Skydio 2+ Drone (2 hour minimum)	\$100 / hour
Storage Tank	\$20 / day
Sump Pump	\$24 / day
Transducer Communications Cable	\$10 / day
Transducer Components (per installation)	\$23 / day
Trimble GPS – Geo 7x	\$220 / day
Tube Length Counter	\$22 / day
Turbidity Meter	\$30 / day
Turbidity Meter (2100Q Portable)	\$35 / day
Vehicle (Construction Management)	\$10 / hour
Water Flow Probe Meter	\$20 / day
Water Quality Meter	\$50 / day
Water Quality Multimeter	\$185 / day
Well Sounder	\$30 / day

* This schedule is updated annually

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

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 EKI ENVIRONMENTAL & WATER, INC, TO PROVIDE REPORT WRITING CONSULTING FOR AN INITIAL TERM OF TWO YEARS FOR A NOT TO EXCEED AMOUNT OF \$200,000 PER FISCAL YEAR, AND B) THE CITY MANAGER TO ADMINISTRATIVELY EXTEND THE LENGTH FOR UP TO THREE ADDITIONAL YEARS UPON SATISFACTORY PERFORMANCE AND AVAILABLE BUDGET AUTHORIZATION.

WHEREAS, the City must provide complex Water Operations reports in varying time ranges (monthly, quarterly, annually, every five years, etc.) to maintain compliance with Federal, State, and Local regulatory agencies; and

WHEREAS, to provide these reports in a timely manner, it is vital that the data required be thoroughly analyzed and staff understand the background of the information requested in the reports; and

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

WHEREAS, on September 23, 2024, staff followed established procedures in accordance with Tracy Municipal Code, Section 2.20.140, and conducted a Request for Proposal (RFP) to solicit experienced and qualified consultants to provide on-call services to produce and deliver a variety of water-related reports required by local, State and Federal agencies; and

WHEREAS, examples of reports that could be requested are AWWA Urban Water Loss Audit and Validation, Water Management Plan Annual report, Annual water Supply and Demand Assessment Report, Urban Water Management Plan updates, Water Management Plan update, Watershed Sanitary Survey, America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments and AWIA Emergency Response Plan. Staff also requested that consultants be able to assist with additional reports or staff development when new regulations are implemented or updated; and

WHEREAS, concurrently with Resolution 2025-002, City Council approve an On-Call List of qualified consultants to provide on-call water report writing services; and

WHEREAS, EKI Environmental & Water, Inc is on the On-Call List; 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; now, therefore, be it now, therefore, be it

RESOLVED: That the City Council of the City of Tracy, hereby approves the execution of the Master Professional Service Agreement, to provide On-Call Service for Various Water-Related Reports with EKI Environmental & Water, Inc, attached hereto as Exhibit 1, with an initial term of two years, and annual not to exceed budget of \$200,000; and be it

FURTHER RESOLVED: The City Manager is authorized to administratively extend the term of Agreement for up to three 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 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 and CEQA Guidelines sections 15061(b)(3) and 15378(b)(5) and thus exempt from review under the California Environmental Quality Act.

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 4th day of March, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST:_____

NECY LOPEZ

Acting City Clerk and Clerk of the Council of the
City of Tracy, California

EXHIBITS: Exhibit B - Master Professional Service Agreement with
EKI Environmental & Water, Inc

City of Tracy – Master Professional Services Agreement with EKI Environmental & Water, Inc.

CITY OF TRACY
MASTER PROFESSIONAL SERVICES AGREEMENT WITH
EKI Environmental & Water, Inc. for Public Works related to
On-Call Services for Various Water-Related Reports

This Master Professional Services Agreement ("Agreement") is entered into between the City of Tracy, a municipal corporation ("City"), and EKI Environmental & Water, 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 on-call services for various water-related reports for Public Works as further described herein and in Exhibit A.

B. On September 23, 2024, the City issued a Request for Proposals (RFP) for on-call consultants for various water-related reports services. On October 28, 2024 Consultant submitted its proposal for the services to the City. Pursuant to Tracy Municipal Code Sections 2.20.140(a)(2) 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. An On-Call Professional Service list was approved on January 21, 2025 by City Council Resolution No. _____.

E. This Agreement was approved on _____ pursuant to Tracy Municipal Code Section 2.20.140(a)(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: Dave Umezaki. 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 or designee ("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 March 4, 2025 and expire and terminate automatically on March 5, 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 three 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 (two hundred thousand dollars) per City fiscal year ("Total Not-to-Exceed Amount"). Effective December 31, 2027, Consultant's billing rates under this Agreement may be annually increased in January of each year by 4.5%. 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 occurrence/ \$2,000,000 annual aggregate.

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.

5.5.3 Coverage shall allow and be endorsed to include a waiver of subrogation in favor of the City and its officers, officials, employees, and agents.

5.6 Notice of Cancellation. Consultant shall provide notification to the City at least 30-days prior to cancellations of the policy. 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 upon 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. Notwithstanding the foregoing, Consultant may keep one copy of all documents and drafts for the completion of its business records.

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:

Office of the Director of Public Works
520 S. Tracy Blvd
Tracy, CA 95376
publicworks@cityoftracy.org

To Consultant:

EKI Environmental & Water, Inc
2001 Junipero Serra Blvd,
Daly City, CA 94014

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]

City of Tracy – Master Professional Services Agreement with EKI Environmental & Water, Inc.

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: Dan Arriola

Title: Mayor

Date: _____

Attest:

Adrienne Richardson, City Clerk

Approved as to form:

Andrew Shen, Interim City Attorney

Consultant

EKI Environmental & Water, Inc. A California Corporation

Signed by:

Ashley Dutton

2025/01/24 10:34

By: Ashley Dutton

Title: Vice President

Date: 2/4/2025 | 1:34 PM PST

94-3087395

Federal Employer Tax ID No. _____

DocuSigned by:

Gary Kawakita

2025/01/24 10:41

By: Gary Kawakita

Title: CFO

Date: 1/22/2025 | 10:48 AM PST

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

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: On call services for various water reports based on task order issued.

A. General Description of Services the Consultant will Provide:

REPORT WRITING: Timely completion of reports to ensure City of Tracy is compliant with all required water-related reporting (dates are examples of current deadlines):

Examples of Monthly/Quarterly/Annual/Bi-Annual Plans and Reports:

- AWWA Urban Water Loss Audit and Validation (DWR) – Due October
- Water Management Plan Annual Report (USBR) – Due April
- Annual Water Supply and Demand Assessment Report (DWR) – Due July

Examples of Five-Year Plans and Reports:

- Urban Water Management Plan (DWR) – Due July 2025
- Water Management Plan Update (USBR) – Due December 2028
- Watershed Sanitary Survey (SWRCB) – Due Jan 2025
- America's Water Infrastructure Act of 2018 (AWIA) Risk and Resilience Assessments (EPA) – Dec 2025
- AWIA Emergency Response Plan (EPA) – June 2026

Examples of Other Types of Plans and Reports:

- Additional reports may be requested of consultant as regulations are implemented or updated.

B. CONSULTATION

Consult or provide guidance and training on additional required water-related reports and plans on a time and material basis. This could be plans or reports determined by staff to be necessary in the course of program management or for new regulations that have been mandated.

EXHIBIT B
Compensation=

3. BILLING RATES

SCHEDULE OF CHARGES

EKI Personnel Classification	Hourly Rate 2024
Officer and Chief Engineer-Scientist	345
Principal Engineer-Scientist	333
Supervising I, Engineer-Scientist	323
Supervising II, Engineer-Scientist	310
Senior I, Engineer-Scientist	297
Senior II, Engineer-Scientist	286
Associate I, Engineer-Scientist	275
Associate II, Engineer-Scientist	259
Engineer-Scientist, Grade 1	241
Engineer-Scientist, Grade 2	227
Engineer-Scientist, Grade 3	209
Engineer-Scientist, Grade 4	187
Engineer-Scientist, Grade 5	165
Engineer-Scientist, Grade 6	144
Project Assistant	135
Technician	129
Senior GIS / Database Analyst	170
CADD Operator / GIS Analyst	148
Senior Administrative Assistant	162
Administrative Assistant	128
Secretary	108

DIRECT EXPENSES

Reimbursement for direct expenses, as listed below, incurred in connection with the work will be at cost plus fifteen percent (15%) for items such as:

- a. Maps, photographs, reproductions, printing, equipment rental, and special supplies related to the work.
- b. Consultants, soils engineers, surveyors, drillers, laboratories, and contractors.
- c. Rented vehicles, local public transportation and taxis, travel, and subsistence.
- d. Special fees, insurance, permits, and licenses applicable to the work.
- e. Outside computer processing, computation, and proprietary programs purchased for the work.

A Communication charge for e-mail access, web conferencing, cellphone calls, messaging and data access, file sharing, local and long distance telephone calls and conferences, facsimile transmittals, standard delivery U.S. postage, and incidental in-house copying will be charged at a rate of 4% of labor charges. Large volume copying of project documents, e.g., bound reports for distribution or project-specific reference files, will be charged as a project expense as described above.

Reimbursement for company-owned automobiles, except trucks and four-wheel drive vehicles, used in connection with the work will be at the rate of sixty cents (\$0.60) per mile. The rate for company-owned trucks and four-wheel drive vehicles will be seventy-five cents (\$0.75) per mile. There will be an additional charge of thirty dollars (\$30.00) per day for vehicles used for field work. Reimbursement for use of personal vehicles will be at the federally allowed rate plus fifteen percent (15%).

CADD and other specialized software computer time will be charged at twenty dollars (\$20.00) per hour. In-house material and equipment charges will be in accordance with the current rate schedule or special quotation. Excise taxes, if any, will be added as a direct expense.

Rate for professional staff for legal proceedings or as expert witnesses will be at a rate of one and one-half times the Hourly Rates specified above.

The foregoing Schedule of Charges is incorporated into the Agreement for the Services of EKI Environment & Water, Inc. and may be updated annually.

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

March 4, 2025

Agenda Item 1.G

RECOMMENDATION

Staff recommends that the Tracy City Council (1) adopt a resolution amending the existing agreement with San Joaquin County Behavioral Health Services accepting the unused funding balance of \$206,406 for the Familiar Faces grant award received from the California Department of Health Services in partnership with the San Joaquin County Behavioral Health Services (2) extend the agreement to June 30, 2025, and (3) appropriate the remaining balance to the Police Department's operational budget.

EXECUTIVE SUMMARY

The Police Department (PD), working in partnership with the San Joaquin County Behavioral Health Services (County), was awarded a total of \$643,250 from the California Department of Health Care, Behavioral Health Justice Intervention Services as a grant sub-awardee. The Police Department was awarded \$213,000 in 2022, \$93,900 in 2023, and \$336,350 in 2024 to support the establishment of the Department's Familiar Faces Program, which assists with homelessness and mental health services. It is a reimbursement-based award and the Department has an unused fund balance of \$206,406, which will be carried forward ("rolled over") and added to the third grant award of \$336,350, making the new overall balance \$542,756. This item requests that the City Council accept and appropriate the remaining funds to the PD's operational budget.

BACKGROUND AND LEGISLATIVE HISTORY

The PD's Community Services Division has partnered with San Joaquin County Behavioral Health Services and obtained funding from the California Department of Health Care, Behavioral Health Justice Intervention Services grant. On August 16, 2022, the City Council appropriated the Behavioral Health Justice Intervention Services grant of \$213,000 towards the purchase of the first Familiar Faces Homeless Outreach transportation vehicle, consultation services, and operating expenses. On November 7, 2023, the City Council appropriated an additional \$93,900 grant award towards supporting the Familiar Faces program and purchased a second vehicle. The second award also went towards buying office equipment, diversion funding, and staff training in furtherance of the Familiar Faces Program and Mobile Evaluation Team (MET).

On January 11, 2024, the PD received a third notice of award of additional funding of \$336,350.00, which has funded one Administrative Assistant and one Homeless Outreach Coordinator for one year, and after one year, the City/Department would have to fund the positions from the PD's operational budget. The total award would be appropriated to the Police Department's operating budget for FY 24/25. Once grant funds are expended in 2025, the future cost for the Administrative Assistant and Homeless Outreach Coordinator will be funded through the Police Department's operational budget.

ANALYSIS

Approving this contract amendment requires the following actions of City Council:

- 1) Authorizing the acceptance of unused funding balance of \$206,406 to be carried forward (“roll over”) and added to the new funding.
- 2) Extend the agreement from March 31, 2025, to June 30, 2025, and
- 3) Appropriate the remaining balance to the PD’s operational budget.

FISCAL IMPACT

This is an amendment to the original contract agreement to authorize the Department to receive a remaining/existing funding balance of \$206,406 to be carried forward (“rolled over”) and added to the new funding with the new overall balance being \$542,756.

COORDINATION

The Tracy Police Department has coordinated with San Joaquin County Behavioral Health Services.

STRATEGIC PLAN

This agenda item relates to the City of Tracy Council Strategic Priorities for 2024-2025, Quality of Life, Goal #5 continue to implement the adopted Homelessness Strategic plan.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The approval of this administrative funding item will not result in a physical change in the environment and therefore is not considered as a project as defined by Section 21065 of the Public Resources Code.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the Tracy City Council (1) adopt a resolution amending the existing agreement with San Joaquin County Behavioral Health Services accepting the unused funding balance of \$206,406 for the Familiar Faces grant award received from the California Department of Health Services in partnership with the San Joaquin County Behavioral Health Services (2) extend the agreement to June 30, 2025, and (3) appropriate the remaining balance to the PD’s operational budget.

Prepared by: Miguel Contreras, Police Lieutenant

Reviewed by: Octavio Lopez, Police Captain

Beth Lyons-McCarthy, Police Support Operations Manager

Sekou Millington, Chief of Police

Sara Castro, Finance Director

Karin Schnaider, Assistant City Manager

Andrew Shen, Interim City Attorney

Approved by: Midori Lichtwardt, City Manager

Attachments:

- Attachment A: San Joaquin County Behavioral Health Services Agreement First Amendment of Agreement #A-24-103
- Attachment B: Original San Joaquin Behavioral Health Services Community Agreement

**SAN JOAQUIN COUNTY BEHAVIORAL HEALTH
SERVICES AGREEMENT**

FIRST AMENDMENT OF AGREEMENT #A-24-103

City of Tracy
Tracy Police Department
Behavioral Health Mobile Crisis
January 1, 2024- June 30, 2025

THIS FIRST AMENDMENT OF AGREEMENT A-24-103 made and entered into this day _____, 2025, by and between the COUNTY OF SAN JOAQUIN, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and **City of Tracy**, hereinafter referred to as "CONTRACTOR."

WITNESSETH

WHEREAS, the parties entered into an Agreement on the 14th day of May, 2024, whereby the CONTRACTOR shall provide Police Department homeless street outreach and engagement services.

WHEREAS, the parties hereto now desire to extend the Term of the Agreement for an additional 3 months and amend the Fiscal Provisions and Exhibit C of said Agreement, increasing the amount by \$206,406, from \$336,500 to \$542,906.

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

Section 3 is amended to read:

3. Term: The term of this Agreement shall be from January 1, 2024- June 30, 2025. Nothing in this Agreement shall be interpreted as requiring either party to renew or extend this Agreement.

Section 6 is amended to read:

6. Fiscal Provisions:

- a. COUNTY shall pay CONTRACTOR an amount not to exceed \$542,906 (Five Hundred Forty-Two Thousand Nine Hundred and Six Dollars) based on reimbursement of actual costs incurred.

Exhibit C is deleted and replaced in its entirety with Exhibit C attached hereto.

In all other respects except as herein amended, the Agreement dated May 14, 2024, shall remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written

above:

ATTEST: RACHÉL DeBORD,
Clerk of the Board of Supervisors
of the County of San Joaquin,
State of California

By: _____ (seal)
Clerk

COUNTY OF SAN JOAQUIN
a political subdivision of the
State of California

By: _____
Paul Canepa, Chair
Board of Supervisors

Hereinabove referred to as "COUNTY"

By: _____
Dan Arriola, Mayor
City of Tracy

Hereinabove referred to as "CONTRACTOR"

APPROVAL RECOMMENDED:

By: _____
Genevieve G. Valentine, Interim
Director Health Care Services

By: _____ No Signature _____
Genevieve G. Valentine
Behavioral Health Services

APPROVED AS TO FORM:

Office of the County Counsel

By: 
Rachael Allgaier,
Deputy County Counsel

Exhibit C
January 1, 2024- June 30, 2025
PAYMENT SCHEDULE
COUNTY OF SAN JOAQUIN

Description	Invoice Description	Amount
Quarters 2-9	Equipment and Progress Reports are deemed completed, subject to invoicing of Quarter 9.	\$306,900.00
Year 1 Quarters 2-3		
Year 2 Quarters 4-7		
Year 3 Quarters 8-9 (2/15/2022– 12/31/2023)	Amount paid to date:	\$100,344.00
	Remaining to Invoice:	\$206,556.00

Quarter #/Date Range	Invoice Description	Amount of Invoice
Quarter 10: CRRSAA Funding 1/1/2024 – 2/29/2024	Progress Report detailing progress made towards Deliverable 9A (CRRSAA)	\$44,847.00
Quarter 10: MHBG Funding 3/1/2024 – 3/31/2024	Progress Report detailing progress made towards Deliverable 9B (MHBG)	\$22,423.00
Quarter 11: 04/01/24 – 6/30/24	Progress Report detailing progress made towards Deliverable 10	\$67,270.00
Quarter 12: 07/01/24 – 9/30/24	Progress Report detailing progress made towards Deliverable 11	\$67,270.00
Quarter 13: 10/01/24 – 12/31/24	Progress Report detailing progress made towards Deliverable 12	\$67,270.00
Quarter 14: 1/1/25 – 3/31/25	Progress Report detailing progress made towards Deliverable 13	\$67,270.00
Total Quarters 10-14		\$336,350.00
Subcontract TOTAL (Deliverables, Other Direct and Equipment)		\$542,906.00

A-24- 103

**SAN JOAQUIN COUNTY BEHAVIORAL HEALTH SERVICES
COMMUNITY SERVICE AGREEMENT**

**City of Tracy
Tracy Police Department
Behavioral Health Mobile Crisis
January 1, 2024 – March 31, 2025**

This AGREEMENT made and entered into this day May 14, 2024 by and between the COUNTY OF SAN JOAQUIN, a political subdivision of the State of California, acting through **BEHAVIORAL HEALTH SERVICES**, (hereinafter “COUNTY”), and, **City of Tracy** (hereinafter “CONTRACTOR”).

1. **Scope of Contractor Services:** The services to be performed by CONTRACTOR under this Agreement shall include, but are not limited to, those items described in the Scope of CONTRACTOR’s Services, set forth in Exhibit A, attached hereto and incorporated herein. COUNTY may in its discretion, upon the request of CONTRACTOR or as a result of changed circumstances, make revisions to Exhibit A upon the written approval of the DIRECTOR and in accordance with the BHS Community Services Agreement Modification policy. CONTRACTOR shall provide the services under the direction of COUNTY’s Director of Behavioral Health Services (DIRECTOR).
2. **Governance:** Services under this contract shall be in accordance with all applicable Federal and state laws and regulations including the Project Number 21-10349 Behavioral Health Mobile Crisis and Non-Crisis Services, Subcontract 7460-CA Mobile Crisis – County of San Joaquin – 01G.

CONTRACTOR agrees to comply with:

- a. Intergovernmental Agreements entered into by and between the Department of Health Care Services and the COUNTY
- b. California Labor Code sections 1101-1102
- c. Deficit Reduction Act of 2005, Section 6032 Trafficking Victims Protection Act of 2000, Section 106(g) of the Trafficking Victims Protection Act of 2000 as amended (22 USC 7104(g) as amended by Section 1702
- d. United States Code Title 31 Section 3730h Whistleblower Act, 41, Public Contracts and 42, The Public Health and Welfare
- e. Title V USC, Sections 1501-1508 Hatch Act
- f. Title 31 Section 1352 Byrd Anti-Lobbying Amendment and 3729-3733 False Claims Act
- g. Title VI, the Civil Rights Act of 1964, USC 42 Section 2000d as amended

- h. Title IX of the Education Amendments of 1972 (education programs and activities)
- i. Title XIII of the Civil Rights Act of 1968 (42 USC 3601 et seq.)
- j. Title 40 USC Section 3145 Copeland Act and 3141 Davis-Bacon Act
- k. The Age Discrimination Act of 1975 as amended, Age Discrimination in Employment Act and the Rehabilitation Act of 1973
- l. The Americans with Disabilities Act of 1990, as amended
- m. Section 1557 of the Patient Protection and Affordable Care Act
- n. Health and Safety Code Sections 11.848.5(a) and (b).
- o. 2 CFR Part 180, 200.322 and 3000
- p. 42 CFR 438 including applicable Medicaid laws and regulations, sub-regulatory guidance and contract provisions, beneficiary grievance, appeal, fair hearing procedures and timeframes
- q. 42 CFR Part 455
- r. 44 CFR Part 18
- s. Welfare and Institutions Code Sections 14021.51-14021.53, 14124.20-14124.25 and 14197 as it applies to time and distance standards.
- t. 42 CFR (Confidentiality, HITECH Act, Prohibited Affiliations, Disclosures on Information and Ownership Control and Managed Care); 45 CFR (Privacy and Security Regulations) and McCain National Defense Authorization Act 2019 Public Law 115-232, Section 889
- u. California Government Code (Title 2, Division 4, Part 2, Chapter 6), Sections 16645 through Section 16649
- v. County Procurement Policies
- w. California Behavioral Health Information Notices
- x. All other regulations and codes specified in this Agreement and Exhibits.

3. **Term:** The term of this agreement shall be from January 1, 2024 through March 31, 2025. Nothing in this Agreement shall be interpreted as requiring either party to renew or extend this Agreement.

4. **Non-Discrimination Requirements:** Non-discrimination requirements are set forth in Exhibit B and C, attached hereto and incorporated herein. CONTRACTOR shall not discriminate on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ethnic group identification, ancestry, mental or physical disability, medical condition, genetic information, military or veteran status, age, pregnancy, denial of medical and family care leave, or pregnancy disability leave (California Government code sections 12940, 12945, 12945.2). CONTRACTOR shall not retaliate against any person for protesting illegal discrimination related to one of these categories, or for reporting patient abuse in tax supported institutions. DIRECTOR may determine patient

eligibility under the Short-Doyle Act, the Medi-Cal Program, the Mental Health Services Act and the non-discrimination requirements.

5. Patient Rights: CONTRACTOR shall comply with W&I Code, Division 5, Section 5325; and California Code of Regulations Title 9, Article 6. CONTRACTOR shall observe all beneficiary rights as specified in 42 CFR 438 including the provision of beneficiary handbooks, education materials and notices to beneficiaries in accessible formats. CONTRACTOR will comply with COUNTY's administration of beneficiary problem resolution processes.

6. Fiscal Provisions:

a. COUNTY shall pay CONTRACTOR an amount not to exceed \$336,500 (Three Hundred Thirty Six Thousand Five Hundred Dollars) based on reimbursement of actual costs incurred.

Payment shall be made in accordance with the requirements as set forth in Exhibit A, attached hereto and incorporated herein.

b. The basis for this agreement shall be COST REIMBURSEMENT as agreed to by both parties and as provided for and governed by policies of the State Department of Health Care Services. Payment shall not exceed CONTRACTOR's actual costs.

c. CONTRACTOR shall provide COUNTY with monthly invoices for all services no later than fifteen (15) working days after the end of the month in which the costs were incurred.

d. If equipment is included as a line item in Exhibit A, CONTRACTOR may purchase equipment with the knowledge that Advocates for Human Potential retains ownership of fixed assets over \$5,000.00, and potentially STATE retains ownership based on federal and state funding requirements. CONTRACTOR will maintain an inventory listing all equipment purchased during the agreement period.

e. CONTRACTOR shall not utilize contract funds for travel outside California or for any costs associated with such out-of-state travel without prior written approval from the DIRECTOR and Advocates for Human Potential, Inc..

f. CONTRACTOR shall maintain financial records that clearly reflect the cost of each type of service. Appropriate service and financial records must be maintained and retained for at least ten (10) years, or until audit findings are resolved, whichever is later. Any cost apportionment shall be made under generally accepted accounting principles and shall evidence proper audit trails reflecting the true cost of services.

- g. CONTRACTOR agrees to limit indirect cost rates charged to the COUNTY in accordance with the COUNTY's Indirect Rate Guideline.
- h. CONTRACTOR shall submit to COUNTY an annual program budget proposal on or before June 1st for each successive fiscal year included in a multi-year contract term. At a minimum each budget proposal will consist of an itemized budget and supporting budget narrative.

7. **Funds:** This agreement is contingent upon receiving State or Federal funds for the service described in Exhibit A. If the County does not receive sufficient State or Federal funds for this service described in Exhibit A, this agreement may be modified or terminated. If the State Department of Health Care Services disapproves this agreement, it shall be null and void.

8. **Funding Cycle:** Funding is for services provided by fiscal year, which begins July 1 and ends June 30 of the next calendar year. The maximum financial obligation of the COUNTY under this Agreement is not a guaranteed sum but shall be paid only for services actually rendered.

9. **Recovery of Overpayment to Provider, Liability for Interest:** CONTRACTOR shall promptly report to COUNTY when it has received an overpayment, return the overpayment to COUNTY within sixty (60) calendar days after the date on which the overpayment was identified, and notify COUNTY in writing of the reason for the overpayment.

- a. When an audit or review performed by COUNTY, the State Department of Health Care Services, the State Controller's Office, or any other authorized agency discloses that CONTRACTOR has been overpaid under this Agreement, a disallowance of service is identified, or where the total payments exceed the total liability under this Agreement, CONTRACTOR covenants that any such overpayment or excess payments over liability may be recouped by COUNTY withholding the amount due from future payments, seeking recovery by payment from CONTRACTOR, or a combination of these two methods.
- b. Overpayments determined as a result of audits of periods prior to the effective date of this Agreement may be recouped by COUNTY withholding the amount due from what would otherwise be COUNTY's liability under this Agreement, seeking recovery by payment from CONTRACTOR, or a combination of those two methods. CONTRACTOR shall promptly report to COUNTY when it has received an overpayment, return the overpayment to COUNTY within sixty (60) calendar days after the date on which the overpayment was identified, and notify COUNTY in writing of the reason for the overpayment.

c. When recoupment or recovery is sought under Section A of this Paragraph CONTRACTOR may appeal according to applicable procedural requirements of the regulations adopted pursuant to Sections 5775, et seq. and 14680, et seq. of the Welfare and Institutions Code, with the following exceptions:

- 1) The recovery or recoupment shall commence sixty (60) calendar days after issuance of account status or demand resulting from an audit or review and shall not be deferred by the filing of a request for an appeal according to the applicable regulations.
- 2) CONTRACTOR's liability to COUNTY for any amount recovered under this Paragraph shall be as provided in Section 5778(h) of the Welfare and Institutions Code and regulations adopted pursuant thereto.

10. Payment Suspension: Payment to CONTRACTOR may be temporarily suspended if the State determines there is a credible allegation of fraud for which CONTRACTOR is under investigation by COUNTY, State Department of Health Care Services or any local, state or federal law enforcement agency for fraud and/or abuse (42 CFR, Sections 438.608(a)(8) and 455.23; and W&I Code 14107.11).

11. Confidentiality: CONTRACTOR shall comply and require its officers, employees, agents and/or subcontractors to comply with all Health Insurance Portability and Accountability Act (HIPAA) regulations. CONTRACTOR shall adhere to patient confidentiality under California Welfare and Institution Code, Section 5328; Code of Federal Regulations, Title 45, Section 205.50; the Confidentiality of Medical Information Act, California Civil Code section 56, et seq.; and all applicable State and Federal statutes or regulations.

CONTRACTOR agrees to sign and abide by the terms and conditions contained within ~~Attachment A and B, Special Terms and Conditions, and~~ the Business Associate Agreement, which is attached hereto and incorporated by reference herein. The provisions of the Attachments and Exhibits shall survive the termination of this agreement.

CONTRACTOR shall comply with the applicable privacy, security, and confidentiality requirements under any Mental Health Plan Agreement contract COUNTY has with the State Department of Health Care Services.

12. Compliance with Applicable Statutes, Ordinances and Regulations: CONTRACTOR shall comply with applicable Federal, State, County and local laws in performance of work under this Agreement. COUNTY has the right to monitor the performance of this Agreement to ensure the accuracy of claims for reimbursement and compliance with all applicable laws and

regulations. shall monitor implementation of the corrective action plan as it pertains to services provided pursuant to this Agreement.

Should Federal, State, County, local laws, rules, regulations or guidelines touching upon this Agreement be adopted or revised during the term hereof, CONTRACTOR shall comply with them or notify COUNTY, in writing, that it cannot so comply so that COUNTY may take appropriate action. CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in California. CONTRACTOR shall comply with all laws applicable to wages and hours of employment, occupational safety, fire safety, health and sanitation. All products of whatsoever nature, which CONTRACTOR delivers to COUNTY pursuant to this Agreement, shall be prepared in a professional manner and conform to the standards of quality normally observed by a person practicing in CONTRACTOR's profession.

- a. If working with children ages 0 to 18, conservatees, or patients in a hospital setting, CONTRACTOR shall comply with all provisions of Welfare & Institutions code 5405, in part, requiring Department of Justice (DOJ) and Federal Bureau of Investigations (FBI) background checks on all employees, contractors, or volunteers who may have contact with patients or residents in the provision of services.
- b. CONTRACTOR and its employees will adhere to the COUNTY's Standards of Conduct for Behavioral Health Services Contractors policy, include submission of the signed policy to BHS. CONTRACTOR and its employees shall not engage in any activities that violate any laws, regulations, or rules, and shall adhere to the highest ethical standards of conduct in all business activities, including integrity, honesty, courtesy, respect and fairness. CONTRACTOR and its employees are expected to promptly report any activities that may be in violation of any COUNTY policies, standards of conduct or any Federal, State or local laws, regulations, rules or guidelines. Any violations or alleged violations may be disclosed anonymously.
- c. Compliance with Immigration Law: CONTRACTOR shall employ only individuals who are in compliance with any and all current laws and regulations of the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Service.
- d. Federal Equal Opportunity Compliance: CONTRACTOR shall individuals in compliance with Equal Opportunity requirements and clauses, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans Readjustment Assistance Act of 1974 and Executive Order 11246.

- e. ADA Compliance: CONTRACTOR shall comply with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 USC Sections 12101 et seq.). This includes, but is not limited to, facilities, parking lots, service counters and spaces, transportation, agendas, flyers, emails, online services, phone calls and group activities.
- f. Drug Free Workplace: CONTRACTOR shall comply with the provisions of Government Code section 8350 et seq., otherwise known as the Drug-Free Workplace Act.
- g. Salary: CONTRACTOR agrees that no part of any federal funds provided under this Agreement shall be used to pay the salary of an individual per fiscal year at a rate in excess of Level 1 of the Executive Schedule at <https://www.opm.gov/> (U.S. Office of Personnel Management), as most recently amended.
- h. Licenses and Permits: CONTRACTOR represents and warrants to COUNTY that CONTRACTOR and its network providers have all licenses, permits, certificates, registrations, and qualifications which are legally required for CONTRACTOR to practice its profession. CONTRACTOR shall ensure that its network providers are credentialed in accordance with COUNTY policy, in good standing with their respective licensing board and their license, waiver, registration and certification is current and valid without limitations.. CONTRACTOR shall maintain current throughout the life of this Agreement, all permits, licenses, certificates and insurances that are necessary for the provision of contracted services.
- i. Suspension and Debarment: By executing this Agreement, CONTRACTOR certifies that CONTRACTOR and its providers are not suspended, debarred, declared ineligible or otherwise excluded from by any Federal Department or Agency. CONTRACTOR acknowledges that this certification of eligibility to receive federal funds is a material term of the Agreement. Federal Financial Participation is not available for any amount furnished to an Excluded individual or entity, or at the direction of a physician during the period of exclusion when the person providing the service knew or had reason to know of the exclusion, or to an individual or entity when the COUNTY failed to suspend payments during an investigation of a credible allegation of fraud [42 U.S.C. section 1396b(i)(2)].

13. Program and Patient Records: CONTRACTOR agrees to comply with all applicable Medicaid laws, regulations, and contract provisions, including the terms of the 1915(b) Waiver and any Special Terms and Conditions. CONTRACTOR will maintain program and patient records for a minimum of ten (10) years after the end of the agreement. The State Department of Health Care Services, COUNTY and/or the appropriate audit agency shall have the right to

audit, review and reproduce all records to evaluate the cost, quality, appropriateness and timeliness of services.

Clinical records, treatment and billing documents shall comply with federal and state regulations and County quality and timeliness standards. CONTRACTOR will be required to develop and implement a clinical record system which meets all County, State, and Federal requirements and clearly documents medical necessity for both treatment and billing services. CONTRACTOR will adhere to County policies and procedures for billing and claiming services. CONTRACTOR staff will participate in the COUNTY's training on clinical documentation and all electronic health record systems required for use. CONTRACTOR will participate in the COUNTY'S medical records system. Records must be retained for ten (10) years following the discharge of the adult patient; for minor patients, records must be kept ten (10) years after the minor patient's nineteenth (19th) birthday.

- 14. Program Reports:** CONTRACTOR shall provide monthly, bi-monthly or quarterly and annual program progress reports to the COUNTY on a schedule and in the format determined by COUNTY. CONTRACTOR will report progress and achievement on the program goals and measurable activities specified in Exhibit A. CONTRACTOR shall provide a copy to COUNTY of any regulatory citation or audit report received from any entity during the term of this agreement. CONTRACTOR shall maintain accurate and complete records for all activities and achievements reported to the COUNTY. COUNTY will initiate a corrective action plan if deficiencies are identified.
- 15. Availability, Accessibility and Timeliness of Services:** CONTRACTOR shall provide the covered services in a timely manner, pursuant to the requirements and standards established by applicable Federal, State and County laws, ordinances, regulations, resolutions and policies, and pursuant to COUNTY's obligation to County consumers. CONTRACTOR shall maintain continuous availability and accessibility of covered services and facilities, service sites and personnel to provide the covered services as defined by the State and Federal "Access", "Timely Access" and "Timeliness" standards. Such services shall not be limited due to budgetary constraints and will be provided to COUNTY beneficiaries residing in and outside of the COUNTY.
- 16. Cultural and Linguistic Proficiency:**
 - a. To ensure equal access to quality care by diverse populations, CONTRACTOR shall adopt the federal Office of Minority Health Culturally and Linguistically Appropriate Service (CLAS) national standards.

- b. When the consumer served by CONTRACTOR is a non-English or limited-English speaking person, CONTRACTOR shall take all steps necessary to develop and maintain an appropriate capability for communicating in that consumer's primary or preferred language to ensure full and effective communication between the consumer and CONTRACTOR staff. CONTRACTOR shall provide immediate translation to non-English or limited-English speaking consumers whose conditions are such that failure to immediately translate would risk serious impairment. CONTRACTOR shall provide notices in prominent places in the facility of the availability of free translation in necessary other languages.
- c. CONTRACTOR shall make available forms, documents and brochures in the San Joaquin County threshold languages of English and Spanish to reflect the cultural needs of the community.
- d. CONTRACTOR is responsible for providing culturally and linguistically appropriate services. Services are to be provided by professional and paraprofessional staff with similar cultural and linguistic backgrounds to the consumers being served.

17. Contractor Staff:

- a. COUNTY may, at any time, request the removal of any CONTRACTOR staff from the program funded by COUNTY through this agreement if COUNTY reasonably determines that said staff is detrimental to the program, the COUNTY or the COUNTY's clients or has acted inappropriately. CONTRACTOR shall remove any staff from the program immediately upon request by COUNTY pursuant to this provision.

CONTRACTOR will notify COUNTY immediately when any CONTRACTOR staff with access to the BHS Portal has been terminated, resigned, or experienced a significant change in job responsibilities that necessitates a change in access to electronic health record systems.

18. Formal Review: CONTRACTOR shall comply with annual BHS staff site reviews of requested fiscal and programmatic documents evidencing work provided. If deficiencies are identified, CONTRACTOR will work with COUNTY to take corrective action.

19. Audit: CONTRACTOR will submit an annual external organizational audit to BHS, including a separate schedule of revenue and expenditures of COUNTY program funds prepared by a Certified Public Accountant. CONTRACTOR's receiving more than \$750,000 annually of Federal funding as part of this COUNTY funded program must provide a single audit, detailing revenue and expenditures of COUNTY program funds and prepared by a Certified Public Accountant. CONTRACTOR's receiving less than \$200,000 annually from COUNTY are not required to obtain an annual external organizational audit, however, at the COUNTY's

discretion, the COUNTY reserves the right to request an external audit for any CONTRACTOR receiving COUNTY funds.

CONTRACTOR will comply with 42 CFR Parts 455, 104, 455.105, 1002.203 and 1002.3, in relation to the provision of information about provider business transactions, ownership and control, prior to entering into a contract and during re-certification and annual review.

Audits in accordance with 42 CFR 439.3(m) must be submitted within the earlier of thirty (30) days after receipt of the Certified Public Accountant's report or six months after the end of the CONTRACTOR's fiscal year period. The Audit Report shall be submitted to:

San Joaquin County Behavioral Health Services
Attn: Contract Management
1212 North California Street
Stockton, CA 95202

- a. CONTRACTOR shall maintain accurate and complete records including a physical inventory of employee payroll timesheets. These records shall be preserved in accordance with recognized commercial accounting practices.
20. **Indemnification:** CONTRACTOR shall, at its expense, defend, indemnify and hold harmless COUNTY, (defined as the County of San Joaquin and its employees, officers, directors, contractors and agents) from and against any losses, liabilities, damages, penalties, costs, fees, including without limitation reasonable attorneys' fees, and expenses from any claim or action, including without limitation for bodily injury or death, to the extent caused by or arising from the active and/or passive negligence or willful misconduct of CONTRACTOR, its employees, officers, agents or subcontractors.

CONTRACTOR shall hold the COUNTY, its officers and employees, harmless from liability, of any nature or kind on account of use of any copyrighted, or un-copyrighted composition, secret process, patented or un-patented invention articles or appliance furnished or used under this Agreement.

COUNTY shall defend, indemnify, and hold harmless CONTRACTOR, employees, officers, directors, contractors and agents from and against all losses, liabilities, damages, penalties, costs and fees, including reasonable attorneys' fees, arising out of or resulting from the performance of the Agreement, caused in part by the negligent or intentional actions or omissions of COUNTY's employees, officers, directors, contractors and agents.

21. **Insurance Requirements:** Contractor shall submit proof of insurance with liability limits as set forth below to COUNTY showing COUNTY, its officers, employees and agents named as

Additional Insured. COUNTY insurance requirements must be met prior to starting work with San Joaquin County. CONTRACTOR agrees to be responsible to ensure that the requirements set forth are also to be met by CONTRACTOR's subcontractors. During the term of this Agreement, CONTRACTOR shall maintain and carry in full force insurance of the following types and minimum amounts with a company or companies as are acceptable to COUNTY, insuring CONTRACTOR while CONTRACTOR is performing ongoing operations and duties under this Agreement:

- a. **Workers' Compensation and Employer's Liability:** As required by any applicable State or Federal law or regulation and Section 3700 of the Labor Code that requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that code, CONTRACTOR will comply with a program of Workers' Compensation Insurance or a state-approved self-insurance program.
- b. **Commercial General Liability Insurance:** The policy shall have combined single limits for bodily injury or property damage including personal injury of not less than two million dollars (\$2,000,000), for each occurrence. The aggregate limit shall be \$4,000,000.
- c. **Professional Liability** with \$1,000,000 limit as appropriately relates to services rendered including coverage for medical malpractice, and/or errors and omissions.
- d. **Cyber Liability** with \$2,000,000 per occurrence or claim and \$4,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Vendor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.
- e. **Automobile Liability:** CONTRACTOR agrees to hold harmless and indemnify COUNTY for any and all liabilities associated with the use of any automobiles in relation to tasks associated with this Agreement. In addition, if vehicles are used to transport clients, CONTRACTOR shall maintain comprehensive automobile liability, with the following minimum limits:

- f. **Additional Named Insured:** All certificates of insurance except for workers' compensation and professional liability shall contain additional endorsements naming COUNTY and its officers, employees, agents, as additional insured with respect to liabilities arising out of performance of services.
- g. **Policies Primary and Non-Contributory:** All policies required above are to be primary and non-contributory with any self-insurance programs carried or administered by COUNTY.
- h. **Proof of Coverage:** CONTRACTOR shall immediately furnish certificates of insurance to COUNTY department administering the contract evidencing the insurance coverage, including endorsements above required, prior to the commencement of performance of services, which certificates shall provide that such insurance shall not be cancelled, reduced or expire, without thirty (30) day's written notice to COUNTY. CONTRACTOR shall maintain such insurance and furnish to COUNTY certified copies of the certificates and all endorsements from the time CONTRACTOR commences performance of services hereunder until the completion of such services. If COUNTY elects to renew this Agreement, CONTRACTOR shall provide COUNTY with copies of the certificates and all endorsements for each additional term of this Agreement. All insurance shall be in a company or companies authorized by law to transact insurance business in the State of California.
- i. **Liability:** Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve CONTRACTOR from liability in excess of such coverage, nor shall it preclude COUNTY from taking such other actions as are available to it under any other provision of this Agreement or otherwise in law.

22. **Conflict of Interest:** CONTRACTOR has read and is aware of the provisions of Sections 1090 et seq. and 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees and agrees to be bound thereby. CONTRACTOR certifies that it is unaware of any financial or economic interest of any public officer or employee of COUNTY relating to this Agreement. It is further understood and agreed that if such a financial interest does exist at the inception of this Agreement, COUNTY may immediately terminate this agreement by giving written notice thereof.

CONTRACTOR certifies that its employees and officers of its governing body shall avoid any actual or potential conflicts of interest and that no officer or employee who exercises any functions or responsibilities in connection with this Agreement shall have any personal financial interest or benefit which either directly or indirectly arises from this Agreement.

CONTRACTOR shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose that could result in private gain or that gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family or business ties.

Further, any member of CONTRACTOR's Board of Directors or officers is prohibited from working for CONTRACTOR except by consent of the DIRECTOR, which consent shall not be unreasonably withheld for exceptional or unusual circumstances.

23. **Nepotism:** Nepotism occurs when relatives are in the same chain-of-command. A management official or supervisor with authority to take personnel management actions may not select a relative for a position anywhere in CONTRACTOR's organization under his or her jurisdiction or control. Such persons having the authority to appoint, employ, promote, or advance person or to recommend such action, may not advocate or recommend a relative for a position in CONTRACTOR's organization. For purposes of this statement, relative is defined as a spouse, parents, children, siblings, aunts or uncles, in-laws or step-parents or step-siblings. Except by consent of DIRECTOR, which consent shall not be unreasonably withheld for exceptional or unusual circumstances, no person shall be employed by CONTRACTOR who is in a direct chain-of-command or supervision with any relative, as defined above.
24. **Adherence to Computer Software Copyright Laws:** CONTRACTOR certifies that it has appropriate systems and controls in place to ensure that state or federal funds available from this Agreement will not be used for the acquisition, operation, or maintenance of computer software in violation of copyright laws.
25. **Charitable Choice:** CONTRACTOR shall not use funds provided through this contract for inherently religious activities, such as sectarian worship, religious instruction, or proselytization. No federal funds shall be used by CONTRACTOR to provide direct, immediate or substantial support to any religious activity. CONTRACTORs that are religious organizations shall establish a referral process to a reasonably accessible program for clients who may object to the religious nature of the CONTRACTOR's program, and CONTRACTOR shall notify clients of their rights to be referred to another program if they object to the religious nature of the program at intake. Referrals made due to the religious nature of the CONTRACTOR's program shall be submitted annually to the COUNTY by June 30.
26. **Domestic Partners Act:** Pursuant to Public Contract Code 10295.3, no state agency may enter into any contract executed or amended after January 1, 2007, for the acquisition of goods or services in the amount of \$100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and employees with domestic partners, or discriminates between domestic partners and spouses of those employees.

27. **Lobbying and Restrictions:** By signing this Agreement, the CONTRACTOR certifies that no part of any federal funds provided under this Agreement shall be used by the CONTRACTOR to support lobbying activities to influence proposed or pending federal or state legislation for appropriations. This prohibition is related to the use of federal grant funds and is not intended to offset the right, or the right of any other organization, to petition Congress, or any other level of Government, through the use of other resources (31 USC, Section 1352).
28. **Non-Exclusive Rights:** This Agreement does not grant to CONTRACTOR any exclusive privileges or rights to provide services to COUNTY. COUNTY may contract with other counties, private companies, or individuals for similar services.
29. **Governing Law:** The laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and shall also govern the interpretation of this Agreement.
30. **Venue:** Venue for any action arising out of this Agreement shall be the County of San Joaquin, California.
31. **Entire Agreement:** This document contains the entire Agreement between the parties and supersedes oral or written understanding they may have had prior to the execution of this Agreement. If any ambiguity is created between this Agreement and its exhibits and/or attachments, this Agreement shall prevail.
32. **Severability:** Each paragraph and provision of this Agreement is severable, and if one or more paragraphs or provisions are declared invalid, the remaining provisions of this Agreement will remain in full force and effect.
33. **Enforcement of Remedies:** No right or remedy herein conferred on or reserved to COUNTY is exclusive of any other right or remedy herein or by law or equity provided or permitted but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing by law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.
34. **Modification, Amendments, and Waiver:** No supplement, modification, or waiver of this Agreement shall be binding unless executed in writing by the party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed to or shall constitute a waiver of any other provisions hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

35. **Exhibits to Contract:** Additional provisions shall be attached hereto and incorporated herein as sequentially numbered exhibits and shall have the same force and effect as set forth in the Agreement. The provisions of the Exhibits shall survive the termination of this agreement.
36. **Headings:** Paragraph headings are not to be considered a part of this Agreement and are included solely for convenience of reference and are not intended to be full or accurate description of the contents thereof.
37. **Force Majeure:** Without affecting any right of termination set forth in this Agreement, either party may suspend this Agreement at any time because of strike of its personnel, war, declaration of state of national emergency, acts of God, or other cause beyond the control of the party, by giving the other party written notice of, and reason for, the suspension.
38. **Independent Contractor:** In the performance of work duties, and obligations imposed by this Agreement, CONTRACTOR is at all times acting as an independent contractor practicing his or her own profession and not as an employee of COUNTY. CONTRACTOR shall perform CONTRACTOR's work in strict accordance with approved methods and standards of practice in CONTRACTOR's professional specialty. The sole interest of COUNTY is to assure that CONTRACTOR's services are rendered in a competent and efficient manner in order to maintain the high standards of San Joaquin COUNTY. CONTRACTOR shall not have any claim under this Agreement or otherwise against COUNTY for vacation, sick leave, retirement benefits, social security or worker's compensation benefits. CONTRACTOR acknowledges the fact that it is an independent contractor and is in no way to be construed as an employee of COUNTY, nor are any of the persons employed by CONTRACTOR to be so construed. CONTRACTOR shall furnish all personnel, supplies, equipment, furniture, insurance, utilities, telephone and facilities necessary except as provided in Exhibit A. A copy of the CONTRACTOR's current professional, local, state or other business license required to conduct the services stated herein, will be provided to the COUNTY.
39. **Assignments:** This Agreement is binding upon COUNTY and CONTRACTOR and their successors. Except as otherwise provided herein, neither COUNTY nor CONTRACTOR shall assign, sublet or transfer its interest in this Agreement or any part thereof or delegate its duties hereunder without the prior written consent of the other. Any assignment, transfer, or delegation made without such written consent shall be void and shall be a material breach of this Agreement.
40. **Disputes and Remedies:** Notice of any disputes, claims, or breach raised by CONTRACTOR, arising under this Agreement, must be submitted, in writing, to COUNTY within ninety (90) days of the alleged dispute, claim, or breach. If such issues cannot be resolved within ninety (90) days following written notice, and if the parties mutually agree, the alleged dispute, claim,

or breach may be submitted to arbitration. Arbitration, if expressly agreed upon in writing by COUNTY and CONTRACTOR, shall be pursuant to the provisions of California Code of Civil Procedure Section 1280, et seq.

- a. At the COUNTY's sole discretion, COUNTY may elect to raise a dispute, claim, or breach by submitting it, in writing, to CONTRACTOR. Such dispute, claim, or breach would include conditions and time constraints required of CONTRACTOR to remedy.
- b. Neither the pendency of a dispute, claim, or breach nor its consideration will excuse the parties from full and timely performance in accordance with terms of this Agreement.
- c. Any legal action or proceeding with respect to this Agreement shall be brought in the courts of the State of California for the County of San Joaquin, or the courts of the United States of America for the Eastern District of California, and in no other courts. CONTRACTOR hereby accepts such jurisdiction and venue and generally and unconditionally waives any objection, including, without limitation, any objection to the laying of venue or based on the grounds of *forum non conveniens*. The provision of this paragraph shall survive expiration or other termination of this Agreement regardless of the cause of such termination.
- d. In any action brought by a party to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and costs, including the reasonable value of any services provided by in-house counsel. The reasonable value of services provided by either party's counsel shall be capped at the hourly rate charged by Deputy County Counsel IV attorneys in the office of the County Counsel of San Joaquin County, California.

41. Green Purchasing Policy: COUNTY has a Green Purchasing Policy; please go to website to view: [San Joaquin County Green Purchasing Policy](#). COUNTY has adopted an Environmentally Preferable Purchasing (EPP) Policy. EPP refers to the procurement of goods and services that lessen or reduce negative effect on human health and the environment when compared with competing goods and services that serve the same purpose. This comparison takes into consideration such things as: raw materials acquisition; production; manufacturing; packaging; distribution; reuse; disposal; energy efficiency; performance; safety and cost.

A primary goal of this policy is to encourage contractors/suppliers and departments to consider products and services that help minimize environmental impacts with price, performance and aesthetic considerations being equal. Contractors/suppliers are encouraged to offer products and services that meet legitimate "green" standards, e.g. products that

possess independent third-party certifications such as Energy Star, Green Seal, EcoLogo, EPEAT or FEMP (Federal Energy Management Program) standards. The County also encourages offers of products made with minimal virgin materials and maximum use of recycled materials – again, price and performance essentially being equal.

42. Work Products, Marketing and Branding: All reports, publications, brochures, letters of interest or other material for distribution to the public, which are produced and/or paid for by COUNTY funds, must be approved by BHS Contracts Management prior to publication and must state in writing that the program is funded by San Joaquin County Behavioral Health Services. In addition to the statement of funding, all proposed publication/media material must include the official San Joaquin County Greatness Grows Here logo or the Behavioral Health Services logo. The COUNTY will provide the official logo(s) to the CONTRACTOR.

CONTRACTOR must submit proposed publication/media material to BHS Contracts Management for review and approval a minimum of twenty (20) days prior to public release of any material. Within ten (10) days of receipt, BHS Contracts Management will provide the CONTRACTOR with written approval, suggested revisions or disapproval to print and/or disburse the publication/media material.

San Joaquin County BHS Contracts Management will review publication/media material for the following:

- a. County and/or BHS logo usage, placement, and funding statement
- b. General user/reader friendliness, including literacy level appropriateness, spelling, and grammar.

43. Termination: Either party to this Agreement may for any reason terminate this agreement at any time by giving to the other party thirty (30) days written notice of such termination. Termination shall have no effect upon the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination.

If CONTRACTOR materially breaches the terms of this Agreement, COUNTY shall have the following alternative remedies:

- a. Immediately terminate the Agreement with CONTRACTOR.
- b. Complete the unfinished work, under this Agreement, with a different CONTRACTOR.
- c. All other remedies provided by law.

Upon written notice from State Department of Health Care Services to the COUNTY or CONTRACTOR that CONTRACTOR is not complying with law or regulation, this agreement

shall be terminated immediately. CONTRACTOR is to supply promptly all information necessary for the reimbursement of any outstanding claims.

44. Notices: Notices concerning this agreement shall be given by regular mail address as follows:

COUNTY:

San Joaquin County
County Administration Building
44 North San Joaquin Street, Suite 640
Stockton, CA 95202

CONTRACTOR:

City of Tracy
Attn: xxxxxxxxxxx
Tracy Police Department
1000 Civic Center Drive
Tracy, CA 95376

COPY TO:

San Joaquin County
Behavioral Health Services
Attn: Contract Management
1212 North California Street
Stockton, CA 95202

IN WITNESS WHEREOF, the parties have executed this Agreement the date first written above:

ATTEST: RACHÉL DEBORD,
Clerk of the Board of Supervisors
of the County of San Joaquin,
State of California

By: Rachel Debord
Clerk



COUNTY OF SAN JOAQUIN
a political subdivision of the
State of California

By: M.A.V.
Miguel A. Villapudua, Chairman
Board of Supervisors

Hereinabove referred to as "COUNTY"

APPROVAL RECOMMENDED:

By: Greg Diederich
Greg Diederich, Director
Health Care Services

By: Nancy Young
Nancy Young, Mayor
City of Tracy

Hereinabove referred to as "CONTRACTOR"

By: Genevieve G. Valentine
Genevieve G. Valentine
Behavioral Health Services

APPROVED AS TO FORM:

Office of the County Counsel

By: Rachael Algaier
Rachael Algaier,
Deputy County Counsel

San Joaquin County Behavioral Health Services, with City of Tracy Police Department

Exhibit A

BHJIS Grant Extension and Refunding Request for Jan 2024 – Mar 2025

Background

San Joaquin County Behavioral Health Services (SJCBHS), in partnership with Tracy Police Department (TPD), is working to strengthen differential responses by law enforcement for people with behavioral health challenges. Through existing BHJIS grant funds, TPD has expanded its Neighborhood Services Division to include two **police co-response programs** targeting the needs of housed and unhoused people with behavioral health challenges.

The **Familiar Faces Team**, conducts homeless street outreach and engagement while the **Mobile Evaluation Team** (MET), conducts scheduled assessments and evaluations of people identified as having potentially serious behavioral health challenges. Additionally, MET is tasked with conducting welfare checks and following-up with previously identified individuals and vulnerable families.

Prior BHJIS funding helped launch the two teams, procure necessary equipment and supplies, and develop standard operating procedures. Significant accomplishments include:

- The Familiar Faces and MET teams are in the field five days a week.
- BHS personnel are on site an average of three days a week.
- Duties and responsibilities for responding to people with behavioral health challenges are being normalized for patrol officers who are leaning more significantly into their partnership with the Familiar Faces and MET teams.

According to SJCBHS clinicians and Police command staff, the teams are critical in assisting patrol officers in responding to people with behavioral health concerns by facilitating any communications with SJCBHS and reducing officer involvement.

Program Description

i. Location and Hours of Operation

Existing coverage is 8 hours, five days a week, and will expand to 10 hours most days with partial weekend coverage within the City of Tracy. Shifts will be staggered to meet the following needs.

- Later hours of availability on Friday nights and weekends
- Earlier hours of availability during school days.
- All team members will work at least one day with every other team member.
- At least two people are on duty most of the time.

ii. Target Population

The target population includes unsheltered homeless individuals and those at imminent risk of homelessness or hospitalization due to unmanaged behavioral health concerns. Clients will be identified through the following means:

- Case managers conduct outreach and engagement with people living in places not meant for human habitation (encampments, tents, vehicles, on the streets, etc.).
- Patrol officers make referrals for people suspected of having an unmanaged behavioral health concern and /or homeless or at risk of homelessness who do not meet criteria for a 5150 hold or crisis response.

 San Joaquin County Behavioral Health Services, with City of Tracy Police Department

- MET team make referrals for people suspected of having a mild to moderate behavioral health concern and/or homeless who are not initially responsive to services.
- SJCBHS and Whole Person Care teams make referrals for people who are not initially responsive to services and are thought to have exited a hospital or institution to the City of Tracy.

iii. Estimated Number of People to be Served

In a one-year period the two existing case managers engaged over 175 individuals. An estimated 100+ homeless people currently live in the City of Tracy, a drop of nearly 50% over the past two years - primarily due to better connections and engagements to services. During October there were 134 law enforcement related calls involving the target population. 81% of incidents were resolved without an arrest or citation. Currently, each case manager holds a caseload of about 50-60 people, about twice the number recommended according to best practices. Between 50-60 new clients are identified each quarter due to the transient nature of the population.

The more recently formed MET team is also growing its caseload. In October the team worked intensively with nine clients, including four new referrals. Five of the nine required transport and coordination with crisis services during the month, the remaining four were kept stabilized in the community through regular wellness checks. Already the team is seeing increases in the month of November and anticipates a growth in services as word is spreading among officers and partner programs on the work of the team.

With the addition of another case manager, the goal is to reduce caseloads to an average of 30 clients per case manager, provide weekend coverage, and be more available and responsive to requests for service by patrol officers or the MET team.

iv. Description of Staff to be Funded

Administrative Staffing: one administrative assistant

Under the original solicitation, Tracy Police contracted with a consultant to support implementation, integration, and roll-out of program operations. Moving forward, it is important that TPD absorbs more of the work to (1) coordinate activities between partners and patrol units, (2) upload and validate incident responses into multiple data systems, and (3) track and report program impact. Administrative assistance will deepen operational capacity and further support the integration of the co-responder units within the Department.

Direct Service Personnel: One case manager

SJCBHS and the Tracy Police Department are requesting funds for one of three case managers to work within the Department's Neighborhood Services Division. Familiar Faces case managers are professional staff with experience serving people with mental illnesses, substance use disorders, housing instability, and/or justice involvement. Case managers typically have a breadth of experience in engaging and motivating people who have significant barriers to services, including addiction, abuse, trauma, and a distrust of law enforcement or other government employees.

Familiar Faces case managers are City of Tracy employees and are required to wear standard attire (khaki pants and t-shirts), identification, and are responsible for developing a client case plan, assisting clients in meeting goals, recording service and case management activities, and conducting coordinated activities with service partners and health professionals to meet client needs. These duties may also

San Joaquin County Behavioral Health Services, with City of Tracy Police Department

involve transporting clients to behavioral health care appointments or other meetings necessary to obtain identification, public benefits, or procure shelter or housing.

Direct Service Expenses 1: Services and Supplies

Funding is requested to support outreach and operations, including supplies to meet emergency and basic needs including first aid kits, socks, hats, water, snacks, and pet food. Other emergency needs may include motel vouchers for clients if the shelter is full or not suitable due to client mobility or disability concerns.

Direct Service Expense 2: Data and Linkages to Services,

Funds are requested to purchase an additional HMIS license and to update the Department's computer system to (1) add secondary disposition codes for Familiar Faces and MET team referrals, (2) add standardized reports for MET and Familiar Faces teams, and (3) to develop mapping capacity aligned to the secondary disposition codes.

Direct Service Expenses 3: Personnel Equipment

Funding is requested to purchase necessary equipment for one new case manager, including uniforms, one laptop computer, and a cell phone for field operations.

Coaching and Virtual Learning Collaboratives

Funds are requested to continue working with the existing technical assistance provider on a more modest basis. If re-funded under this grant extension the technical assistance provider will work closely with the Tracy Police Department command staff to:

- Develop operational procedures for patrol officers to make referrals to Familiar Faces and MET teams, including standards for filing reports and updating incident logs.
- Complete operational agreements between SJCBHS and Tracy Police on coordinated care and responses, including (limited and appropriate) data sharing agreements meeting HIPAA and DOJ requirements for confidentiality.
- Organize officer training in mental health responses in partnership with SJCBHS clinicians.
- Convene at least two in-person learning collaboratives for Tracy area homeless service and behavioral health providers on coordinated activities.

Program Budget and Justification

The two co-response teams currently operate Monday through Friday from 8:30 am – 4:30 pm within the City of Tracy. Staffing includes one sergeant, three Neighborhood Resource Officers, two Familiar Faces case managers, and (through BHS) two mental health professionals. Their core purpose is to prevent and avert crisis responses, including arrests and hospitalizations of people with behavioral health challenges and to increase stabilization and wellness through referrals to mental health, housing or shelter programs, medical services, and other interventions as needed. Tracy Police absorbs the cost of two existing case managers, but more support is critical to shore up operations.

SJCBHS and the Tracy Police Department are requesting **\$336,350.00** in BHJIS renewal funds to sustain the co-responder units and maintain services as planned and scoped through the original solicitation.

Long Term Sustainability

Over the long-term, Tracy Police Department has identified facility space and prepared a staffing and budget plan for operations. Receipt of renewal funds under BHJIS will provide further proof of concept

San Joaquin County Behavioral Health Services, with City of Tracy Police Department

to Council on the importance of officers working with behavioral health professionals and case managers to de-escalate situations and help community residents maintain their health and wellbeing.

San Joaquin County Behavioral Health Services, with City of Tracy Police Department

Budget

Deliverable	Amount	Justification
Administrative Staffing <ul style="list-style-type: none"> ▪ Administrative Assistant 	\$ 140,027	Base Salary, Step C \$ 70,880.00 Bilingual \$ 1,418.00 Deferred Comp \$ 3,544.00 FICA \$ 5,019.00 Medicare \$ 1,174.00 Insurance \$ 36,404.00 Workers Comp \$ 1,829.00 Life Insurance \$ 162.00 PERS (Misc) \$ 7,909.00 PERS (UAL) \$ 11,688.00 \$ 140,027.00
Direct Service Personnel <ul style="list-style-type: none"> ▪ Case Manager 	\$ 151,903	Base Salary, Step C \$ 76,558.00 Bilingual \$ 1,688.00 Deferred Comp \$ 4,220.00 FICA \$ 5,962.00 Medicare \$ 1,394.00 Insurance \$ 36,404.00 Workers Comp \$ 2,178.00 Life Insurance \$ 162.00 PERS (Misc) \$ 9,418.00 PERS (UAL) \$ 13,919.00 \$ 151,903.00
Direct Service Expense	\$ 24,420	<ul style="list-style-type: none"> ▪ \$15,000 or \$1,000 a month for operational supplies over 15 months ▪ \$5,000 for HMIS licenses (\$250 each) and (\$4,500) for the vendor to update reporting software to meet critical operational needs (service flags). ▪ \$4,420 for two each of: computer (\$1,000 x 2), annual cell phone allowance (\$360 x 2) and uniform costs (\$850 x 2 under the City's bargaining agreement).
Coaching and Virtual Learning Collaboratives	\$ 20,000	100 hours of coaching, technical assistance, and training with TPD and partners @\$200 / hr.
Quarterly and Final Reporting	\$ 0.00	Reporting is in-kind through SJCBHS and TPD
TOTAL	\$336,350	

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Program Integrity Requirements

CONTRACTORS who provide services to San Joaquin County (SJC) Medi-Cal beneficiaries shall comply with the following Program Integrity requirements. The term CONTRACTOR includes the agency and the staff of the agency that enters into contract with San Joaquin County Behavioral Health Services (SJCBHS) to provide services to SJC Medi-Cal beneficiaries.

1. Standards Of Conduct

SJCBHS is committed to compliance, by letter and spirit, with all applicable federal, state, and local laws and regulations.

CONTRACTOR and its employees shall not engage in any activities that violate any laws, regulations, or rules, and shall adhere to the highest ethical standards of conduct in all business activities, including integrity, honesty, courtesy, respect and fairness.

CONTRACTOR and its employees are expected to promptly report any activities that may be in violation of any SJCBHS policies, standards of conduct or any federal, state or local laws, regulations, rules or guidelines. Any violations or alleged violations may be disclosed anonymously.

CONTRACTOR and its employees are responsible for reading, understanding, and adhering to SJCBHS policies regarding Program Integrity by signing SJCBHS Standards of Conduct for Organizational Providers that will be provided by SJCBHS.

2. Compliance Program

2.1 Federal Requirements:

San Joaquin County Behavioral Health Services (SJCBHS) has implemented a Compliance Program in compliance with the Code of Federal Regulations (CFR), Title 42, Section 438.608, to guard against fraud, waste or abuse.

CONTRACTOR and its employees are required to comply with applicable state and federal regulations, and with SJCBHS policies, procedures and standards, that are designed to detect, respond, prevent, and correct violations of those requirements. SJCBHS shall review CONTRACTOR's continued compliance through periodic and/or ad-hoc auditing and monitoring of CONTRACTOR's activities as determined by SJCBHS, in addition to site certification reviews conducted at least every three (3) years.

2.2 Consent to Criminal Background Checks:

2.3.1. CONTRACTOR is required to consent to criminal background checks as a condition of enrollment including fingerprinting when required to do so under State law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of provider, per 42 CFR, Section 455.434(a). CONTRACTOR will disclose any managing employee or agent convicted of a crime related to federal health care programs.

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2.3 Monitoring and Verification of Provider Eligibility (per 42 CFR, Section 455.436)

2.3.1 Compliance Sanction Check and Medi-Cal Certification:
In compliance with Federal and State regulations which prohibit affiliation with individuals or affiliates of individuals debarred, suspended, or otherwise excluded from participating in procurement activities under the Federal Acquisition Regulation or from participating in non-procurement activities, CONTRACTOR identified as a Covered Entity under HIPAA Regulations (Title 45, CFR, Section 160.103), shall conduct sanction checks verifying that new and current employees (prior to hiring and monthly thereafter) are not on the following exclusion databases to ensure CONTRACTOR's eligibility for reimbursement through Medicare and Medi-Cal funds:

- Office of Inspector General (OIG) Exclusion List at <http://exclusions.oig.hhs.gov>
- Medi-Cal List of Suspended or Ineligible Providers at www.medi-cal.ca.gov
- System for Award Management at <https://www.sam.gov>

Should the sanction check result in a positive match at any time, CONTRACTOR shall notify the SJCBHS Compliance Officer at (209) 468-8750 no later than the next business day.

2.3.2 Verification of the Social Security Administration's Death Master File: CONTRACTOR is required to verify new and current (prior to hiring) employees are not on the Social Security Administration's Death Master File.

2.4.3 Verification of the National Plan and Provider Enumeration System (NPPES):
CONTRACTOR is required to verify the accuracy of new and current (upon enrollment/re-enrollment) employees in the NPPES.

2.4.4 Documented Evidence:
CONTRACTOR shall keep documented evidence of all verification activities for SJCBHS monitoring.

If any payment was made to CONTRACTOR for services provided by anyone of CONTRACTOR's staff that is on any of the above exclusion databases, that payment shall be subject to recovery and/or the basis for other sanctions by the appropriate authority (per Sections 1128 & 1128A of the Social Security Act; 42 CFR, Sections 438.214 and 438.610; and DMH Letter No. 10-05).

Service Verification:

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In Compliance with Federal and State Requirements in 42 CFR, Sections 455.19a(2) and 455.20(a), regarding the certification of accurate data submitted by CONTRACTOR for reimbursement, CONTRACTOR shall comply with the verification methods as determined by SJCBHS.

2.4 Mandatory Trainings:

CONTRACTOR shall ensure that all employees who assist in the performance of functions or activities as part of this agreement, or access or disclose protected health information (PHI), complete privacy and information security training and compliance training within 30 days of hire and at least annually thereafter at CONTRACTOR's expense.

2.5 Documentation:

CONTRACTOR shall comply with SJCBHS policies, procedures and standards regarding proper documentation of services and billing, including third-party verification of documentation before claiming. Failure to provide required documentation in a timely manner may result in delayed or withheld payment to CONTRACTOR.

CONTRACTOR shall reimburse SJCBHS for any and all internal and external audit disallowances that are the CONTRACTOR's responsibility.

CONTRACTOR shall provide services in compliance with authorization requirements, and shall reimburse SJCBHS for unauthorized services, i.e., services that cannot be billed to Medi-Cal because of the lack of a current Client Plan that authorizes those services.

2.6 False Claims:

CONTRACTOR shall be liable for knowingly presenting or causing to be presented, submitting or causing to be presented, a false or fraudulent claim, record or statement for payment (Federal False Claims Act - 31 United States Code, Chapter 37, Sections 3729-3733), and California False Claims Act - Government Code, Sections 12650-12656).

- 2.6.1 The federal civil penalty for each claim (or service billed) is \$ 5,500 to \$ 11,000 for each false claim, plus 3 times the amount of damages.
- 2.6.2 The state civil penalty for each claim (or service billed) is up to \$10,000 for each false claim, plus 3 times the amount of damages, and the costs of a civil action brought to recover any of those penalties or damages.
- 2.6.3 The criminal penalty for willfully making or causing to be made any false statement or representation of a material fact or any benefit or payment under a federal health care program, is a felony, and upon conviction, a

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fine of no more than \$25,000 or imprisonment of no more than 5 years, or both (42 USC, Section 1128B).

2.7 Whistleblower Protections

CONTRACTOR shall not discharge, demote, suspend, threaten, harass, or discriminate against an employee, because of lawful acts done by the employee in cooperating with the False Claims Acts, including investigation for, initiation of, testimony for, or assistance in an action filed or one in the process of being filed (31 USC, Section 3730h).

2.8 Availability and Accessibility of Services

CONTRACTOR who also serves enrollees of commercial health plans (e.g. Health Plan of San Joaquin, Kaiser, Blue Shield, Blue Cross, etc.) is required to offer Medi-Cal beneficiaries at least the same hours of operation and access to services as he/she offers to commercial health plan enrollees.

Practice Guidelines - CONTRACTOR agrees to follow the clinical practice guidelines set forth by SJCBHS (Practice Guidelines).

Advance Directives - CONTRACTOR is required to comply with SJCBHS policies, procedures and requirements regarding Advance Directives, as set forth in 42 CFR, Sections 489.100 and 422.128.

2.9 Beneficiary Problem Resolution Process

CONTRACTOR shall comply with applicable regulations and SJCBHS policies and procedures regarding the Beneficiary Problem Resolution Process as described below:

2.10 For Mental Health Medi-Cal Providers only:

CONTRACTOR shall comply with SJCBHS policies and procedures regarding Beneficiary Problem Resolution Process in accordance with 42 CFR, Part 438, Subpart F, and Title 9, California Code of Regulations (CCR), Sections 1850.205-1850.208, and 1850.305.

The Beneficiary Problem Resolution Process includes processes for grievances, standard appeals and expedited appeals that enable beneficiaries to resolve concerns or grievances about any specialty mental health service-related issue. CONTRACTOR is required to resolve concerns as quickly and simply as possible.

2.11 For Substance Use Disorder Medi-Cal Providers only:

CONTRACTOR shall comply with Title 22, California Code of Regulations (CCR, Section 51314.1(p) by informing beneficiaries of their right to a fair

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hearing related to the denial, involuntary discharge, or reduction in Drug Medi-Cal substance abuse services as it relates to their eligibility or benefits.

CONTRACTOR shall also comply with Title 9, California Code of Regulations (CCR, Section 10420(a) regarding the fair hearing protocol for program termination and notification of right to a fair hearing, and Sections 10906-10910 regarding the development of an informal complaint resolution process and for resolving complaints when a client believes he or she has been subject to discrimination based on ethnic group identification, religion, age, sex, color, or physical or mental disability.

3. Provision of Services

Services, benefits and facilities shall be provided to patients, or clients without regard to their race, color, gender, gender identity, religion, marital status, national origin, age, sexual orientation, mental or physical handicap or disability, pregnancy, or military and/or veteran status, and no one shall be refused services because of the inability to pay for such service.

Nondiscrimination in Services, Benefits and Facilities:

Consistent with the requirements of **applicable** federal law, such as Title 42 Code of Federal Regulations, Part 438.3(d)(3) and (4), and state law, CONTRACTOR and any subcontractor shall not engage in any unlawful discriminatory practices in the admission of beneficiaries, assignments of accommodations, treatment, evaluation, employment of personnel, or in any other respect on the basis of race, color, gender, gender identity, religion, marital status, national origin, age, sexual orientation, mental or physical handicap or disability, pregnancy, or military and/or veteran status.

CONTRACTOR and any subcontractor shall comply with Title VI or the Civil Rights Act of 1964, Title 42 U.S.C., Section 2000d, and the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, pertaining to the prohibition of discrimination against qualified handicapped persons and all federally assisted programs or activities, as detailed in regulations signed by the Secretary of Health and Human Services, effective June 2, 1977, and found in the Federal Register, Volume 42, No. 86, dated May 4, 1977.

For the purpose of this contract, distinctions on the grounds of race color, creed or national origin include but are not limited to the following: denying a participant any service or benefit to a participant which is different, or is provided in a different manner or at a different time from that provided to other participants under this contract; subjecting a participant to segregation or separate treatment in any matter related to his receipt of any service; restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether he satisfied any admission,

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enrollment quota, eligibility, membership or the requirement or condition which individuals must meet in order to be provided any service or benefits; the assignment of times or places for the provision of services on the basis of the race, color, creed or national origin or the participant to be served. SJCBHS and all subcontractors will take affirmative action to ensure that intended beneficiaries are provided services without regard to their race, color, gender, gender identity, religion, marital status, national origin, age, sexual orientation, mental or physical handicap or disability, pregnancy, or military and/or veteran status.

Procedure for Complaint Process: All complaints alleging discrimination in the delivery of services by SJCBHS and/or the subcontractor because of their race, age, color, gender, national origin, religion, sexual orientation, disability status, pregnancy, or military and/or veteran status, may be resolved by the State through the Department of Health Care Services' Affirmative Action Complaint Process.

Notice of Complaint Process: SJCBHS and CONTRACTOR shall, subject to the approval of the Department of Health Care Services, establish procedures under which recipients of service are informed of their rights to file a complaint alleging discrimination or a violation of their civil rights with the Department of Health Care Services.

REFERENCED IN PO 00000 – REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

EXHIBIT C – ADDITIONAL FEDERAL GRANT CLAUSES

Subrecipient Name	City of Tracy
Subrecipient Unique Entity Identifier	
Federal Award Identification Number (FAIN)	
Subaward Period of Performance Start and End Date	January 1, 2024 – March 31, 2025
Name of Federal Awarding Agency	SAMSHA Projects for Assistance in Transition from Homelessness (PATH)
Catalog of Federal Domestic Assistance (CFDA) Number and Name; the pass through entity must identify the dollar amount made available under each Federal award and the CFDA number at the time of disbursement	\$336,500
Identification of whether the award is Research and Development	No
Indirect Cost Rate for the Federal Award	Federal negotiated rate or a de minimum indirect cost rate as defined in 45 CFR 75.414(f).

APPENDIX II TO PART 200: CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

Please review and check the appropriate boxes to determine the applicability of provisions to the federally funded contract or purchase order. In the event of any contradictions or inconsistencies between these provisions and the provisions of the Agreement itself, the terms of this Exhibit shall control.

§200.216 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (2) Extend or renew a contract to procure or obtain; or

REFERENCED IN PO 00000 — REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

☒ DEBARMENT AND SUSPENSION – Executive Orders 12549 and 12689

This contract is a covered transaction for purposes of 2 C.F.R. pt. 180.22 and 2 C.F.R. pt. 3000. As such the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

- a. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- b. This certification is a material representation of fact relied upon by San Joaquin County. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the primary recipient and San Joaquin County, the Federal Government may pursue available remedies, including but not

REFERENCED IN PO 00000 – REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

limited to suspension and/or debarment.

c. The Bidder agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Bidder further agrees to include a provision requiring such compliance in its lower tier covered transactions.

☒ DISCLOSURE REQUIREMENTS – Title 42, C.F.R. Part 455.104

Contractors and Network Providers of San Joaquin County Behavioral Health Services (SJCBHS) are required to submit updated disclosures regarding their ownership and control to SJCBHS upon submitting the provider application, before entering into or renewing the network provider's contracts, within 35 days after any change in the contractor/network provider's ownership, annually and upon request from the California State Department of Health Care Services (DHCS) during the re-validation of enrollment process under Title 42, Code of Federal Regulations (CFR) Part 455.104.

SJCBHS shall provide DHCS with all disclosures before entering into a network provider contract with the provider and annually thereafter and upon request from DHCS during the re-validation of enrollment process under 42 Code of Federal Regulations, Part 455.104.

Disclosures to be provided:

- a. Name and address of any person (individual or corporation) with an ownership or control interest in the contractor or network provider;
- b. The address for corporate entities shall include, as applicable, a primary business address, every business location, and a P.O. Box address;
- c. Date of birth and Social Security Number (in the case of an individual);
- d. Other tax identification number (in the case of a corporation with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) or in any contractor in which the disclosing entity (or fiscal agent or managed care entity) has a five percent (5%) or more interest);
- e. Whether the person (individual or corporation) with an ownership or control interest in the disclosing entity (or fiscal agent or managed care entity) is related to another person with ownership or control interest in the same or any other network provider of SJCBHS as a spouse, parent, child, or sibling; or whether the person (individual or corporation) with an ownership or control interest in any contractor in which the disclosing entity (or fiscal agent or SJCBHS) has a 5% or more interest is related to another person with ownership or control interest in the disclosing entity as a spouse, parent, child, or sibling;
- f. The name of any other disclosing entity (or fiscal agent or managed care entity) in which SJCBHS or contracting network provider has an ownership or control interest; and
- g. The name, address, date of birth, and Social Security Number of any managing employee of the managed care entity.

Disclosures may be submitted to:

REFERENCED IN PO 00000 — REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

San Joaquin County Behavioral Health Services
Attention: Compliance Officer
1212 North California Street
Stockton, CA 95202

§200.322 DOMESTIC PREFERENCES FOR PROCUREMENTS

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§200.323 PROCUREMENT OF RECOVERED MATERIALS

- a. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired
 1. Competitively within a timeframe providing for compliance with the contract performance schedule;
 2. Meeting contract performance requirements; or
 3. At a reasonable price.
- b. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- c. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

EQUAL EMPLOYMENT OPPORTUNITY

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take

REFERENCED IN PO 00000 — REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
- c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this Provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

DAVIS-BACON ACT. 40 U.S.C. 3141-3148 (Contract > \$100,000)

REFERENCED IN PO 00000 – REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

The Davis-Bacon and Related Acts, apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. Davis-Bacon Act and Related Act contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area. The Davis-Bacon Act directs the Department of Labor to determine such locally prevailing wage rates. The Davis-Bacon Act applies to contractors and subcontractors performing work on federal or District of Columbia contracts. The Davis-Bacon Act prevailing wage provisions apply to the “Related Acts,” under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular rate of pay for all hours worked over 40 in a workweek. The overtime provisions of the Fair Labor Standards Act may also apply to DBA-covered contracts.

COPELAND “ANTI-KICKBACK” ACT.

- a. Contractor. The Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the Federal Emergency Management Agency (“FEMA”) may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

BYRD ANTI-LOBBYING AMENDMENT – 31 U.S.C. 1352

includes ATTACHMENT A

- a. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification, provided in Attachment A. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

REFERENCED IN PO 00000 — REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – 40 U.S.C. 3701-3708

- a. Overtime requirements. No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-halftimes the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this Provision, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this Provision, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this Provision.
- c. Withholding for unpaid wages and liquidated damages. San Joaquin County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this Provision.
- d. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this Provision and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this Provision.

CLEAN AIR ACT, FEDERAL WATER POLLUTION CONTROL ACT AND REMEDIES (Contract > \$150,000)

- a. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401, et seq.
- b. The Contractor agrees to report each violation to San Joaquin County and understands and agrees that San Joaquin County will, in turn, report each violation as required to assure notification to the primary recipient, FEMA, and the appropriate Environmental Protection Agency Regional Office.

REFERENCED IN PO 00000 – REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

- c. The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.
- d. In the event the Contractor breaches any part of the contract, the County may procure the articles or services from other sources and the Contractor must compensate the County for the difference between the price named in the Bid and actual cost thereof to the County shall be considered the prevailing market price at the time such procurement is made. Such payment may be deducted from any monies due, or that may thereafter become due to the Contractor. The exercise by the County of this remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties or otherwise.

The contract is funded through a FEMA grant or cooperative agreement. If checked, Provisions 1 through 5 apply.

1. Access to Records.

- a. The Contractor agrees to provide the San Joaquin County, the primary recipient of the federal funding, if any, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. The Contractor agrees to provide the FEMA Administrator or his authorized representatives' access to construction or other work sites pertaining to the work being completed under the contract.

2. DHS Seal, Logo, and Flags.

The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

3. Compliance with Federal Law, Regulations, and Executive Orders.

This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

4. No Obligation by the Federal Government.

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the contract.

REFERENCED IN PO 00000 ____ – REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

5. Fraud and False or Fraudulent Statements or Related Acts.

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

REFERENCED IN PO 00000 — REQUIRED FOR ALL FEDERAL FUNDED PROCUREMENTS.

ATTACHMENT "A"

Byrd Anti-Lobbying Amendment

APPENDIX A, 44 C.F.R. PART 18- CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned Contractor certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801, *et seq.*, apply to this certification and disclosure, if any.

COUNTY OF SAN JOAQUIN
Health Insurance Portability and Accountability Act (HIPAA)
BUSINESS ASSOCIATE AGREEMENT

WHEREAS, Business Associate performs services on behalf of Covered Entity pursuant to the attached agreement, which Services involve the use and/or disclosure of Protected Health Information (defined below); and

WHEREAS, the parties desire to enter into this BAA in order to comply with the business associate agreement requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing regulations.

NOW, THEREFORE, the parties do hereby agree as follows:

1. **Definitions.** All terms of this BAA shall have the meanings set forth in the HIPAA Privacy and Security Rules, and California Civil Code, unless otherwise defined herein.
 - a) "Breach" when capitalized, "Breach" shall have the meaning set forth in 45 CFR § 164.402 (including all of its subsections); with respect to all other uses of the word "breach" in this BAA, the word shall have its ordinary contract meaning.
 - b) "Business Associate" shall have the same meaning as the term "business associate" at 45 CFR 160.103.
 - c) "Covered Entity" shall have the same meaning as the term "covered entity" at 45 CFR 160.103.
 - d) "DHCS" shall mean the California Department of Health Care Services.
 - e) "Electronic Health Records" shall have the meaning given to such term in the HITECH Act, including, but not limited to, 42 U.S.C. § 17921 and implementing regulations.
 - f) "Electronic Protected Health Information" or "ePHI" shall have the same meaning as the term "electronic protected health information" in 45 CFR § 160.103, limited to information that Business Associate creates, accesses or receives on behalf of Covered Entity
 - g) "HITECH Act" shall mean the Health Information Technology for Economic and Clinical Health Act, found in Title XIII of the American Recovery and Reinvestment Act of 2009, effective February 17, 2009.
 - h) "Individually Identifiable Health Information" means health information, including demographic information collected from an individual, that is created or received by a health care provider, health plan, employer or health care clearinghouse, and relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present, or future payment for the provision of health care to an individual, that identifies the individual or where there is a reasonable basis to believe the information can be used to identify the individual, as set forth under 45 C.F.R. § 160.103
 - i) "Protected Health Information" or "PHI" shall have the meaning set forth in the Privacy Rule, limited to information that Business Associate creates accesses or receives on behalf of Covered Entity. PHI includes EPHI.
 - j) "Privacy Rule" means the Standards for Privacy of Individually Identifiable Health Information, codified at 45 CFR parts 160 and 164, Subparts A, D, and E, as currently in effect.

- k) **“Security Incident”** means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of Covered Entity PHI, or confidential data utilized by Business Associate to perform the services, functions and activities on behalf of Covered Entity or interference with system operations in an information system that processes, maintains or stores Covered Entity’s PHI.
- l) **“Security Rule”** means the Standards for Security for the Protection of Electronic Protected Health Information, codified at 45 CFR parts 160 and 164, Subpart C.
- m) **“Unsecured Protected Health Information”** shall have the same meaning as the term “unsecured protected health information” in 45 CFR § 164.402, limited to the information created or received by Business Associate from or on behalf of Covered Entity.

2. **Terms of Agreement**

- a) **Permitted Uses and Disclosures of Covered Entity PHI by Business Associate.** Except as otherwise indicated in this BAA, Business Associate may use or disclose Covered Entity PHI only to perform functions, activities or services specified in this BAA, or on behalf of the Covered Entity, provided that such use or disclosure would not violate the HIPAA regulations, if done by the Covered Entity. Any such use or disclosure, if not for purposes of treatment activities of a health care provider as defined by the Privacy Rule, must, to the extent practicable, be limited to the limited data set, as defined in 45 C.F.R. § 164.514(e)(2), or, if needed, to the minimum necessary to accomplish the intended purpose of such use or disclosure, in compliance with the HITECH Act and any guidance issued pursuant to such Act, and the HIPAA regulations.
- b) **Specific Use and Disclosure Provisions.** Except as otherwise indicated in this BAA, Business Associate may:
 - i) **Use and disclose for management and administration.** Use and disclose Covered Entity PHI for the proper management and administration of the Business Associate’s business, provided that such disclosures are required by law, or the Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and will be used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware that the confidentiality of the information has been breached.
 - ii) **Provision of Data Aggregation Services.** Use Covered Entity PHI to provide data aggregation services to the Covered Entity to the extent requested by the Covered Entity and agreed to by Business Associate. Data aggregation means the combining of PHI created or received by the Business Associate, as the Business Associate, on behalf of the Covered Entity with PHI received by the Business Associate in its capacity as the Business Associate of another covered entity, to permit data analyses that relate to the health care operations of the Covered Entity.
- c) **Prohibited Uses and Disclosures**
 - i) Business Associate shall not disclose Covered Entity PHI about an individual to a health plan for payment or health care operations purposes if the Covered Entity PHI pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full and the individual requests such restriction, in accordance with 42 U.S.C. §§ 17935(a) and 45 C.F.R. § 164.522(a).
 - ii) Business Associate shall not directly or indirectly receive remuneration in exchange for Covered Entity PHI, except with the prior written consent of the Covered Entity and as permitted by 42 U.S.C. § 17935(d)(2).

3. **Business Associate Obligations.** Business Associate acknowledges and agrees that it is considered a **“Business Associate”** as defined by HIPAA. As a Business Associate of Covered Entity, Business Associate shall, in addition to complying with the terms of this BAA, comply with the following and any state provisions that are more restrictive:

- a) **Disclosure.** Business Associate shall not Use or further Disclose PHI other than as permitted or required by this BAA, to perform Services under the Underlying Agreement or as Required By Law.
- b) **Safeguards.** Business Associate shall use safeguards that are appropriate and sufficient to prevent use or disclosure of PHI other than disclosures permitted or required by this BAA. Business Associate agrees to implement Administrative Safeguards, Physical Safeguards, and Technical Safeguards that reasonably and appropriately protect the Confidentiality, Integrity and Availability of EPHI.
- c) **Reporting.** Business Associate shall report to Covered Entity any Use or Disclosure of PHI not permitted or required by this BAA and any Security Incident of which it becomes aware.
- d) **Agents and Subcontractors.** Business Associate shall ensure that any and all agents and subcontractor to whom it provides PHI as permitted or required under this BAA agree, in writing, prior to the disclosure of such PHI, to the same restrictions and conditions that apply to Business Associate with respect to such PHI, including without limitation the provisions of this Section.
- e) **Patient Rights.**
 - i. **Patient Right to Review.** If any Individual requests access to his or her own PHI from Business Associate, Business Associate shall, within two (2) calendar days, notify Covered Entity of the details of such request. Following receipt of such notice, Covered Entity shall handle the request; provided that if Covered Entity so requests and Business Associate maintains a Designated Record Set, Business Associate shall make such PHI available directly to that Individual, as directed by Covered Entity, and shall promptly provide Covered Entity with a written report detailing its handling of such request.
 - ii. **Patient Right to Amend.** If Business Associate maintains PHI in a Designated Record Set, then within ten (10) calendar days of receipt of Covered Entity's request, Business Associate shall incorporate amendments into the PHI as directed by Covered Entity. If any Individual submits to Business Associate a request to amend his or her own PHI, Business Associate shall, within two (2) calendar days, notify Covered Entity of the details of such request. Following receipt of such notice, Covered Entity shall handle such request; provided, however, that, if Covered Entity so requests and Business Associate maintains a Designated Record Set, Business Associate shall respond to the Individual for purposes of incorporating the amendment, as directed by Covered Entity, and shall promptly provide Covered Entity with a written report detailing its handling of such request.
 - iii. **Patient Right to Request Accounting of Disclosures.** If Business Associate maintains PHI in a Designated Record Set, then within ten (10) calendar days of Covered Entity's notice to Business Associate of a request from an Individual for an accounting of disclosures of his or her PHI, Business Associate shall make available to Covered Entity such information as is in Business Associate's possession and is required for Covered Entity to make the accounting required by 45 C.F.R. §164.528. If an Individual submits to Business Associate a request for an accounting, Business Associate shall, within two (2) calendar days, notify Covered Entity of the details of such request. Following receipt of such notice, Covered Entity shall handle such request; provided, however, that (1) if Covered Entity requests, Business Associate shall respond directly to the Individual for purposes of providing the accounting, as directed by Covered Entity, and shall promptly provide Covered Entity with a written report of the details of its handling of such requests, and (2) Business Associate agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this Section. In addition, in accordance with the HITECH Act, Business Associate acknowledges that if disclosures are made by Business Associate through the use of an electronic health record, Individuals have the right to receive an accounting of disclosures made for treatment, payment, and health care operations during the previous three (3) years, thus Business Associate agrees that:
 - 1. If Covered Entity acquired an electronic health record before January 1, 2009, then effective January 1, 2011, Business Associate must maintain a list of disclosures made for treatment, payment or operations purposes for a minimum of three (3) years from the date of such disclosure; or

- 2. If Covered Entity acquired an electronic health record after January 1, 2009, then effective January 1, 2014, Business Associate must maintain a list of disclosures made for treatment, payment or operations purposes for a minimum of three (3) years from the date of such disclosure.
- iv. **Accounting to Covered Entity.** To assist Covered Entity in complying with the patient rights provisions of HIPAA, Business Associate shall, at any time during this BAA, make PHI in its possession available to Covered Entity within ten (10) business days of Covered Entity's request.
- v. **Record Keeping.** Business Associate agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this Section.
- f) **Audit.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Covered Entity available to the Secretary of Health and Human Services and Covered Entity upon request, for purposes of determining and facilitating Covered Entity's compliance with HIPAA Privacy and Security Rules.
- g) **Mitigation.** Business Associate shall mitigate promptly, to the extent practicable, any harmful effect that is known to Business Associate of a Use or Disclosure of PHI by Business Associate in violation of this BAA, the Privacy Rule, the Security Rule, or other applicable federal or state law.
- h) **Uses Permitted By Law.** As permitted by the Privacy Rule, Business Associate may use or disclose PHI: (a) as is necessary for the proper management and administration of Business Associate's organization, (b) to provide data aggregation services relating to the health care services of the Covered Entity; and (c) to carry out the legal responsibilities of Business Associate; provided, however, that any permitted Disclosure of PHI to a third party must be either Required By Law or subject to reasonable assurances obtained by Business Associate from the third party that the PHI will be held confidentially, and securely, and used or disclosed only as Required By Law or for the purposes for which it was disclosed to such third party, and that any breaches of confidentiality of the PHI which become known to such third party will be immediately reported to Business Associate. Business Associate shall follow the procedures set forth herein for Disclosures of PHI Required By Law.
- i) **Breach.** Business Associate agrees to:
 - i. Report to the Privacy Officer of Covered Entity by telephone and e-mail or fax immediately an oral or written Breach or Breach of the Security of the System maintained by Business Associate or subcontractor is known, or by exercising reasonable diligence, should have been known by Business Associate; or within 24 hours by e-mail or fax of any suspected Security Incident, intrusion or unauthorized access, use or disclosure, or potential loss of confidential data affecting this Professional Services Agreement. If the Breach or Incident occurs after business hours and involves electronic Covered Entity PHI, notification shall be provided by calling the Covered Entity.
 - ii. Immediately investigate an oral or written Breach or Breach of the Security of the System or Security Incident. Within 72 hours of the discovery, Business Associate shall submit the updated incident report to Covered Entity Privacy Officer with the following:
 - 1. What data elements were involved and the extent of the data involved in the breach;
 - 2. A description of the unauthorized persons known or reasonably believed to have improperly used or disclosed Covered Entity PHI or confidential data;
 - 3. A description of where Covered Entity PHI or confidential data is believed to have been improperly transmitted, sent or utilized;
 - 4. A description of the probable causes of the improper use or disclosure; and
 - 5. Whether the HITECH Act, CA Civil Code or any other federal or California state laws requiring Individual notifications or Breaches are triggered.
 - iii. Provide a complete report of the investigation to Covered Entity and the Covered Entity HIPAA Privacy Officer within ten (10) working days of the discovery of the breach or

unauthorized use or disclosure. The report shall be submitted on the “Privacy Incident Report” form and shall include an assessment of all known factors relevant to a determination of whether a breach occurred under applicable provisions of HIPAA, the HITECH Act, and the HIPAA regulations. The report shall also include a full, detailed corrective action plan, including information on measures that were taken to halt and/or contain the improper use or disclosure. If the Covered Entity requests information in addition to that listed on the “Privacy Incident Report” form, Business Associate shall make reasonable efforts to provide the Covered Entity with such information. If, because of the circumstances of the incident, Business Associate needs more than ten (10) working days from the discovery to submit a complete report, the Covered Entity may grant a reasonable extension of time, in which case Business Associate shall submit periodic updates until the complete report is submitted. If necessary, a Supplemental Report may be used to submit revised or additional information after the completed report is submitted, by submitting the revised or additional information on an updated “Privacy Incident Report” form. The Covered Entity will review and approve the determination of whether a breach occurred and individual notifications are required, and the corrective action plan.

- iv. Be Responsible for Reporting of Breaches, if the cause of a breach of Covered Entity PHI is attributable to Business Associate or its agents, subcontractors or vendors. Business Associate is responsible for all required reporting of the breach as specified in 42 U.S.C. § 17932 and its implementing regulations, including notification to media outlets and to the Secretary. If a breach of unsecured Covered Entity PHI involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach.
- v. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI or PI, the Business Associate shall take:
 - 1. Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment, and
 - 2. Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

j) **Remuneration in Exchange for PHI.** Except as permitted by the HITECH Act or regulations issued by the Covered Entity of Health and Human Services (“HHS”) in accordance with the HITECH Act, and as of the effective date of such regulations, Business Associate shall not directly or indirectly receive remuneration in exchange for any PHI unless Covered Entity notifies Business Associate that it obtained a valid authorization from the Individual specifying that the Individual’s PHI may be exchanged for remuneration by the entity receiving such Individual’s PHI.

k) **Minimum Necessary.** Business Associate agrees to follow any guidance issued by HHS regarding what constitutes “minimum necessary” with respect to the use or disclosure of PHI. Until the time that any such guidance is issued, Business Associate shall limit its use or disclosure of PHI, to the extent practicable, to the limited data set (as defined in section 45 CFR § 164.514(e)(2)) or, to the minimum necessary to accomplish the intended purpose of such use, disclosure, or request, respectively.

l) **Marketing.** Unless otherwise permitted in the Underlying Agreement, Business Associate must obtain or confirm that Covered Entity has obtained an authorization for any use or disclosure of PHI for marketing, unless the marketing communication is made without any form of remuneration (i) to describe medical services or products provided by Covered Entity or Business Associate; (ii) for treatment of the Individual; or (iii) for case management or care coordination for the Individual or to direct or recommend alternative treatments, therapies, providers or settings.

m) **Personnel Controls**

- i. **Employee Training.** All workforce members who assist in the performance of functions or activities on behalf of the Covered Entity, or access or disclose Covered Entity PHI must complete information privacy and security training, at least annually, at Business Associate's expense. Each

workforce member who receives information privacy and security training must sign a certification, indicating the member's name and the date on which the training was completed. These certifications must be retained for a period of six (6) years following termination of this BAA.

- ii. **Employee Discipline.** Appropriate sanctions must be applied against workforce members who fail to comply with privacy policies and procedures or any provisions of these requirements, including termination of employment where appropriate.
- iii. **Confidentiality Statement.** All persons that will be working with Covered Entity PHI must sign a confidentiality statement that includes, at a minimum, General Use, Security and Privacy Safeguards, Unacceptable Use, and Enforcement Policies. The statement must be signed by the workforce member prior to access to Covered Entity PHI. The statement must be renewed annually. The Business Associate shall retain each person's written confidentiality statement for Covered Entity inspection for a period of six (6) years following termination of this BAA.
- iv. **Background Check.** Before a member of the workforce may access Covered Entity PHI, a background screening of that worker must be conducted. The screening should be commensurate with the risk and magnitude of harm the employee could cause, with more thorough screening being done for those employees who are authorized to bypass significant technical and operational security controls. The Business Associate shall retain each workforce member's background check documentation for a period of three (3) years.

n) **Technical Security Controls**

- i. **Workstation/Laptop encryption.** All workstations and laptops that store Covered Entity PHI either directly or temporarily must be encrypted using a FIPS 140-2 certified algorithm which is 128 bit or higher, such as Advanced Encryption Standard (AES). The encryption solution must be full disk unless approved by the Covered Entity Information Security Office.
- ii. **Server Security.** Servers containing unencrypted Covered Entity PHI must have sufficient administrative, physical, and technical controls in place to protect that data, based upon a periodic (at least yearly) risk assessment/system security review.
- iii. **Minimum Necessary.** Only the minimum necessary amount of Covered Entity PHI required to perform necessary business functions may be copied, downloaded, or exported.
- iv. **Removable media devices.** All electronic files that contain Covered Entity PHI data must be encrypted when stored on any removable media or portable device (i.e. USB thumb drives, floppies, CD/DVD, Blackberry, backup tapes etc.). Encryption must be a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Chain of custody should be maintained for removable media devices.
- v. **Antivirus software.** All workstations, laptops and other systems that process and/or store Covered Entity PHI must install and actively use comprehensive anti-virus software solution with automatic updates scheduled at least daily.
- vi. **Patch Management.** All workstations, laptops and other systems that process and/or store Covered Entity PHI must have critical security patches applied, with system reboot if necessary. There must be a documented patch management process which determines installation timeframe based on risk assessment and vendor recommendations. At a maximum, all applicable patches must be installed within 30 days of vendor release. Applications and systems that cannot be patched within this time frame due to significant operational reasons must have compensatory controls implemented to minimize risk until the patches can be installed. Applications and systems that cannot be patched must have compensatory controls implemented to minimize risk, where possible.
- vii. **User IDs and Password Controls.** All users must be issued a unique user name for accessing Covered Entity PHI. Username must be promptly disabled, deleted, or the password changed upon the transfer or termination of an employee with knowledge of the password. Passwords are not to be shared. Passwords must be at least eight characters and must be a non-dictionary word. Passwords must not be stored in readable format on the computer. Passwords must be changed if revealed or compromised. Passwords must be composed of characters from at least three of the following four groups from the standard keyboard:
 - 1) Upper case letters (A-Z)
 - 2) Lower case letters (a-z)

3) Arabic numerals (0-9)
 4) Non-alphanumeric characters (punctuation symbols)

Wherever possible, multifactor authentication of at least 2 out of 3 from following list – a) thing you know (as password), b) thing you have (as cell phone) c) thing you are (as biometrics) should be implemented to reduce the dependency on static passwords.

- viii. **Data Destruction.** When no longer needed, all PHI or PI must be cleared, purged, degaussed, or destroyed consistent with NIST Special Publication 800-88, Guidelines for Media Sanitization such that the PHI or PI cannot be retrieved.
- ix. **System Timeout.** The system providing access to Covered Entity PHI must provide an automatic timeout, idle (as 20 minutes) and maximum (as 8 hours), requiring re-authentication of the user session after no more than 20 minutes of inactivity.
- x. **Warning Banners.** All systems providing access to Covered Entity PHI must display a warning banner stating that data is confidential, systems are logged, and system use is for business purposes only by authorized users. User must be directed to log off the system if they do not agree with these requirements.
- xi. **System Logging.** The system must maintain an automated audit trail for any create, read, update, delete (CRUD) activity, which can identify the user or system process which initiates a CRUD request for Covered Entity PHI, or which alters Covered Entity PHI. The audit trail must be date and time stamped, must log both successful and failed accesses, must be read only, and must be restricted to authorized users. If Covered Entity PHI is stored in a database, database logging functionality must be enabled. Audit trail data must be archived for at least 3 years after occurrence.
- xii. **Access Controls.** The system providing access to Covered Entity PHI must use role (or group) based access controls for all user authentications, enforcing the principle of least privilege with a periodic access revalidation process (at least annually).
- xiii. **Transmission encryption.** All data transmissions of Covered Entity PHI outside the secure internal network must be encrypted using a FIPS 140-2 certified algorithm which is 128bit or higher, such as AES. Encryption can be end to end at the network level, or the data files containing Covered Entity PHI can be encrypted. This requirement pertains to any type of Covered Entity PHI in motion such as website access, file transfer, and E-Mail.
- xiv. **Intrusion Detection/Prevention.** All systems involved in accessing, holding, transporting, and protecting Covered Entity PHI that are accessible via the Internet must be protected by a comprehensive intrusion detection and prevention solution.

o) Audit Controls

- i. **System Security Review.** Business Associate must ensure audit control mechanisms that record and examine system activity are in place. All systems processing and/or storing Covered Entity PHI must have at least an annual system risk assessment/security review which provides assurance that administrative, physical, and technical controls are functioning effectively and providing adequate levels of protection. Reviews should include vulnerability scanning, patch management tools.
- ii. **Log Reviews.** All systems processing and/or storing Covered Entity PHI must have a routine procedure in place to review system logs for unauthorized access. Also, if possible, automated alerting via email/SMS for suspicious activity and/or Security Incident Event Management (SIEM) system shall be in place.
- iii. **Change Control.** All systems processing and/or storing Covered Entity PHI must have a documented change control procedure that ensures separation of duties and protects the confidentiality, integrity and availability (CIA) of data.

p) Business Continuity / Disaster Recovery Controls

- i. **Emergency Mode Operation Plan.** Business Associate must establish a documented plan to enable continuation of critical business processes and protection of the security of Covered Entity PHI held in an electronic format in the event of an emergency. Emergency means any circumstance or situation that causes normal computer operations to become unavailable for use in performing the work required under this BAA for more than 24 hours.

- ii. **Data Backup Plan.** Business Associate must have established documented procedures to backup Covered Entity PHI to maintain retrievable exact copies of Covered Entity PHI. The plan must include a regular schedule for making backups, storing backups offsite, an inventory of backup media, and an estimate of the amount of time needed to restore Covered Entity PHI should it be lost. At a minimum, the schedule must be a weekly full backup and monthly offsite storage of Covered Entity data.
- q) **Paper Document Controls**
 - i. **Supervision of Data.** Covered Entity PHI in paper form shall not be left unattended at any time, unless it is locked in a file cabinet, file room, desk or office. Unattended means that information is not being observed by an employee authorized to access the information. Covered Entity PHI in paper form shall not be left unattended at any time in vehicles or planes and shall not be checked in baggage on commercial airplanes.
 - ii. **Escorting Visitors.** Visitors to areas where Covered Entity PHI is contained shall be escorted and Covered Entity PHI shall be kept out of sight while visitors are in the area.
 - iii. **Confidential Destruction.** Covered Entity PHI must be disposed of through confidential means, such as cross cut shredding and pulverizing.
 - iv. **Removal of Data.** SJCBHS PHI or PI must not be removed from the premises of the Business Associate, except with express written permission of SJCBHS.
 - v. **Faxing.** Faxes containing Covered Entity PHI shall not be left unattended and fax machines shall be in secure areas. Faxes shall contain a confidentiality statement notifying persons receiving faxes in error to destroy them. Fax numbers shall be verified with the intended recipient before sending the fax.
 - vi. **Mailing.** Mailings containing Covered Entity PHI shall be sealed and secured. Mailings which include 500 or more individually identifiable records of Covered Entity PHI in a single package shall be sent using a tracked mailing method which includes verification of delivery and receipt, unless the prior written permission of the Covered Entity to use another method is obtained.
- r) **Judicial or Administrative Proceedings.** Business Associate will notify the Covered Entity if it is named as a defendant in a criminal proceeding for a violation of HIPAA or other security or privacy law. The Covered Entity may terminate this BAA if Business Associate is found guilty of a criminal violation of HIPAA. The Covered Entity may terminate this BAA if a finding or stipulation that the Business Associate has violated any standard or requirement of HIPAA, or other security or privacy laws is made in any administrative or civil proceeding in which the Business Associate is a party or has been joined. Covered Entity will consider the nature and seriousness of the violation in deciding whether or not to terminate the BAA.
- s) **Assistance in Litigation or Administrative Proceedings.** Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this BAA, available to the Covered Entity at no cost to the Covered Entity to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against the Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, or the HIPAA regulations, which involves inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.
- t) **Conflict.** In case of a conflict between any applicable privacy or security rules, laws, regulations or standards the most stringent shall apply. The most stringent means that safeguard which provides the highest level of protection to PHI from unauthorized disclosure. Further, Business Associate must comply within a reasonable period of time with changes to these standards that occur after the effective date of this BAA.
- u) **Audits, Inspection and Enforcement.** From time to time, and subject to all applicable federal and state privacy and security laws and regulations, the Covered Entity may conduct a reasonable inspection of the facilities, systems, books and records of Business Associate to monitor compliance with this BAA. Business Associate shall promptly remedy any violation of any provision of this BAA.

The fact that the Covered Entity inspects, or fails to inspect, or has the right to inspect, Business Associate's facilities, systems and procedures does not relieve Business Associate of its responsibility to comply with this BAA. The Covered Entity's failure to detect a non-compliant practice, or a failure to report a detected non-compliant practice to Business Associate does not constitute acceptance of such practice or a waiver of the Covered Entity's enforcement rights under this BAA, including this BAA.

v) **Due Diligence.** Business Associate shall exercise due diligence and shall take reasonable steps to ensure that it remains in compliance with this BAA and is in compliance with applicable provisions of HIPAA, the HITECH Act and the HIPAA regulations, and that its agents, subcontractors and vendors are in compliance with their obligations as required by this BAA.

4. **Covered Entity Obligations**

- a) **Notice of Privacy Practices.** Covered Entity shall notify Business Associate of limitation(s) in its notice of privacy practices, to the extent such limitation affects Business Associate's permitted Uses or Disclosures.
- b) **Individual Permission.** Covered Entity shall notify Business Associate of changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent such changes affect Business Associate's permitted Uses or Disclosures.
- c) **Restrictions.** To the extent such restriction affects Business Associate's permitted Uses or Disclosures, Covered Entity shall notify Business Associate of restriction(s) in the Use or Disclosure of PHI to which Covered Entity has agreed.

5. **Term & Termination**

- a) **Term.** The Term of this BAA shall begin on the Effective Date, and shall terminate when all of the PHI provided by Covered Entity to Business Associate is destroyed or returned to Covered Entity, or if it is infeasible to return or destroy all of the PHI, protections are extended to such information in accordance with the termination provisions in this Section.
- b) **Termination.**
 - i. **By Covered Entity.** Upon Covered Entity's knowledge of a material breach by Business Associate of this BAA, Covered Entity shall:
 1. Terminate this BAA and the Underlying Agreement upon thirty (30) days notice if Covered Entity determines that Business Associate has violated a material term of this BAA if, following Covered Entity's notification to Business Associate of the material breach, Business Associate is unable or unwilling to take steps to cure the breach within such thirty (30) day period. In the event of such a cure, this BAA shall remain in full force and effect;
 2. Immediately terminate this BAA and the Underlying Agreement if Business Associate has breached a material term of this BAA and cure is not possible; or
 3. Immediately terminate this BAA if (i) Business Associate is found guilty in a criminal proceeding for a violation of the HIPAA Privacy or Security Rule or (ii) a finding or stipulation that the Business Associate has violated a privacy or security standard or requirement of HIPAA, or (iii) a finding of other security or privacy law violation is made in an administrative or civil proceeding in which the Business Associate is a party.
 4. If neither termination nor cure is feasible, report the violation to the Secretary.
 - ii. **By Business Associate.** Upon Business Associate's knowledge of a material breach by Covered Entity of this BAA, Business Associate shall:
 1. Terminate this BAA and the Underlying Agreement upon thirty (30) days notice if Business Associate determines that Covered Entity has violated a material term of this BAA if, following Business Associate's notification to Covered Entity of the material breach, Covered Entity is unable or unwilling to take steps to cure the breach within such thirty (30) day period. In the event of such a cure, this BAA shall remain in full force and effect;
 2. Immediately terminate this BAA and the Underlying Agreement if Covered Entity has breached a material term of this BAA and cure is not possible; or
 3. If neither termination nor cure is feasible, report the violation to the Secretary.
- c) **Return on Termination.** At termination of the Agreement, to the extent feasible, Business Associate shall return or destroy all PHI that Business Associate still maintains in any form and retain no copies

of the PHI. If the return or destruction of such PHI is not feasible, Business Associate shall extend the protections of this BAA to the remaining information and limit further uses and disclosures of the PHI to those purposes that make the return or destruction of the PHI infeasible.

d) **Survival.** The terms of this Section shall survive the termination or expiration of this BAA.

6. **Required Disclosure.** If Business Associate is confronted with legal action to disclose any PHI, Business Associate shall promptly notify and assist Covered Entity (at Business Associate's expense) in obtaining a protective order or other similar order, and shall thereafter disclose only the minimum amount of PHI that is required to be disclosed in order to comply with the legal action, whether or not a protective order or other order has been obtained.

7. **Indemnification.** Business Associate agrees to indemnify, defend, and hold harmless Covered Entity and its directors, officers, affiliates, employees, agents, and permitted successors from and against any and all claims, losses, liabilities, damages, costs, and expenses (including reasonable attorneys' fees) arising out of or related to Business Associate's breach of its obligations under this BAA, including, but not limited to Business Associate's failure to notify Covered Entity of a Breach of Unsecured Protected Health Information or of a possible Breach of Unsecured Protected Health Information within the time frames specified herein.

8. **Compliance with Laws.** Business Associate shall comply with all applicable federal, state and local laws, rules and regulations, including, without limitation, the requirements of HIPAA (CFR 45) and CFR 42, California Welfare and Institutions Code Section 5238 and the California Medical Information Act.

9. **Interpretation.** The terms and conditions in these Provisions shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HIPAA regulations and applicable Federal, State and local laws. The parties agree that any ambiguity in the terms and conditions of these Provisions shall be resolved in favor of a meaning that complies and is consistent with HIPAA and the HIPAA regulations.

10. **Underlying Agreement.** Except as specifically required to implement the purposes of this BAA, and except to the extent inconsistent with this BAA, all terms of the Underlying Agreement shall remain in full force and effect. In the event of a conflict between the terms of the Underlying Agreement and this BAA, this BAA shall control.

11. **No Third-Party Beneficiaries.** Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Covered Entity, Business Associate and their respective successors or assigns, any rights, remedies, obligations or liabilities whatsoever.

12. **Disclaimer.** Covered Entity makes no warranty or representation that compliance by Business Associate with these Provisions, HIPAA or the HIPAA regulations will be adequate or satisfactory for the Business Associate's own purposes or that any information in Business Associate's possession or control, or transmitted or received by Business Associate, is or will be secure from unauthorized use or disclosure. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

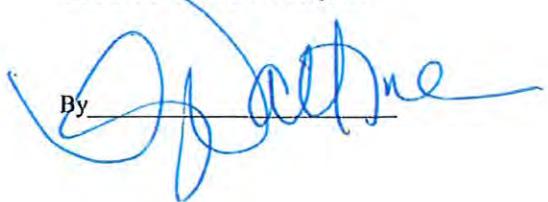
13. **Ownership.** Covered Entity shall be and remain the sole and exclusive owner of its PHI.

14. **Amendment.** The parties acknowledge that the HITECH Act requires the Secretary to promulgate additional regulations and interpretative guidance that is not available at the time of executing this BAA. In the event Covered Entity determines in good faith that any such regulation or guidance adopted or amended after the execution of this BAA is required by law to be implemented and made a part hereof, this BAA shall be renegotiated in good faith so as to amend the applicable provision(s) in a manner that would eliminate any such substantial risk.

15. **Counterparts.** This BAA may be executed in two or more counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement.

16. **Regulatory References.** A reference in the terms and conditions of these Provisions to a section in the HIPAA regulations means the section as in effect or as amended.
17. **No Waiver of Obligations.** No change, waiver or discharge of any liability or obligation hereunder on any one or more occasions shall be deemed a waiver of performance of any continuing or other obligation, or shall prohibit enforcement of any obligation, on any other occasion.

COUNTY OF SAN JOAQUIN

By 

BUSINESS ASSOCIATE:

By 

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

(1) AMENDING THE EXISTING AGREEMENT WITH THE SAN JOAQUIN COUNTY BEHAVIORAL HEALTH SERVICES ACCEPTING THE UNUSED FUNDING BALANCE OF \$206,406 FOR THE FAMILIAR FACES GRANT AWARD RECEIVED FROM THE CALIFORNIA DEPARTMENT OF HEALTH SERVICES IN PARTNERSHIP WITH THE SAN JOAQUIN COUNTY BEHAVIORAL HEALTH SERVICES AND (2) EXTENDING THE AGREEMENT TO JUNE 30, 2025; AND (3) APPROPRIATING THE REMAINING BALANCE TO THE PD'S OPERATIONAL BUDGET.

WHEREAS, the Police Department (PD), working in partnership with the San Joaquin County Behavioral Health Services (County), was awarded a total of \$643,250 from the California Department of Health Care, Behavioral Health Justice Intervention Services, as a grant sub-awardee; and

WHEREAS, the PD was awarded \$213,000 in 2022, \$93,900 in 2023, and \$336,350 in 2024 to support the establishment of the Department's Familiar Faces Program, which assists with homelessness and mental health services; and

WHEREAS, this is a reimbursement based award and the Department has a unused funding balance of \$206,406, which will be carried forward ("rolled over") and added to the third grant award of \$336,350; and

WHEREAS, extending the expiration date of the original agreement from March 31, 2025 to June 30, 2025, and appropriating the Acceptance of the grant requires the execution of the San Joaquin Behavioral Health Services Community Agreement amendment with the County, in the form attached as Exhibit A; and

WHEREAS, the approval of these financing shifts is exempt from review under the California Environmental Quality Act per CEQA Guidelines section 15378(b)(5); and now, therefore, be it

RESOLVED: That the City Council authorizes the execution of the San Joaquin Behavioral Health Services Community Agreement amendment with the County, in the form attached as Exhibit A, and any other related actions needed to effectuate the receipt of the grant funds; and be it

FURTHER RESOLVED: That the City Council appropriates the rollover grant funds award of \$206,406 to the PD's operational budget, and be it

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on March 4, 2025 by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST:_____
NECY LOPEZ
Acting City Clerk and Clerk of the Council of the
City of Tracy, California

Exhibits

- A. San Joaquin County Behavioral Health Services Agreement
First Amendment of Agreement #A-24-103

**SAN JOAQUIN COUNTY BEHAVIORAL HEALTH
SERVICES AGREEMENT**

FIRST AMENDMENT OF AGREEMENT #A-24-103

City of Tracy
Tracy Police Department
Behavioral Health Mobile Crisis
January 1, 2024- June 30, 2025

THIS FIRST AMENDMENT OF AGREEMENT A-24-103 made and entered into this day _____, 2025, by and between the COUNTY OF SAN JOAQUIN, a political subdivision of the State of California, hereinafter referred to as "COUNTY" and **City of Tracy**, hereinafter referred to as "CONTRACTOR."

WITNESSETH

WHEREAS, the parties entered into an Agreement on the 14th day of May, 2024, whereby the CONTRACTOR shall provide Police Department homeless street outreach and engagement services.

WHEREAS, the parties hereto now desire to extend the Term of the Agreement for an additional 3 months and amend the Fiscal Provisions and Exhibit C of said Agreement, increasing the amount by \$206,406, from \$336,500 to \$542,906.

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

Section 3 is amended to read:

3. Term: The term of this Agreement shall be from January 1, 2024- June 30, 2025. Nothing in this Agreement shall be interpreted as requiring either party to renew or extend this Agreement.

Section 6 is amended to read:

6. Fiscal Provisions:

- a. COUNTY shall pay CONTRACTOR an amount not to exceed \$542,906 (Five Hundred Forty-Two Thousand Nine Hundred and Six Dollars) based on reimbursement of actual costs incurred.

Exhibit C is deleted and replaced in its entirety with Exhibit C attached hereto.

In all other respects except as herein amended, the Agreement dated May 14, 2024, shall remain unchanged.

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written

above:

ATTEST: RACHÉL DeBORD,
Clerk of the Board of Supervisors
of the County of San Joaquin,
State of California

By: _____ (seal)
Clerk

COUNTY OF SAN JOAQUIN
a political subdivision of the
State of California

By: _____
Paul Canepa, Chair
Board of Supervisors

Hereinabove referred to as "COUNTY"

By: _____
Dan Arriola, Mayor
City of Tracy

Hereinabove referred to as "CONTRACTOR"

APPROVAL RECOMMENDED:

By: _____
Genevieve G. Valentine, Interim
Director Health Care Services

By: _____ No Signature _____
Genevieve G. Valentine
Behavioral Health Services

APPROVED AS TO FORM:

Office of the County Counsel

By: 
Rachael Allgaier,
Deputy County Counsel

Exhibit C
January 1, 2024- June 30, 2025
PAYMENT SCHEDULE
COUNTY OF SAN JOAQUIN

Description	Invoice Description	Amount
Quarters 2-9	Equipment and Progress Reports are deemed completed, subject to invoicing of Quarter 9.	\$306,900.00
Year 1 Quarters 2-3		
Year 2 Quarters 4-7		
Year 3 Quarters 8-9 (2/15/2022– 12/31/2023)	Amount paid to date:	\$100,344.00
	Remaining to Invoice:	\$206,556.00

Quarter #/Date Range	Invoice Description	Amount of Invoice
Quarter 10: CRRSAA Funding 1/1/2024 – 2/29/2024	Progress Report detailing progress made towards Deliverable 9A (CRRSAA)	\$44,847.00
Quarter 10: MHBG Funding 3/1/2024 – 3/31/2024	Progress Report detailing progress made towards Deliverable 9B (MHBG)	\$22,423.00
Quarter 11: 04/01/24 – 6/30/24	Progress Report detailing progress made towards Deliverable 10	\$67,270.00
Quarter 12: 07/01/24 – 9/30/24	Progress Report detailing progress made towards Deliverable 11	\$67,270.00
Quarter 13: 10/01/24 – 12/31/24	Progress Report detailing progress made towards Deliverable 12	\$67,270.00
Quarter 14: 1/1/25 – 3/31/25	Progress Report detailing progress made towards Deliverable 13	\$67,270.00
Total Quarters 10-14		\$336,350.00
Subcontract TOTAL (Deliverables, Other Direct and Equipment)		\$542,906.00

March 4, 2025

Agenda Item 1.H

RECOMMENDATION

Staff recommends that the City Council adopt a resolution 1) authorizing the increase of the annual Not to Exceed amount for fuel supply services at the Tracy Municipal Airport from \$500,000 per fiscal year to \$1,200,000 as part of the agreement with Avfuel Corporation for the remainder of the seven-year term and 2) appropriating \$700,000 to the Airport Operating fund (F561).

EXECUTIVE SUMMARY

On June 18, 2019, City Council approved an agreement with Avfuel Corporation for fuel supply services at the Tracy Municipal Airport for a seven-year term with an annual Not to Exceed amount of \$500,000. The Not to Exceed amount was based on the historic fiscal year budget for fuel expenditures. The fuel is sold at the airport at a marked-up rate, so the fuel revenues more than offset the fuel costs.

To continue to provide fuel services at the airport for the remainder of the fiscal year, staff recommends that the Not to Exceed amount of the agreement be increased to \$1,200,000 for the remainder of the seven-year term of the agreement and appropriating \$700,000 to the Airport Operating Fund. The intent is to set the amount high enough to guarantee availability of fuel for resale. The actual amount expended will be limited to purchase of the quantity of fuel necessary to keep the tanks full for this purpose.

BACKGROUND AND LEGISLATIVE HISTORY

The airport has a two compartment Aviation gas tank with a usable inventory of 8950 gallons. On June 18, 2019, City Council approved an agreement with Avfuel Corporation to supply fuel to the Airport. The agreement has a seven-year term with an annual Not to Exceed amount of \$500,000, based on the historic fiscal year budget for fuel. The fuel is sold at the airport at a marked-up rate, so the fuel revenues more than offset the fuel costs.

To improve revenue generation and customer service, as well as be more competitive with surrounding airports, a new markup rate strategy for Aviation fuel was implemented on July 1, 2024. The intent of this strategy was to reduce the subsidy required for airport operations and eventually make the airport self-sustaining.

The new rate structure has resulted in more pilots coming to Tracy to fuel their planes. The increased sales have caused the airport to need fuel deliveries more frequently. To date the airport has expended almost \$450,000 of the not to exceed amount of \$500,000 approved for fuel purchases.

ANALYSIS

The new rate structure has been very successful. The table below indicates that the sales have been increasing every year, and the results from the first half of the current fiscal year are at a pace of more than 30% greater than the previous fiscal year.

Sales have been increasing on a monthly basis, and sales in the first 6 weeks of 2025 exceed the first quarter sales of any of the four previous fiscal years. In January of this year, typically one of the airport's slowest months of the year, over 17,000 gallons were sold including over 7,500 gallons in the last week. This is three times the volume that has historically been sold in January.

<u>Fiscal Year</u>	<u>Sales</u>
21/22	\$424,800
22/23	\$511,600
23/24	\$645,000
24/25 (6 months)	\$424,700

Staff anticipates this trend of increased fuel sales to be ongoing and continue through the remainder of the agreement. The airport is about to enter its busiest months as the weather improves, and it is anticipated that sales will be significantly higher than the first two quarters of the fiscal year. An increase in the not to exceed amount of the agreement with Avfuel Corporation is necessary to ensure the fuel is available for purchase. Staff recommends that the amount be increased to \$1.2 million. The intent of this action is to set the amount high enough to guarantee availability of fuel for resale. The actual amount expended will be limited to purchase of the quantity of fuel necessary to keep the tanks full for this purpose.

FISCAL IMPACT

The fuel that is purchased under the agreement with Avfuel Corporation is re-sold at the airport at a marked-up rate, so the fuel revenues more than offset the fuel costs. Fuel revenue increased fifty eight percent over the period of the first seven months of a fiscal year, from \$317,034 in fiscal year 2023-2024 to \$500,673 in fiscal year 2024-2025.

If the airport continues to use the current rate structure, it will create the opportunity for it to reach the goal of self-sustainability for the first time.

The current fiscal year's adopted budget contains \$500,000 for the Avfuel Corporation agreement. Staff recommends an appropriation in the amount of \$700,000 to the Airport Operating fund (F561) to account for the increase to the Avfuel Corporation contract. This increase will be more than offset by revenue generated from the sale of the fuel.

STRATEGIC PLAN

This agenda item supports the 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 a resolution 1) authorizing the increase of the annual Not to Exceed amount for fuel supply services at the Tracy Municipal Airport from \$500,000 per fiscal year to \$1,200,000 as part of the agreement with Avfuel Corporation for the remainder of the seven-year term and 2) appropriating \$700,000 to the Airport Operating fund (F561).

Agenda Item 1.H

March 4, 2025

Page 3

Prepared by: Paula Jessup, Airport Manager

Reviewed by: Gordon MacKay, Interim Public Works Director

David Murphy, Assistant Director of Operations

Sara Castro, Director of Finance

Andrew Shen, Interim City Attorney

Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

Attachments:

Attachment A: 2019 Avfuel Corporation Agreement

Customer Code: _____



**AVFUEL CORPORATION
FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT**

Reference Date: June 5, 2019

Effective Date: July 1, 2019

SUMMARY

This Agreement is between Avfuel Corporation and its affiliates and subsidiaries all of which have principal offices at 47 West Ellsworth Road, Ann Arbor, MI 48108 USA, hereinafter referred to, individually or collectively as "Avfuel", and City of Tracy having its principal office at (Street address only) 333 Civic Center Plaza, Tracy, CA 95376, hereinafter called "Customer", collectively called "the Parties", and is effective on the Effective Date or, if no Effective Date is specified then on the Reference Date noted above.

THIS IS AN INTEGRATED AGREEMENT CONSISTING OF SEVERAL PARTS, ALL OF WHICH SHALL BE READ TOGETHER AND INTERPRETED AS ONE AGREEMENT. The parts shall include this Summary, the Special Terms and Conditions, and the General Terms and Conditions. In the event of any inconsistencies between the Special Terms and Conditions and the General Terms and Conditions, the Special Terms and Conditions shall govern. Avfuel offers other Programs that it believes are of benefit to Customer. Customer chooses to participate in those Programs that are checked below and agrees that the applicable provisions of the Special and General Terms and Conditions govern those Programs. Additions or deletions to this agreement are governed by the Changes Provision set forth in Section 19 of the General Terms and Conditions. If customer should avail itself of any of the Programs not checked below then Customer specifically agrees to be bound by the Special and General Terms and Conditions that govern those Programs.

Applicable Certificates of Insurance are attached hereto, Insurance Company Name _____

<input checked="" type="checkbox"/> Customer Credit Program	<input checked="" type="checkbox"/> Addendums
<input checked="" type="checkbox"/> Brand Program	<input checked="" type="checkbox"/> AVTRIP Program
<input checked="" type="checkbox"/> Credit and Charge Cards Acceptance Program	<input type="checkbox"/> Contract Fuel Dealer Program
<input checked="" type="checkbox"/> Equipment Lease Agreement	<input type="checkbox"/> Avsurance Primary Commercial Insurance Program

CUSTOMER FEIN: 94-6000442

TYPE OF BUSINESS: Municipality
(i.e. C-corp, S-corp, Partnership, LLC, Sole Prop, or other)

STATE ID NUMBER:

STATE OF INCORPORATION: California

FOR: AVFUEL CORPORATION

FOR: CITY OF TRACY

By:

William B. Light

Title: Vice President, Administration

By:

Robert Rickman

Robert Rickman

(Print Name)

Title: Mayor

(Print Title)

The undersigned hereby guarantee(s) payment and performance of this Agreement by Customer.

By: _____
Signature

Name Printed

Social Security Number

By: _____
Signature

Name Printed

Social Security Number

Approved as to Form:

A handwritten signature in blue ink, appearing to read 'PDR'.

FBO AFSA

**FIXED BASE OPERATOR
AVIATION FUEL SUPPLY AGREEMENT**

SPECIAL TERMS AND CONDITIONS

CUSTOMER NAME: City of Tracy

BILLING ADDRESS: 333 Civic Center Plaza
Tracy, CA 95376

DELIVERY ADDRESS: 5749 S. Tracy Blvd.
Tracy, CA 95377

AIRPORT ID (IATA CODE): TCY

PRODUCT(s):

Jet-A Jet-A with Anti-ice Avgas/100LL Other

PAYMENT TERMS: Net 30

CREDIT LIMIT: \$50,000

EQUIPMENT LEASED:

Description**	S/N or VIN	Lease Rate	Replacement Cost (Current)
The Avfuel Hub	Software License	\$0/month	NA

*Hazard insurance . **Meters, if so equipped, have NOT been Certified or Calibrated, this is the responsibility of Customer.

CONTRACT FUEL DEALER:

Flight Operation Type (select one): Corporate Configured Accepted
 Non Corporate Ops Only
 DC-9 and Larger, Non Corporate Ops Only

Airport Flowage Fee: YES NO \$/g (i.e. \$0.0300)

Storage Fee: YES NO **\$/g (i.e. \$0.0300)**

Into wing Fee:

Jet Into-Plane Rate Schedule	Gallons from/to	Rate/gallon
Example	1-1000 gallons	\$X.XXXX

OTHER SPECIAL TERMS AND CONDITIONS:

AVIATION FUEL SUPPLY AGREEMENT
GENERAL TERMS AND CONDITIONS

1. PURCHASE AND SALE: Subject to the terms and conditions contained herein, throughout the entire term of this Agreement, Avfuel agrees to sell and deliver, and Customer agrees to purchase from Avfuel and pay for, the Customer's entire requirements for all aviation fuel products (the "Products") to be handled, stored, used, distributed or sold by Customer or its affiliates at each airport (each an "Airport") listed in the Special Terms And Conditions, including without limitation those Products that the Customer is presently using that are identified in the Special Terms and Conditions. If, at any time during the term of this Agreement the Customer, or any entity controlled by or in common control with Customer, operates any other facility that sells aviation fuels at a listed Airport (each a "Supplemental FBO"), then Customer shall or shall cause such other entity to enter into a new AVIATION FUEL SUPPLY AGREEMENT with Avfuel (on the same terms and for the same duration as this Agreement) for the supply of 100% of the requirements of the Supplemental FBO for aviation fuel. Customer represents and warrants that all products and services purchased hereunder will be for commercial purposes and Avfuel has relied on this representation in entering into this Agreement.

2. TERM: The initial term of this Agreement is seven (7) years, beginning on the Effective Date specified in the Summary. The term shall be automatically renewed for successive five (5) year terms until one Party delivers a Notice to the other Party of its intent to terminate at the end of the then current term. Such Notice shall be delivered at least ninety (90) but not more than one hundred twenty (120) days prior to the expiration of the current term.

3. PRICE AND PAYMENT:

3.1. Unless otherwise agreed in writing by the Parties, the price per gallon for Products delivered to Customer shall be as established by Avfuel from time to time in its discretion based upon market and other conditions that it deems pertinent based on the date and time that Avfuel loads the Products into delivery trucks. Prices shall be F.O.B. the Customer's facilities at the Airports (each a "Delivery Address") and shall be exclusive of all taxes, fees, surcharges and other charges.

3.2. Unless otherwise agreed in writing or otherwise required by the state law where the Product is delivered, the standard unit of measurement of quantities of Products purchased and delivered shall be the Net Gallon. The term "Net Gallon" shall mean the volumetric measurement, in U.S. gallons, of a Product actually loaded and measured at the point of shipment, adjusted to the number of U.S. gallons that would have been loaded at a temperature of sixty degrees Fahrenheit (60°F). The conversion ratio shall be from the current American Society for Testing and Materials ("ASTM") IP Petroleum Measurement Tables.

3.3. Unless otherwise agreed in writing by the Parties, Customer agrees to pay in advance by bank wire transfer for all Products purchased hereunder. Failure to pay in advance shall be construed as a credit transaction and shall be subject to the Terms and Conditions of the Customer Credit Program set forth below.

4. TAXES AND OTHER CHARGES:

4.1. Customer shall pay all taxes, assessments, fees and other charges (the "Taxes") which are imposed by any federal, state or local governmental agency or by any airport authority (collectively, the "Taxing Authorities") based upon the delivery, sale, importation, inspection, storage or use of the Products purchased by Customer, excepting Taxes which are imposed upon Avfuel based upon its net income or revenues.

4.2. If the Taxing Authorities collect the Taxes directly from Customer, then Customer shall pay all such Taxes on or before their due dates. If the Taxing Authorities require that Avfuel collect the Taxes from Customer at the time of sale, Avfuel will use its best efforts to include all such Taxes in its invoices to Customer and Customer shall pay all such invoices on or before their due dates. (In its invoices, Avfuel will identify those Taxes as separate items.) If Customer is entitled to an exemption from any Taxes which the Taxing Authorities require to be collected by Avfuel, then, in order to permit Avfuel not to collect those Taxes, Customer shall obtain and provide to Avfuel current and valid exemption certificates relating to those Taxes. If, subsequent to the issuance of any invoice, the Taxing Authorities or Avfuel advise Customer of additional Taxes payable with respect to the Products covered by that invoice, then Customer shall promptly pay such additional Taxes.

4.3. CUSTOMER ACKNOWLEDGES THAT IT REMAINS SOLELY RESPONSIBLE FOR ALL SUCH TAXES, AND WILL INDEMNIFY AVFUEL AGAINST ANY LIABILITY FOR SUCH TAXES EVEN IF AVFUEL FAILS FOR ANY REASON TO INCLUDE ANY SUCH TAXES IN ITS INVOICES TO CUSTOMER. AVFUEL WILL INDEMNIFY CUSTOMER AGAINST ANY LATE CHARGES, PENALTIES OR OTHER CHARGES THAT CUSTOMER INCURS IF AVFUEL'S FAILURE TO INCLUDE ANY TAXES IN ITS INVOICE IS DUE TO NEGLIGENCE OR WILLFUL MISCONDUCT.

4.4. Customer's obligation to indemnify Avfuel shall extend to any Taxes which are assessable against Customer as a result of any subsequent change or reinterpretation of the laws relating to those Taxes or any exemptions from those Taxes and to any Taxes for which an exemption had been claimed but which are subsequently assessed by Taxing Authorities based upon its rejection of the claimed exemption for the Products or Customer.

5. DELIVERY:

5.1. Deliveries shall be made to the Delivery Address(es) listed in the Special Terms And Conditions. Avfuel or its authorized shipping agent ("Shipping Agent") shall be provided access to Customer's storage facilities during normal business hours, or at such other times as may be approved by Customer's authorized representative, for the purpose of unloading the Products. Unless otherwise agreed in writing, the minimum delivery of Jet A fuel will be a full standard transport tanker load which is equivalent to 7,500 Gross Gallons, and the minimum delivery for Avgas fuel will be a full standard transport tanker load which is equivalent to 8,500 Gross Gallons. Avfuel reserves the right to impose a surcharge for deliveries of less than a full tanker load.

5.2. Delivery shall be into tanks designated by Customer. Such designation shall be construed as a warranty that the designated tanks and containment areas have been inspected and approved by the appropriate regulatory agencies. Customer shall be responsible for all unloading operations including the placement of hoses into the proper storage tanks. Customer shall specifically designate and gauge the available capacity of the tanks into which the Product shall be unloaded, and shall bear all responsibility of spillage or contamination of the Product after it leaves the end of any properly operating hose provided by Avfuel or its Shipping Agent. Access to Customer's tanks shall be furnished in such a manner that Avfuel or its Shipping Agent can safely and conveniently reach Customer's storage facility with the hoses available, and Avfuel or its Shipping Agent may refuse to complete any delivery which Avfuel or the Shipping Agent determines, in its sole discretion, cannot be made safely.

5.3. Any claim by Customer of any discrepancy in the quantity of the Product delivered shall be effective only if made by written Notice delivered to Avfuel within twenty-four (24) hours after the Product is delivered to Customer. **GIVEN THE NATURE OF THE PRODUCTS, TIME IS OF THE ESSENCE WITH RESPECT TO SUCH CLAIMS AND NO CLAIM SHALL BE PERMITTED OR EFFECTIVE UNLESS DELIVERED WITHIN THE SPECIFIED PERIOD.**

6. FORCE MAJEURE: Except as provided below, neither Party shall be responsible for any failure to comply with the terms of this Agreement due to causes beyond its reasonable control for the period the effects of such causes continue. These causes shall include but shall not be restricted to: fire, storm, flood, earthquake, explosion, accident, acts of any local, state or federal authority or agency or of a public enemy, war, rebellion, terrorism, insurrection, sabotage, epidemic, quarantine restrictions, labor disputes, transportation embargoes or delays, acts of God and unavailability of the Product. For purposes of this Agreement, the term "unavailable" shall mean that Avfuel, for any reason whatsoever, including but not limited to government action, reduced or allocated fuel supplies, lack of transportation or the like, is unable to procure and deliver a specific Product on a commercially reasonable basis within two (2) days of the specific time requested by Customer. In that event, and only to the extent of such unavailability, the Parties hereto shall be relieved of their obligations under the applicable provisions of this Agreement. If and as applicable, Avfuel will comply with any governmental statute or regulation mandating the allocation of available supplies of Products. The provisions of this Section shall not apply to the failure of a Party to pay any monetary amounts when due under this Agreement.

7. LIMITED WARRANTY:



7.1. Avfuel warrants that all Products delivered pursuant to this Agreement will, at the time of delivery, conform to the then latest revision of following specifications: Aviation Gasoline will conform to the ASTM Specification D910; and Jet Fuel will conform to the ASTM Specification D1655. Avfuel retains the right to revise the applicable specifications upon written Notice to Customer.

7.2. THE LIMITED WARRANTY STATED ABOVE IS THE ONLY WARRANTY GIVEN BY AVFUEL REGARDING THE PRODUCTS. AVFUEL DISCLAIMS ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

7.3. Customer shall sample and test each shipment of Product prior to delivery using industry standard test procedures. If Customer determines or suspects non-conformity then Avfuel must be immediately notified, while the Shipping Agent is still present, and the delivery shall not be completed until either Customer accepts the Product, acknowledging conformity or Avfuel replaces the Product. Customer will permit Avfuel access to Customer's premises and records during normal business hours and upon four (4) hours' telephonic or written Notice to Customer for purposes of investigating any claim of non-conformity. If it is determined that the Product is non-conforming, Avfuel's sole obligation shall be either (1) replacement of the non-conforming Product with conforming Product, or (2) removal of the non-conforming Product and cancellation of the invoice for that Product or refund of the amount paid for that Product, as determined by Avfuel. Avfuel will be reasonably prompt in its actions hereunder. **TIME IS OF THE ESSENCE AND ANY FAILURE TO FOLLOW THE ABOVE PROCEDURE SHALL VOID THE LIMITED WARRANTY.**

8. COMPLIANCE WITH LAWS:

8.1. Each Party shall, at all times and in all respects, comply with all federal, state, county or municipal laws, ordinances, rules and regulations governing its actions in the purchase, storage, handling, use and sale of the Products and all industry standards pertaining thereto, including those that may contain tetraethyl lead or lead alkyl. Further, each of the Parties agree to use its reasonable best efforts to assist the other Party in complying with such laws, ordinances, rules and regulations which the other Party may be required to observe in the performance of its obligations under this Agreement. Each Party reserves the right to terminate those portions of this Agreement governing the purchase of a Product if the other Party violates the provisions of this subsection with respect to that Product. In such event, the remaining provisions of this Agreement shall continue in full force and effect.

8.2. Each Party shall properly instruct its employees, agents and contractors with regard to compliance with all applicable laws, ordinance, rules, regulations and standards governing the use, sale and distribution of the Products that are the subject of this Agreement.

9. INDEPENDENT STATUS: Each Party shall at all times function as an independent contractor and not as a subcontractor, employee or other agent of the other Party. Neither Party shall have the authority to and shall not purport to make any commitments or representations on behalf of the other Party or otherwise to take any actions on behalf of the other Party.

10. INDEMNIFICATION: AVFUEL AGREES TO INDEMNIFY AND TO HOLD HARMLESS THE CUSTOMER AND ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, LIABILITIES, CAUSES OF ACTION, COSTS OR EXPENSES OF WHATSOEVER NATURE WHICH ARE ASSERTED AGAINST OR INCURRED BY THE CUSTOMER AS A RESULT OF THE BREACH BY AVFUEL OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR AS A RESULT OF ANY NEGLIGENCE OR INTENTIONAL MISCONDUCT OF AVFUEL OR OF ITS OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS, EXCEPT FOR WHEN CAUSED BY THE ACTIVE OR SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CUSTOMER.

CUSTOMER AGREES TO INDEMNIFY, DEFEND, AND HOLD HARMLESS AVFUEL, ITS OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, LIABILITIES, CAUSES OF ACTION, COSTS OR EXPENSES OF WHATSOEVER NATURE WHICH ARE ASSERTED AGAINST OR INCURRED BY AVFUEL AS A RESULT OF THE BREACH BY THE CUSTOMER OF ITS OBLIGATIONS UNDER THIS AGREEMENT ARISING OUT OF OR RESULTING FROM THE ACTIVE OR SOLE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE CUSTOMER.

ANY AMOUNT PAYABLE BY THE INDEMNIFYING PARTY UNDER THIS SECTION 10 SHALL BE DUE WITHIN THIRTY (30) DAYS AFTER WRITTEN DEMAND. EACH PARTY'S OBLIGATION TO INDEMNIFY SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT AND SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE LAPSE OF ALL APPLICABLE STATUTES OF LIMITATIONS OR SIMILAR TIME PERIODS WITHIN WHICH AN ACTION FOR INDEMNITY OR CONTRIBUTION MUST BE BROUGHT.

11. BREACH AND TERMINATION:

11.1. Failure of a Party to comply with the provisions of this Agreement shall constitute a breach of the Agreement by the non-complying Party. Except as otherwise permitted under this Agreement, the non-breaching Party shall provide Notice of that breach to the other Party in the manner set forth in Section 14. The Notice shall specify the alleged breach and the period within which the breach must be cured which, except as provided in Section 11.2, shall be at least ten (10) business days. The Party receiving such Notice shall respond thereto in writing within three (3) business days. If the breach is not cured or the dispute resolved within the period specified in the Notice, the Party claiming breach, by further written Notice, at its election, may affirm this Agreement and initiate appropriate legal actions to require the other Party to remedy that breach or may immediately terminate this Agreement. In either instance, the Party claiming the breach may by appropriate legal proceedings seek and secure recovery of any damages resulting from that breach.

11.2. The provisions of Section 11.1 to the contrary notwithstanding, if the breach is of the Customer's obligation to make a payment to Avfuel when due, then Avfuel may declare all amounts owed to it under this Agreement immediately due and payable, and Avfuel, in addition to all other rights hereunder, may suspend its performance or terminate this Agreement forthwith and without giving Customer Notice or the opportunity to cure. Avfuel shall also have the right to offset any amount that Avfuel then or thereafter owes to Customer, to any guarantor of the Customer's obligations under this Agreement or to any affiliate entity that owns, is owned by or is under common ownership with the Customer against any amounts owed by Customer to Avfuel. Customer warrants that it is authorized to make this commitment with respect to amounts owed by Avfuel to such guarantors and affiliate entities. In addition, Avfuel or its agents or employees may, without further Notice and without legal process enter onto any facility of Customer for the purpose of repossessing any item of Equipment or any personal property of any description owned by Avfuel, and Customer shall use its best efforts to assist Avfuel in such repossession. Exercise of the foregoing remedies shall not constitute a waiver of any amount due by Customer hereunder or of any damages accruing by reason of the breach of any of the terms or conditions of this Agreement. Fuels on board repossessed Equipment will become the property of Avfuel, and credited against any amount owed Avfuel by Customer at that day's market price.

11.3. The Party claiming a breach may waive that breach by giving Notice to the other Party in the manner set forth in Section 14 below. The waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other term or condition. Any failure of either Party to enforce rights or seek remedies arising out of any breach by the other Party shall not prejudice or affect the rights and remedies of that Party in the event of any subsequent breach by the other Party.

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11.4. Except as set forth in Section 11.2, any dispute that arises under this Agreement, pursuant to Section 11.1 or otherwise, shall be submitted to a senior officer or other person having the authority to negotiate the resolution of such disputes for each Party. Those persons shall attempt, in good faith, to resolve the dispute, and no action in law or equity shall lie until the process set forth herein shall have run its course. If the dispute involves the payment of money, all undisputed amounts shall be paid when due regardless of whether the undisputed amount is only part of an invoice.

11.5. The exercise of a Party's right to terminate the Agreement or to exercise any other remedy shall not be deemed an election of remedies and shall be without prejudice to the non-breaching Party's rights to exercise any other remedy afforded to it by this Agreement or by law or equity. In any action related to the enforcement or breach of this Agreement, the prevailing Party shall have the right to recover its reasonable attorney's fees and costs actually incurred.

11.6. **Termination for Convenience.** Customer may terminate this contract without cause and without penalty immediately after ten (10) days' written notice.

12. INSURANCE:

12.1. Customer maintains adequate insurance and, upon written request by Avfuel, will furnish Avfuel a Certificate of Insurance evidencing the same. Avfuel shall secure and at its cost shall thereafter maintain in effect during the term of this Agreement the following insurance: (1) aviation general liability insurance, including products and completed operations liability, with limits not less than two million dollars (\$2,000,000.00) combined single limit for bodily injury and property damage; and (2) automobile liability insurance with limits not less than two million dollars (\$2,000,000.00) combined single limit for bodily injury and property damage; and (3) workers compensation covering all employees of Avfuel. Upon request by Customer, Avfuel shall furnish Customer a Certificate of Insurance evidencing compliance with this Section.

12.2. Customer may, if it chooses, apply for this insurance through Avfuel's subsidiary, Avsurance Corporation.

12.3. Avfuel currently offers to qualifying customers that participate in Avfuel's Brand Program ("Branded Dealers") the opportunity to participate in Avfuel's Excess Aviation Liability Insurance Program. To qualify, a Branded Dealer must maintain as its primary insurance coverage an Airport Liability Policy with premises, products and completed operations coverage of \$1,000,000 (combined single limit) issued by an insurer acceptable to Avfuel. This Program currently allows qualifying Branded Dealers, at no charge, to be designated as additional insured parties under an Excess Aviation Liability Insurance Policy secured by Avfuel, with excess coverage in the amount of \$50,000,000 against claims for bodily injury or property damage resulting from defects in any aviation gasoline and jet fuel that is supplied by Avfuel to the Branded Dealer and resold by the Branded Dealer to end users.

To participate in this Program and secure this excess coverage, the Branded Dealer must complete and submit to Avfuel the required Application and provide to Avfuel a Certificate of Insurance confirming its primary insurance coverage and naming Avfuel as an additional insured. A Branded Dealer becomes an additional insured under Avfuel's Aviation Products Excess Liability insurance coverage on the date that Avfuel delivers Notice to the Branded Dealer that its Application and Certificate of Insurance have been approved by Avfuel and the excess coverage will be applicable to occurrences following that date.

Avfuel reserves the right to discontinue this Program or to require the Customer to pay a charge for participation in this Program. But in that event, Avfuel will deliver Notice to the Branded Dealer at least thirty (30) days prior to the effective date of that discontinuance or cost change so that the Branded Dealer has the ability if it chooses to make alternative arrangements.

13. **ASSIGNMENT:** Customer shall not assign its rights or delegate its obligations under this Agreement, in whole or in part, unless with the prior written consent of Avfuel, which consent will not be unreasonably withheld. Any transfer of a controlling interest in Customer shall be deemed an assignment requiring the consent of Avfuel.

14. **NOTICES:** All notices permitted or required under this Agreement (each a "Notice") shall be in writing. Notices by facsimile or email transmission shall be deemed "delivered" on the date of confirmed transmission, without error, to the fax number or email address designated in the Summary. Notices by mail shall be deemed delivered three (3) business days following the date deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, addressed to the Party at the address of the principal office. Notices sent by overnight courier shall be effective on the next business day following deposit

with the overnight courier for overnight delivery with the delivery fee prepaid, addressed to the Party at the address of the principal office, and with instructions to obtain the signature of the addressee.

15. PROGRAM PARTICIPATION:

15.1. The provisions of these General Terms And Conditions will apply to the CUSTOMER CREDIT PROGRAM, BRAND PROGRAM, AVTRIP PROGRAM, CREDIT CARD ACCEPTANCE PROGRAM, AVSURANCE PRIMARY COMMERCIAL INSURANCE PROGRAM, CONTRACT FUEL PROGRAM and EQUIPMENT LEASE PROGRAM that are described in the subparts below (each a "Program") except to the extent these provisions are inconsistent with the provisions in the subpart describing that Program.

15.2. If the Customer participates in any Program, whether by formally electing to participate in that Program by selection in the Summary or by informally electing to participate in that Program by taking part in the benefits of that Program, the Customer will be bound by and subject to the provisions in the subpart relating to that Program, as supplemented by the provisions of these General Terms And Conditions.

16. **EXCLUSIVE JURISDICTION:** Each Party irrevocably and unconditionally agrees that venue and jurisdiction for the resolution of any dispute and the enforcement of any rights in any way arising from or relating to this Agreement shall exclusively be the courts of the state of California sitting in San Joaquin County, and any applicable California appellate court. This Agreement shall be construed as having been made and entered into in the State of California. Each Party submits and consents to personal jurisdiction in San Joaquin County, California, and agrees that it is a convenient forum to resolve any such disputes and enforce any such rights, each Party hereby waiving to the fullest extent possible the defense of an inconvenient forum. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive.

17. **EXCLUSIVE GOVERNING LAW:** This Agreement, and all other matters arising from or relating to this Agreement, are exclusively governed by, and exclusively construed in accordance with, the laws of the State of California, without regard to its conflict of laws provisions.

18. **SEVERABILITY:** In the event that any court of competent jurisdiction shall determine that any provision of this Agreement shall be unenforceable, then that provision shall be deemed to be null and void and the remaining provisions hereof shall remain in full force and effect.

19. **ENTIRE AGREEMENT/AMENDMENTS:** This Agreement, including all of its parts, sets forth the entire agreement between Avfuel and Customer with respect to the subject matter hereof and there are no other terms or conditions, oral or written, express or implied, relating to or otherwise affecting such subject matter. No term or condition of the Summary or Special Terms And Conditions shall be changed, supplemented, cancelled or waived unless in writing and signed by both Avfuel and Customer. If Avfuel and Customer have, prior to the effective date, been parties to any other agreement relating directly to the sale of Products to Customer (a "Prior Agreement"), such Prior Agreement, except for guarantees, shall be superseded as of the effective date and all rights and obligations between Avfuel and Customer with respect to the supply of Products from and after the effective date shall be governed by the terms of this Agreement. The terms and conditions of such Prior Agreement shall, however, remain in full force and effect with respect to rights and obligations relating to the supply of Products prior to the effective date and nothing contained in this Agreement shall be construed as terminating or otherwise affecting any such rights or obligations.

CUSTOMER CREDIT PROGRAM:

IN THE EVENT THAT AVFUEL CHOOSES TO DELIVER GOODS OR SERVICES THAT HAVE NOT BEEN PAID FOR IN FULL BY WIRE TRANSFER PRIOR TO THE TIME OF THAT DELIVERY, AVFUEL SHALL BE CONSTRUED AS HAVING EXTENDED CREDIT TO CUSTOMER AND THE FOLLOWING TERMS AND CONDITIONS SHALL APPLY.

1. Credit terms may not be used during any period in which the Customer is in breach of its obligations under this Agreement. In addition to the provisions of Section 11 of the General Terms And Conditions, for the specific purposes of this Customer Credit Program, the Customer will be in breach if (a) any amount charged to the Customer's account is not paid in accordance with the agreed upon payment terms; (b) if and for so long as the Customer is in breach of any of its obligations under any Agreement with Avfuel or any of its subsidiaries; or (c) if Avfuel determines that there is any misrepresentation or breach of a warranty by the Customer under or with respect to any Agreement with Avfuel. Use of credit is limited to the amount specified in the Special Terms And Conditions of this

Agreement. No purchase may be made which would cause the total amount owed under this Agreement to exceed that credit limit.

2. Upon termination of this Agreement, Customer shall have no right to credit terms for new purchases, but all obligations incurred prior to the termination, as well as all remedies provided for default or breach, shall survive. If Avfuel, intentionally or unintentionally, permits any purchases on credit after termination, then the terms of this Agreement shall pertain to those charges.

3. Subject to the approval by Avfuel at its offices in Michigan, all purchases by Customer for which Avfuel does not receive payment at or prior to the time of delivery to Customer shall be charged as principal to Customer's account. Avfuel may require Customer or Customer's authorized representative, as a condition of delivery or at any time thereafter, to give receipt for all deliveries in writing and to sign sales slips and other documents in Avfuel's opinion necessary to record or substantiate any or all transactions resulting in a charge to Customer's account.

4. Avfuel shall invoice Customer for all Products delivered to Customer or to Customer's designees. Invoices shall include the selling price of the Products delivered, taxes, duties, and any other charges as separate line items. Each invoice will be payable in full on or before that due date specified in that invoice.

5. Unless otherwise determined by Avfuel in its discretion, all payments received will be applied by Avfuel (subject to collection of remittance if other than cash) first to interest, if any, accrued on Customer's account, then to the unpaid principal balance owed upon such account in direct calendar order of due date.

6. Customer agrees to pay to Avfuel upon demand a fee of \$50.00 for each check, draft or other form of remittance that is not honored by the drawee upon due presentation by Avfuel or its agents.

7. From time to time, Avfuel may send Customer a statement of Customer's account for Customer's information showing in summary, or in such detail as Avfuel may deem appropriate, current transactions Avfuel posted to Customer's account to date thereof, the amount of interest (if any) which has accrued, and the balance owing thereon; however, the failure of Avfuel to furnish any such statement shall not relieve Customer of the obligation to make payment against invoices when due in accordance with the other terms of this Agreement. Customer agrees to review all statements promptly after receipt, and shall have fifteen (15) days from date of receipt to notify Avfuel in writing of any discrepancies. If no such Notice is given, such statement shall be conclusively presumed correct.

8. In the event that any invoice is not paid in full by the due date stated therein, the unpaid amount of the invoice shall bear interest until paid at the lower of 18% per annum or the highest rate which may lawfully be contracted for, charged and received according to applicable law for business purchases at the time of delivery. Notwithstanding anything in this Agreement to the contrary, Customer shall never be obligated to pay and Avfuel shall never be entitled to receive any interest upon any indebtedness incurred by Customer pursuant hereto in excess of the maximum contract rate of interest authorized by applicable law for business purposes, and it is expressly understood and agreed that if Avfuel shall render any charge for the payment of usurious interest, such charge shall be automatically and unconditionally reduced to the maximum non-usurious amount, and the excess, if paid, shall be applied as credit to Customer's account. If such application results in a credit balance in Customer's said account, such balance shall be refunded to Customer or applied to the next due amount in such account as Customer shall direct.

9. If, at any time during the term of this Agreement, the financial responsibility of Customer becomes impaired or unsatisfactory to Avfuel, in the sole judgment of Avfuel, Avfuel, effective immediately upon delivery of Notice to Customer, may require the advance cash payment or other security satisfactory to Avfuel for any shipment of fuel and shipment may be withheld until such payment or security is received.

10. For the purpose of securing a payment of all indebtedness of Customer to Avfuel from time to time outstanding (including, without limitation, any amounts due under this Agreement or any other agreement or instrument between Avfuel and the Customer) grants to Avfuel a purchase money security interest in and to all of Customer's inventory of the Products purchased from Avfuel, and all accounts, contract rights and other proceeds from such inventory, whether now owned or hereafter acquired. Customer warrants that the purchase money security interest granted herein is and shall remain superior to any other security interests granted by Customer to any other entity. For so long as this Agreement is in effect, all of Customer's inventory of aviation fuels will be presumed to be Products purchased pursuant to the Agreement and subject to the purchase money security interest granted by this Agreement. Customer hereby authorizes Avfuel to sign and record

all financing statements and other instruments which Avfuel may reasonably require in order to create, perfect and continue in force said security interest and first priority lien. Customer authorizes Avfuel to file a true copy of this Agreement in lieu of any financial statement. The rights and obligations of Avfuel and the Customer under and with respect to the security interest and first priority lien created by this Section shall be interpreted in accordance with the Uniform Commercial Code in effect in the state of the Billing Address of the Customer as stated in the Summary.

11. **THIS PARAGRAPH APPLIES ONLY TO THOSE PERSONS WHOSE SIGNATURES APPEAR AS GUARANTORS ON THE SIGNATURE PAGE OF THIS AGREEMENT. PERSONS SIGNING AS GUARANTORS SHALL BE CONSTRUED AS PERSONAL GUARANTORS REGARDLESS OF ANY OTHER DESIGNATION.** In consideration of the extension of credit by Avfuel to Customer, each of the parties signing as Guarantors on the signature page of this Agreement agrees to guarantee the prompt payment of all amounts owed to Avfuel by Customer whether such amounts are existing at the time that this Guarantee is signed or are incurred at any time during the life of this Guarantee. Avfuel may demand payment from a Guarantor under this Guarantee at any time that it deems itself insecure with respect to any amount owed by Customer. Each Guarantor hereby waives notice of acceptance of this Guarantee by Avfuel. Failure on the part of Avfuel to give any such notice shall not discharge any obligation of any Guarantor under this Guarantee. Each Guarantor also hereby waives any requirement that Avfuel proceed against Customer before making a demand for payment hereunder. This is a continuing Guarantee and shall not be revoked by the death of any individual party or by the dissolution of any corporate party or any other entity that is a party hereto, and shall remain in force until Avfuel receives written notice to extend no further credit to Customer on the security of this Guarantee. Such notice shall not discharge any obligation of any Guarantor as to any then existing indebtedness or obligation of Customer arising out of a transaction that took place prior to the receipt of such notice, regardless of the time for determination, maturity, or performance thereof. Each Guarantor agrees to provide periodic statements of financial condition to Avfuel upon request. This Guarantee shall survive the termination of this Agreement until all amounts due Avfuel under this Agreement have been paid in full.

12. Avfuel reserves the unilateral right to amend, suspend, or terminate the Customer Credit Program at any time effective upon written notice to the Customer. Customer may withdraw from this Program upon sixty (60) days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of Customer's participation in this Program shall not be construed as terminating the Agreement or Customer's participation in another Program.

BRAND PROGRAM:

IF CUSTOMER HAS ELECTED TO PARTICIPATE IN AVFUEL'S BRAND PROGRAM, THE FOLLOWING WILL APPLY:

1. Customer has been invited and has elected to participate in Avfuel's Brand Program. Accordingly, Avfuel hereby licenses Customer as a dealer ("Branded Dealer") to use Avfuel's Brand Names and Trademarks subject to the provisions set forth herein. All trade names, trademarks, service marks, logos and other commercial symbols that Avfuel either owns or has the right to sub-license (the "Intellectual Property") shall be and remain the property of Avfuel. Further all signs, decals, graphic materials and other tangible property supplied by Avfuel which bear or are imprinted with any of the Intellectual Property or are used to imprint or display the same (the "Branded Property") and all replacements thereof shall be and remain the property of Avfuel. Any use of the Intellectual Property or the Branded Property by the Customer otherwise than as expressly authorized by this Agreement is hereby expressly prohibited. Upon termination of Customer's participation in the Brand Program Customer shall, at its expense, de-install and return to Avfuel all salvageable signage and return or destroy all other items that identify Customer as a branded Avfuel dealer.

2. Avfuel agrees to supply to Customer, for Customer's use and possession during the term of this Agreement such signs, decals, credit card imprinters and other graphic materials as Avfuel deems necessary in order to identify Customer as an Avfuel Branded Dealer. Unless otherwise agreed in writing, Avfuel will bear all costs of such materials. Customer agrees to honor all Avfuel charge cards, subject to the provisions of the Credit and Charge Card Acceptance Program set forth below, during Customer's participation in Avfuel's Brand Program.

3. Customer shall be responsible for obtaining all necessary permits and for installation of all Branded Property including (without limitation) all electrical and other connections, and shall make sure that all installations shall comply with all brand specifications and with all applicable state and local codes, ordinances and governmental regulations (if any). Unless otherwise agreed in writing, the Customer will bear all costs of installation. No signage shall be installed so as to

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become a fixture upon real property. The use of color schemes and Intellectual Property painted on facilities and equipment owned by Customer or others and used in the conduct of Customer's business, shall comply with particular and displayed specifications. Customer shall be responsible for maintenance and upkeep of Branded Property and Paint-ons, and agrees to keep and maintain the same at all times in good, clean, safe, operative and first class condition, neatly painted and displayed. If any of such installation or maintenance is performed by Avfuel, Customer agrees to remit upon demand all costs thereof, including (without limitation) all expenditures for labor, materials and the like. If any Branded Property is damaged, lost or destroyed while in Customer's use, possession or control, or if Customer shall deliver any of such property to anyone not herein expressly authorized to use or possess it, Customer agrees to repair, recover or replace such property forthwith, at Customer's expense.

4. Customer shall keep all Branded Property insured at all times against loss, theft, fire or physical damage, up to the full replacement cost thereof, designating Avfuel as the loss payee. The Customer shall pay when due all personal property taxes and assessments assessed against the Branded Property and shall neither suffer nor permit any lien or encumbrance or any attachment against any of such Branded Property.

5. Customer agrees that it will not use or display any Branded Property or Intellectual Property: (a) in a manner which causes or is calculated to cause confusion among patrons of Customer or the general public as to the type, characteristics, quality, manufacture or sponsorship of any fuel or other product which Customer offers for sale; (b) for the purpose of selling or promoting the sale of aviation fuel other than fuels supplied by Avfuel; or (c) for the purpose of selling or offering for sale any product which has been diluted or adulterated, whether intentionally or not. Customer further agrees that it will at all times maintain its facilities and conduct its operations in compliance with those standards and procedures established from time to time by Avfuel and applicable to aviation fixed base operators displaying any of the Intellectual Property. Such standards and procedures may include (without limitation) image quality standards for the brand displayed, quality control and refueling procedures for products bearing such brand, and standards for services offered and facilities utilized by Customer in conjunction with such products. Avfuel may, but shall be under no obligation to conduct periodic tests and inspections as it may deem appropriate to evaluate compliance with this Agreement. Copies of all test and inspection reports shall be given to Customer. It is expressly understood that the purpose of any such tests or inspections is to assist Customer in complying with the standards set for a Branded Dealer. By performing such tests or inspections Avfuel assumes no responsibility for Customer's failure to comply with the Standards or for safety hazards, latent or patent, created or maintained by Customer. If Avfuel determines, in its sole discretion, that Customer is or has violated this provision, then Avfuel may suspend or terminate Customer's right to use Avfuel's Brands and or Trademarks.

6. Avfuel has invited the Customer to participate as a Branded Dealer on the expectation and condition that (a) the Customer's deliveries of aviation fuel at the Delivery Addresses will be limited to deliveries to end users pursuant to direct sales by the Customer to those end users and deliveries to purchasers listed as Contract Fuel Customers (a "CFC") to facilitate direct sales by Avfuel to those CFCs pursuant to Avfuel's Contract Fuel Program (the "CFD Program"), (b) the Customer will make deliveries of aviation fuel at the Delivery Addresses to purchasers listed as CFCs only pursuant to the CFD Program and will not make direct sales to those CFCs and (c) except for sales pursuant to the CFD Program to purchasers listed as CFCs for brokered resale by those CFCs to end users, the Customer will not make any deliveries of aviation fuel at the Delivery Addresses pursuant to brokered sales (i.e. sales to end users in which a third party receives a brokerage margin or commission or other fee from the Customer or the end user or sales to third parties who resell the fuel to end users). The Customer acknowledges that these conditions are necessary to preserve Avfuel's continuing investment in developing and maintaining Avfuel's Brand Program and that Customer's failure to comply with these conditions will result in Avfuel's exercise of the right pursuant to Section 7 to discontinue the Customer's participation as a Branded Dealer.

7. Avfuel reserves the unilateral right to amend, suspend, or terminate the Brand Program at any time effective upon written notice to the Customer. Customer may withdraw from this Program upon sixty (60) days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of Customer's participation in this Program shall not be construed as terminating the Agreement or Customer's participation in another Program.

AVTRIP PROGRAM:

IF CUSTOMER HAS ELECTED TO PARTICIPATE IN AVFUEL'S AVTRIP PROGRAM, THE FOLLOWING WILL APPLY.

1. Customer has been invited and has elected to participate in Avfuel's AVTRIP Program a marketing incentive program intended to reward pilots who choose to purchase fuel and services from participating Avfuel dealers.

2. Customer will:

2.1. Use its best efforts to enroll pilots in the AVTRIP Program;

2.2. Award all participating pilots two AVTRIP Points for each U.S. gallon of fuel purchased from Customer and, at Customer's discretion, a minimum of one point for each U.S. dollar, or part thereof, spent by a participating pilot for parts and services at Customer's facilities;

2.3. Pay to Avfuel, by deduction from amounts due to Customer or in cash if no amounts are due Customer, \$.01 for each AVTRIP point awarded;

2.4. Maintain complete records of all points earned by participating pilots;

2.5. Train its personnel in the operation of the AVTRIP Program, and prominently post written materials relating to AVTRIP in and around its facilities in order to encourage pilot participation in the program; and

2.6. Promptly send all enrollments to Avfuel so that the enrollee can be added to the list of AVTRIP participants. Not less frequently than every two weeks, Customer will send Avfuel copies of all records pertaining to points earned by pilots that have not been previously reported via POS transmission, and remit to Avfuel all sums due hereunder.

3. Avfuel will:

3.1. Act as the administrator of the AVTRIP Program; and

3.2. Include the AVTRIP Program in its local, national and international marketing and advertising efforts as it deems appropriate to encourage pilot participation in the AVTRIP Program.

4. The price charged to any pilot for fuel, parts or service shall not be based on whether a pilot participates in the AVTRIP Program.

5. Avfuel reserves the unilateral right to amend, suspend, or terminate the AVTRIP Program at any time effective upon written notice to the Customer. Avfuel also reserves the right to terminate any individual's participation at any time for misuse of the AVTRIP card, violation of the rules of the program, or inactivity for a period of twelve (12) consecutive months. Customer may withdraw from this Program upon ninety (90) days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of Customer's participation in this Program shall not be construed as terminating the Agreement or Customer's participation in any other program.

CREDIT AND CHARGE CARD ACCEPTANCE PROGRAM:

IF CUSTOMER HAS ELECTED TO PARTICIPATE IN AVFUEL'S CREDIT AND CHARGE CARD ACCEPTANCE PROGRAM, THE FOLLOWING WILL APPLY.

1. Customer has been invited and has elected to participate in Avfuel's Credit and Charge Card Acceptance Program (the "Charge Card Acceptance Program"). Accordingly, Customer may honor any valid credit or charge card listed as accepted in the most current Acceptable Card List ("ACL") issued by Avfuel and published in its website at Avfuel.com (the "Accepted Cards") for the purchase by the party to which that card is issued (the "Cardholder") of products and services if the purchase has been specifically approved by Avfuel.

2. Customer shall prepare a voucher for each transaction (a "Card Transaction") with an Accepted Card (a "Voucher") and shall promptly submit that Voucher to Avfuel. The term "Voucher" means an electronically prepared credit card slip or other written record of a credit sale in form acceptable to Avfuel that has been fully completed by Customer and for which Customer is retaining a copy signed by a person authorized to use that Accepted Card (an "Authorized User"). Each Voucher must be submitted electronically by means of an approved point of sale machine or point of sale software system (a "POS Device") in accordance with the instructions contained in the then current edition of Avfuel's Manual that can be viewed or downloaded at Avfuel's website at Avfuel.com. In all Card Transactions, the Customer is responsible for making sure that the card presented is an Accepted Card and is not expired and that the person signing the Voucher is an Authorized User. In Card Transactions where the Voucher is first prepared manually, the Customer is also responsible to make sure that the Voucher is complete and legible. If imprinted and hand written amounts on a Voucher do not



agree the lesser amount shall be presumed to be correct. The Customer shall make a manual imprint of all cards electronically processed but requiring that the card number be entered manually, in order to prove that the card was present at the time of sale. "Promptly" means batches of Vouchers should be submitted (settled) at least once per day and by 11:00 PM Central Time but in no case any less frequently than once every 72 hours. Customer must keep copies of signed Vouchers and summaries for a period of seven (7) years and supply Avfuel with duplicates if requested. Manual Card Transactions are for pre-arranged emergency processing only and are not accepted under most circumstances. Higher discount rates apply for manual Card Transactions and electronic Card Transactions not settled and received daily by 11 pm Central Time.

3. Upon receipt from the Customer of a properly prepared and processed Vouchers together with any necessary summaries thereof on forms prescribed by Avfuel at its website at Avfuel.com, Avfuel shall, on its normal schedule, remit to Customer or, as Avfuel may elect, credit Customer's fuel purchase account with Avfuel, in an amount equal to the total face amount of all such Vouchers less such discounts as applicable according to Avfuel's then current Accounts Receivable Discounts Schedule ("ARDS") issued to Customer by Avfuel and subject to adjustments and chargebacks as provided in Section 7 below and less any fees for AVTRIP point awards. In addition to any lien rights which Avfuel might otherwise possess as a result of services provided to the Cardholder, upon Customer's receipt of the payment or credit from Avfuel for the Vouchers generated from the Customer's sales to that Cardholder, the Customer automatically and irrevocably transfers to Avfuel any lien rights that Customer has or may have with respect to any property owned by the Cardholder arising from the Card Transaction(s) for which those Vouchers were issued. Avfuel's ARDS is subject to change upon five (5) days prior written Notice.

4. Customer acknowledges merchant processing instructions and rules and regulations established by the issuers of the Accepted Cards (the "Issuers") in the Issuers' websites that are included in or referenced in Avfuel's website at Avfuel.com and agrees to abide by these instructions, rules and regulations, as updated from time to time by the Issuers. Furthermore Customer agrees to comply with all Data Security Standards and Data Security Policies of the Issuers (the "PCI/DSOP Requirements") and certifies to Avfuel that it is and will continue to be compliant with those PCI/DSOP Requirements. Customer shall defend, indemnify and hold harmless Avfuel and its credit card processor from any claims based on Customer's non-compliance with Customer's commitments in this Section including but not limited to penalties, fines, and any costs incurred in responding to any action alleging such non-compliance. Customer understands that failure to be fully compliant with the PCI/DSOP Requirements may result in loss of right to process Card Transaction under the Charge Card Acceptance Program.

5. Customer acknowledges receipt of, and agrees to observe, Avfuel's current instructions for recording and processing Card Transactions that are included in Avfuel's website at Avfuel.com. Avfuel reserves the right to amend any and all instructions in its website and to add new instructions to its website from time to time, and Customer agrees to be bound by all such amendments and new instructions. Avfuel also reserves the right to issue new or revised forms, POS Machines, software and imprinters from time to time, and to issue instructions regarding their use to be effective upon five (5) days prior written Notice.

6. Customer shall be solely liable and responsible for charging and subsequent remittance of all taxes to the proper authorities for all Card Transaction regardless of whether charged to purchaser. Avfuel does not assume any responsibility for the setup, tax rate, reporting or payment of any tax applicable to sales or other transactions resulting in credit card accounts receivable and Customer shall defend, indemnify and hold harmless Avfuel from any such claims. **CUSTOMER IS SOLELY RESPONSIBLE FOR KNOWING THE TAXES THAT MUST BE CHARGED FOR EACH CARD TRANSACTION AND FOR PROPER SETUP FOR TAXES IN ANY ELECTRONIC SYSTEM AND THE MAINTENANCE OF THAT ELECTRONIC SYSTEM.**

7. Without limiting the generality of other provisions of this Agreement or in Avfuel's website at Avfuel.com pertaining to charge backs, it is specifically understood and agreed that Avfuel may decline to accept or, if accepted, may subsequently charge back to Customer any Voucher:

7.1. Where any of the required information is omitted or illegible;

7.2. That is imprinted or processed with an expired credit card;

7.3. Covering a purchase not authorized by the Cardholder or involving fraud or any misuse of a credit card by the purchaser with or without Customer's knowledge;

7.4. Covering a transaction that has not been authorized by Avfuel or does not carry a valid authorization code;

7.5. Covering a transaction or series of related transactions (constituting in the reasonable opinion of Avfuel a single sale transaction) the aggregate face amount of that exceeds any of the single sale limitations to which the parties hereto may agree;

7.6. That becomes the subject of a dispute between Customer and Cardholder, including but not limited to cases where the Customer did not conspicuously post at its facility and print on a work order signed by the Cardholder the Customer's return policy for goods and services.

7.7. Where the Authorized User has not received a copy of the Voucher;

7.8. For which Customer has received or will receive any payment or reimbursement from any person other than Avfuel;

7.9. Where Customer has granted any right of ownership or security interest to any person other than Avfuel unless the invoice is accompanied by a written waiver of such interest;

7.10. Presented by Customer to Avfuel more than ten (10) days after the transaction date;

7.11. If the Card Transaction occurred or was settled after the date of expiration or termination of this Agreement;

7.12. Created by any person other than Customer, or in any transaction other than a Card Transaction in which Customer has sold merchandise or services to a purchaser presenting an Accepted Card for use in payment for that Card Transaction;

7.13. That are charged back to Avfuel by an Issuer for any reason at all; or

7.14. That in any other manner does not conform to this Agreement or with Avfuel's or Issuer's instructions for recording and processing Card Transactions in its website at Avfuel.com.

8. In the event that a charge back exceeds the credit balance in Customer's fuel purchase account then carried by Avfuel, Customer agrees to pay such excess within three (3) days after notice that such excess is due. Upon reimbursement, title to the Voucher(s) that include such excess and the indebtedness represented thereby (to the extent of such excess) shall pass to Customer. If any funds come into Avfuel's possession for any voucher that has previously been charged back to Customer, Avfuel will promptly credit the full amount thereof to Customer's account. Avfuel's charge back rights and rights of recourse against Customer shall survive the termination of this Agreement.

9. Cash advances may not be charged on any Accepted Card and charges for fuel in Vouchers shall only include charges for fuels from stocks delivered by and purchased from Avfuel.

10. From time to time, Avfuel will send Customer a Credit Card Remittance Summary for Customer's information showing in such detail as Avfuel may deem appropriate the Card Transactions and amounts that have been credited to Customer's account or paid to Customer during the period since the last report. The failure of Avfuel to furnish a Summary shall not relieve Customer of any obligations under the Charge Card Acceptance Program. Customer agrees to review all such Summaries promptly after receipt. In any event, Customer shall be solely responsible for making sure that it has received proper payment for each Card Transaction submitted. Customer shall have forty-five (45) days from the date of a Card Transaction to provide Avfuel Notice that the Card Transaction has not been properly accounted for or that payment has not been received. If no such Notice is given, such Card Transaction shall be conclusively presumed to have been settled and closed.

11. Avfuel reserves the unilateral right to amend, suspend, or terminate Charge Card Acceptance Program at any time effective upon written notice to the Customer. Customer may withdraw from the Charge Card Acceptance Program upon 60 days Notice to Avfuel. Termination of Customer's participation in the Charge Card Acceptance Program shall not be construed as terminating the Agreement or Customer's participation in any other Program.

12. This Charge Card Acceptance Program is further governed by the Avfuel Corporation AFSA General Terms and Conditions, latest edition, as updated from

time to time and published at Avfuel.com. In the case of conflicts, the terms of this Charge Card Acceptance Program shall prevail.

CONTRACT FUEL DEALER PROGRAM:

IF CUSTOMER HAS ELECTED TO PARTICIPATE IN AVFUEL'S CONTRACT FUEL DEALER PROGRAM, THE FOLLOWING WILL APPLY.

1. Customer has been invited and has elected to participate in Avfuel's Contract Fuel Dealer Program (the "CFD Program"). Accordingly, Customer agrees to sell and deliver to clients who participate in Avfuel's Contract Fuel Program (the "CFCs" or a "CFC" as the context may require) aviation fuel supplied by Avfuel and other products and services supplied by the Customer. A CFC is a person or entity that has executed a Contract Fuel User's Agreement with Avfuel or that is specifically authorized in writing, in accordance with authorization procedures established from time to time by Avfuel, and is included in a listing of purchasers eligible to purchase aviation fuel and other products and services under the CFD Program. The Customer will secure authorization from Avfuel before completing a sale to a CFC and the failure to obtain such authorization may result in Avfuel's dishonor of the invoice for that sale.
2. Subject to agreement between Customer and Avfuel, Products supplied hereunder shall be supplied from either Avfuel inventory on site or from Customer inventory. If, as a convenience to Customer, Avfuel maintains inventory at Customer's facility then Customer agrees to the following: (a) if Avfuel's inventory is held separately in a segregated storage facility, Customer will withdraw fuel from that facility only to supply authorized CFCs and (b) if Avfuel's inventory is commingled with the inventory of the Customer (and, if applicable, third parties) in unsegregated facilities, Customer will not use or permit others to use Avfuel's inventory to supply parties other than authorized CFCs and to that end Customer shall not at any time make or permit withdrawals from that facility that would reduce the fuel in such facilities below the level of Avfuel's inventory (and, if applicable, the inventories of third parties). Customer shall measure Avfuel's inventory and reconcile that inventory on an ongoing basis. Reconciliation reports, in a form satisfactory to Avfuel, shall be delivered to Avfuel no later than the 5th day following the end of each month. If Avfuel's inventory is commingled in an unsegregated storage facility, gains and losses shall be allocated proportionately to the parties sharing the storage facility based on receipts of fuel during the month and losses shall be limited to no more than 1/4% of total receipts for per annum. Book inventory shall be adjusted to coincide with actual inventory each month. Unless the Products are contaminated by an act or omission of Dealer, Avfuel will be liable if the Products do not conform to specifications. If the Products are supplied from the Customer's inventory, the Customer will be liable if the Products do not conform to specifications. Customer shall maintain Avfuel's inventory level in accordance with Avfuel's guidelines and shall specify when ordering fuel whether that fuel is for Customer's or Avfuel's inventory (which is subject to approval by Avfuel).
3. Under the CFD Program, all aviation fuel delivered by the Customer to a CFC will be deemed sold by Avfuel and will be at the prices and terms independently established between Avfuel and the CFC. If Avfuel maintains an inventory of aviation fuel at the Customer's facilities, then aviation fuel supplied by the Customer to CFCs will be drawn from Avfuel's inventory. If Avfuel does not maintain an inventory of aviation fuel at the Customer's facilities, then aviation fuel supplied to a CFC is drawn from the Customer's inventory and Avfuel will account for that aviation fuel by issuing a credit to the Customer equal to the Customer's cost for that aviation fuel, including applicable taxes, based upon the Customer's cost for the last load of aviation fuel purchased from Avfuel prior to the date of supply to the CFC.
4. The charges for all aviation fuel supplied to the CFC will be payable solely to Avfuel. Avfuel will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing authority. Avfuel will invoice and collect those charges and taxes from the CFC. Avfuel, as the seller of all aviation fuel supplied to the CFC, will be the holder of and have the sole right to exercise all lien rights under applicable law on the aircraft into which that aviation fuel is supplied. In addition to any lien rights which Avfuel might possess as a result of services provided to a CFC, upon Customer's receipt of the credit from Avfuel for the vouchers generated from the Customer's deliveries of fuel to that CFC, the Customer automatically and irrevocably transfers to Avfuel any lien rights that Customer has or may have with respect to any equipment or other property owned by the CFC arising from such deliveries of fuel
5. In all sales of aviation fuel drawn from Avfuel's inventory, title to that aviation fuel will be retained by Avfuel until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass to the CFC. In

all sales of aviation fuel drawn from Customer's inventory, title to that aviation fuel will be retained by the Customer until the point in time that the aviation fuel enters into the aircraft of the CFC, at which point in time title will pass instantaneously first to Avfuel and then to the CFC. The risk of loss or contamination of aviation fuel will be borne at each point in time by the party who or which holds title to that aviation fuel at that point in time. If, while Avfuel holds title, any aviation fuel is lost or contaminated as a result of the acts or omissions of the Customer, then the Customer will be liable to Avfuel for that loss or contamination.

6. The into-wing services provided by the Customer in delivering the aviation fuel to the CFC and any other services or products other than aviation fuel to the CFC for which a fee is charged will be deemed sold by the Customer to the CFC. The Customer's fees for into-wing services will be at a charge equal to the lowest charge imposed by the Customer to any other purchaser of aviation fuel at the FBO, less the discount that would be applicable to that charge under Avfuel's Credit and Charge Card Acceptance Program (in that Avfuel will incur the discount in collecting that charge from the CFC). All other services and products will be supplied at the Customer's normally established rates. Such other products may include, without limitation, lubricants, spare parts, food and other amenities. Such other services may include, without limitation, flowage fees, tie-down services, catering services and similar services that expedite deliveries and facilitate arrangements for the CFC. No cash advances will be permitted as "other products or services". The Customer will supply all such other products or services as an independent contractor to the CFC and not as an agent or a subcontractor of Avfuel.
7. All other products and services that are supplied by Customer to CFCs will be provided in accordance with procedures and quality standards that are commercially reasonable and that comply with all legal requirements in the jurisdiction where the Customer's facilities are located. Customer will be solely liable if such other products and services do not conform to such standards, procedures or requirements.
8. The charges for all other products and services supplied by the Customer to the CFC will be payable solely to the Customer. The Customer will be responsible for collecting and remitting any taxes imposed thereon by any local, state or federal taxing authority. Customer may directly invoice and collect such charges from the CFC. Alternatively, at the Customer's option, Customer may assign to Avfuel for collection the account receivable from the CFC for other products and services supplied by the Customer (a "CFC Receivable"). If the Customer assigns a CFC Receivable to Avfuel, then Avfuel will issue a credit to the Customer's account for the amount of that CFC Receivable and Avfuel will thereafter invoice, collect and retain those charges from the CFC.
9. Any fees for any services supplied by the Customer in the delivery of aviation fuel to a CFC, including, without limitation any flowage fees or into-wing fees, will be earned by the Customer only after it has completed delivery of the entire load of aviation fuel into the aircraft of the CFC and title to that aviation fuel has passed to the CFC. Initial into-wing fees are established in the Special Terms and Conditions and, subject to the "most favored customer" provision in Paragraph 6, Customer may change those fees upon seven (7) days written Notice to Avfuel.
10. Customer will generate a written record (a "Ticket") of all aviation fuel supplied to a CFC at the Customer's facility. Each Ticket will include the following information: the CFC's name; the authorization number; pilot's name; aircraft registration number; flight or ID number provided by the CFC if applicable; transaction date(s); and type and quantity of fuel products provided, as measured in U.S. gallons. In addition, if the Customer assigns to Avfuel the CFC Receivable for other products and services supplied by the Customer to the CFC, the Customer will include in the Ticket the type and quantity of such other products or services and the charges payable by the CFC for such other products or services. Any charges for such other products or services must be separately stated and clearly identified as fees charged by the Customer that are separate from and independent of the amounts charged by Avfuel for aviation fuel. The pilot or other responsible representative of the CFC shall sign and be given a copy of the completed Ticket.
11. The Ticket (or all information required to be shown on the Ticket) for each sale to a CFC shall be delivered to Avfuel by POS Transmission or facsimile within twenty-four (24) hours following the completion of that sale. The original Tickets shall be kept on file by Customer for a period of five (5) years from the invoice date and will be sent to Avfuel upon request. Avfuel will from time to time provide Customer with instructions for processing these transactions and may provide the forms for doing so. Avfuel reserves the right to change these procedures upon seven (7) days written Notice to Customer.

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12. The total amount due with respect to each Ticket shall be paid or credited to Customer's by Avfuel within ten (10) days following Avfuel's receipt of the Ticket.

13. Except as provided herein, all Tickets will be accepted by Avfuel without recourse. The exceptions are: a) Customer warrants the validity of all charges, and any charge that is disputed by the CFC, correctly or incorrectly, on grounds that the charge is invalid or inaccurate or that the aviation fuel, products or services supplied were unsatisfactory may be charged back to Customer at Avfuel's option; b) charges not previously authorized by Avfuel may be charged back to Customer at Avfuel's option; and c) any Ticket that is incomplete, illegible, or is otherwise not prepared in accordance with Avfuel's processing instructions may be charged back to Customer at Avfuel's option.

14. Avfuel has invited the Customer to participate as a CFD in the CFD Program on the expectation and condition that (a) the Customer's deliveries of aviation fuel at the Delivery Addresses will be limited to deliveries to end users of that fuel pursuant to direct sales by the Customer to those end users and deliveries to purchasers listed as CFCs to facilitate direct sales by Avfuel to those CFCs pursuant to the CFD Program, (b) the Customer will make deliveries of aviation fuel at the Delivery Addresses to purchasers listed as CFCs only pursuant to the CFD Program and will not make direct sales to those CFCs and (c) except for sales pursuant to the CFD Program to purchasers listed as CFCs for brokered resale by those CFCs to end users, the Customer will not make any deliveries of aviation fuel at the Delivery Addresses pursuant to brokered sales (i.e. sales to end users in which a third party receives a brokerage margin or commission or other fee from the Customer or the end user or sales to third parties who resell the fuel to end users). The Customer acknowledges that these conditions are necessary to preserve Avfuel's continuing investment in developing and maintaining the network of participating fixed base operators and participating end users for the CFD Program and that Customer's failure to comply with these conditions will result in Avfuel's exercise of the right pursuant to Section 15 to discontinue the Customer's participation in the CFD Program.

15. Avfuel reserves the unilateral right to amend, suspend, or terminate the CFD Program at any time effective upon written notice to the Customer. Customer may withdraw from the CFD Program at any time upon 60 days Notice to Avfuel. See Section 14 of the General Terms and Conditions regarding Notices. Termination of Customer's participation in this Program shall not be construed as terminating the Agreement or Customer's participation in any other Program.

AVSURANCE PRIMARY COMMERCIAL INSURANCE PROGRAM:

IF CUSTOMER HAS ELECTED TO PARTICIPATE IN THE AVSURANCE PRIMARY COMMERCIAL INSURANCE PROGRAM, THE FOLLOWING WILL APPLY:

1. Customer has been invited to, and has elected to, participate in the Avsureance Primary Commercial Insurance Program.

2. Customer agrees to file an application and request for a quote for all insurance policies related to its aviation business. All price quotes from Avsureance contain Avsureance proprietary information, are confidential, and may not be disclosed to any person other than employees and agents of Customer with a bona fide need to have such information and that have signed a non-disclosure agreement that is satisfactory to Avsureance.

3. Customer may accept or reject any quote for an individual policy, and the acceptance of any specific quote shall not be conditioned on the acceptance of any other quote.

4. Upon Customer's acceptance, Avsureance will bind the coverage and have the policy issued in due course.

5. Avfuel reserves the unilateral right to amend, suspend, or terminate the Program at any time effective upon written notice to the Customer. Termination of this Program shall not be construed as terminating the Agreement or Customer's participation in any other Program.

EQUIPMENT LEASE PROGRAM:

IF CUSTOMER HAS ELECTED TO PARTICIPATE IN AVFUEL'S EQUIPMENT LEASING PROGRAM, THE FOLLOWING WILL APPLY:

1. Customer has elected to participate in Avfuel's Equipment Lease Program. Accordingly, Avfuel, either for its own account or through one of its subsidiaries, agrees to deliver and lease the equipment identified in the Special Terms and Conditions (the "Equipment") at the lease rates shown in the Special Terms and

Conditions to Customer for its sole use. All additional equipment or replacement equipment delivered to Customer but not listed in the Special Terms and Conditions shall also constitute Equipment subject to the provisions of this section. For example, Customer may lease POS equipment from Avfuel at the then current lease price. Customer hereby agrees to pay Avfuel in advance the monthly lease payments prorated for any partial month. Avfuel may increase the rent during the term of the Lease upon 30 days written Notice. Customer shall be permitted to notify Avfuel within the first 15 days of that Notice period of its intention to terminate the lease effective on the date that the increase goes into effect. If Avfuel rescinds the rate increase, the lease shall continue in effect at the then current rates. If it does not rescind the increase, the lease shall expire on the date the increase goes into effect. Unless otherwise agreed, the term of the lease of each item of Equipment (a "Lease") shall correspond to the term of this Agreement.

2. Avfuel will advance the costs for the transport of the Equipment from the Avfuel facility to the Customer's facility and the responsibility for those costs will be as follows: (a) if the initial term of the Lease is less than five (5) years, at the time of delivery of the Equipment Avfuel will invoice the Customer for those advanced costs and the Customer will pay that invoice within twenty (20) days; (b) if the initial term of the Lease is five (5) years or more but is terminated before the end of the first five (5) years of that initial term as a result of the default by the Customer (truck lease being terminated for any reason other than a Default by Avfuel), then at the time of that termination, Avfuel will invoice the Customer for those advanced costs and the Customer will pay that invoice within twenty (20) days; and (c) if the initial term of the Lease is at least five (5) years and is not terminated before the end of that initial term, then Avfuel will bear those advanced costs without any right of reimbursement from the Customer.

3. Customer shall inspect the Equipment and shall make a written notes as to any defects that are observed. A copy of all such notes shall be faxed or emailed to Avfuel within forty eight (48) hours after the Equipment is delivered to the Customer. The failure to make and deliver those notes within that period will constitute the Customer's acknowledgement that there were no defects in the Equipment at the time delivered to the Customer.

4. Avfuel warrants that it has all necessary rights to lease said Equipment to Customer. Further, the parties agree that as between themselves, Avfuel has title to the Equipment and Customer shall keep the Equipment free of liens and shall not do or permit anything to be done that will prejudice the title of Avfuel, or its rights in the Equipment. Each item of Equipment shall bear a legend denoting it as the property of Avfuel and Customer shall not remove or deface that legend under any circumstances. Customer also agrees and understands that Avfuel may file such evidence of its ownership of the equipment as may be necessary in the state where the equipment is located.

5. AVFUEL MAKES NO WARRANTY, EXPRESS OR IMPLIED, REGARDING DEFECTS IN MATERIAL, WORKMANSHIP, DESIGN, CAPACITY, MERCHANTABILITY OR FITNESS OF THE EQUIPMENT FOR ANY PURPOSE, OR WHICH EXTEND BEYOND THE DESCRIPTION OF THE EQUIPMENT THAT APPEARS IN THE SPECIAL TERMS AND CONDITIONS.

6. Any of the Equipment that is used to store or transport Products shall be used solely for storing or transporting Products supplied to Customer under this Agreement.

7. The Equipment shall not be moved from the facility to which it was delivered nor operated on any public road without the prior written consent of Avfuel.

8. Customer will comply with all laws, ordinances and regulations applicable to the possession, operation or use of the Equipment and will demonstrate compliance upon request.

9. The maintenance obligations with regard to the Equipment are as follows.

9.1. Except as set forth in Section 9.2 below, Customer will maintain the Equipment in as good a condition as it was on the day of delivery, normal wear and tear excepted. Customer shall, at its sole expense, provide all preventative maintenance (including but not limited to lubrication, oil and filter changes, etc.), repairs, and replacement parts as are necessary to preserve the Equipment in good operating condition and in compliance and in conformity with all laws, rules, regulation, and industry standards which are applicable to the operation of the Equipment. Customer shall also be responsible for all meter calibration and certification (meters are not calibrated or certified when delivered) and all tire maintenance, repair, and replacement. **CHANGING A TIRE ON A REFUELER TRUCK IS VERY DANGEROUS AND MUST NOT BE ATTEMPTED BY UNTRAINED PERSONNEL. CUSTOMER AGREES THAT IT WILL PERMIT TIRES TO BE CHANGED ONLY BY AN OUTSIDE**

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CONTRACTOR WHO IS PROFESSIONALLY TRAINED TO DO SUCH WORK. Customer shall keep complete and accurate maintenance records and Avfuel is entitled to inspect the Equipment and the maintenance records at any time during regular business hours. At Avfuel's option, any item of repair or maintenance that would be the responsibility of Customer may be performed by Avfuel and billed back to Customer as additional rent. Customer shall not make any alterations or modifications to the Equipment of any kind including but not limited to painting, mounting of radios or antennas, applying decals or lettering without the prior express written consent of Avfuel.

9.2. Avfuel shall be responsible for the following refueler truck repairs when, in its opinion, repair is necessary: overhauls or replacement of the engine, transmission, differential, or belly valve. Avfuel shall be permitted access to the Equipment at any reasonable time in order to perform the repairs and modifications, which are its obligation hereunder. Repairs and maintenance to be performed by Avfuel shall be completed within a reasonable time after it learns of the need for such repairs. Avfuel assumes no responsibility for loss of use or any other items of ancillary damage, which may be caused by, or result to Customer by reason of the fact that the Equipment becomes inoperable. If any such repair or maintenance is required as the result of intentional conduct, negligence, or failure to perform repair or maintenance on the part of Customer or any of Customer's agents or employees, Customer shall be liable for all costs associated with performing such repairs and/or maintenance.

10. Customer shall be responsible for all Federal, State, and local taxes, fees, etc. that are assessed on the use or value of the Leased Equipment, including but not limited to, personal property, sales, and use taxes.

11. Customer shall secure insurance against any damage to or loss of the Equipment with coverage equal to the actual cash value of the Equipment and with the limitation of that coverage not less than the amount specified for that Equipment in the Special Terms and Conditions. Insurance policies shall be issued by insurance companies acceptable to Avfuel (which acceptance may not be unreasonably withheld), shall name Avfuel, or its subsidiary as loss payee, and shall provide for at least thirty (30) days' written Notice to Avfuel prior to cancellation or modification. Customer shall maintain such policies in full force and effect for the equipment for so long as Customer continues to lease that Equipment.

12. ONLY IN THE EVENT THAT THE LEASE OPTION IS IN EFFECT, CUSTOMER AGREES TO INDEMNIFY AND HOLD AVFUEL AND/OR THE OWNER OF THE EQUIPMENT HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, LOSSES, EXPENSES (INCLUDING ATTORNEY'S FEES), OBLIGATIONS AND CAUSES OF ACTION FOR INJURY TO OR DEATH OF ANY AND ALL PERSONS, OR FOR DAMAGE TO OR DESTRUCTION OF ANY OR ALL PROPERTY ARISING OUT OF OR RESULTING FROM THE CONDITION, EXISTENCE, USE OR MAINTENANCE OF THE EQUIPMENT.

13. Upon termination of any Lease, at any time and for any reason, Customer shall (a) return the Equipment to Avfuel in as good condition as when Customer received it, normal wear and tear excepted, (a) pay for any necessary repair and replacement of any damages or missing Equipment, and (c) pay all costs for the transport of the Equipment from the Customer's facility to Avfuel's facility. If Customer breaches any of these commitments, Avfuel may advance those costs and invoice the Customer for those costs and the Customer will pay that invoice within twenty (20) days.

14. Avfuel reserves the unilateral right to amend, suspend, or terminate the Equipment Lease Program at any time effective upon written notice to the Customer. Termination of this Program shall not be construed as terminating the Agreement or Customer's participation in any other Program.

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GRANT AGREEMENT

THIS AGREEMENT, dated June 5, 2019, is between the City of Tracy with its principal offices 333 Civic Center Plaza, Tracy, CA 95376 and AVFUEL CORPORATION ("Avfuel") a Michigan Corporation and confirms the terms and conditions upon which Avfuel has granted to \$12,000.00 (the "Grant") as an inducement to City of Tracy to sign and thereafter pay and perform its commitments to Avfuel under the AVIATION FUEL SUPPLY AGREEMENT with an effective date of July 1, 2019, City of Tracy and Avfuel (the "AFSA").

1. Avfuel is paying the City of Tracy in the month of this Agreement.
2. Unless the AFSA is terminated as provided in Section 2, the City of Tracy will have no obligation to repay to Avfuel any portion of the Grant.
3. If the AFSA is terminated prior to July 1, 2026, then in all cases except where the termination is as a result of a default by Avfuel in its obligations under the AFSA, the City of Tracy will be obligated to repay to Avfuel a portion of the Grant based on the amortization schedule attached to this Agreement (the "Repayment Amount"). The Repayment Amount will be payable in full as of the effective date of termination, and the amount of the attached amortization schedule.
5. This Agreement is governed by and will be interpreted in accordance with the laws of the State of Michigan, without regard to principles of conflict of laws.

SIGNED as of the date first stated above.

CITY OF TRACY

By: Robert Rickman
Robert Rickman
Mayor

AVFUEL CORPORATION

By: William B. Light
William B. Light,
Vice President

Approved as to Form:

BRDZ

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION NO. _____

STAFF RECOMMENDS THAT THE CITY COUNCIL ADOPT A RESOLUTION 1) AUTHORIZING THE INCREASE OF THE ANNUAL NOT TO EXCEED AMOUNT FOR FUEL SUPPLY SERVICES AT THE TRACY MUNICIPAL AIRPORT FROM \$500,000 PER FISCAL YEAR TO \$1,200,000 AS PART OF THE AGREEMENT WITH AVFUEL CORPORATION FOR THE REMAINDER OF THE SEVEN-YEAR TERM AND 2) APPROPRIATING \$700,000 TO THE AIRPORT OPERATING FUND (F561).

WHEREAS, On June 18, 2019, City Council approved an agreement with Avfuel Corporation for fuel supply services at the Tracy Municipal Airport for a seven-year term; and

WHEREAS, City Council approved the authorization of a Not to Exceed amount of \$500,000 per fiscal year based on historic budget totals; and

WHEREAS, To improve revenue generation and customer service, as well as be more competitive with surrounding airports, a new markup rate strategy for Aviation fuel was implemented on July 1, 2024; and

WHEREAS, The sales in the first half of the current fiscal year are over 30% greater than the sales of the same period in the previous fiscal year and sales in the first 6 weeks of 2025 exceed the first quarter sales of any of the four previous fiscal years; and

WHEREAS, This increased demand for fuel has resulted in expenditure of over \$450,000 of the \$500,000 fuel purchase contract in the first seven months of the fiscal year; and

WHEREAS, The airport is about to enter its busiest months as the weather improves, and it is anticipated that sales will continue to be significantly higher than the first two quarters of the fiscal year; and

WHEREAS, The FY2024-25 adopted budget included \$500,000 for the agreement with Avfuel Corporation; and

WHEREAS, To continue to provide fuel services at the airport for the remainder of the fiscal year, staff recommends that the Not to Exceed amount of the agreement be increased to \$1,200,000 for the remainder of the seven-year term of the agreement and appropriating \$700,000 to the Airport Operating Fund; and

WHEREAS, The intent is to set the amount high enough to guarantee availability of fuel for resale with the actual amount expended limited to purchase of the quantity of fuel necessary to keep the tanks full for this purpose; and, now therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby authorizes the increase of the annual Not to Exceed for fuel supply services at the Tracy Municipal Airport from \$500,000 per fiscal year to \$1,200,000 as part of the agreement with Avfuel Corporation for the remainder of the seven-year term; and be it

FURTHER RESOLVED: That the City Council of the City of Tracy authorizes an appropriation in the amount of \$700,000 to the Airport Operating fund (F561).

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 4th day of March, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST: _____

NECY LOPEZ

Acting City Clerk and Clerk of the Council of the
City of Tracy, California

March 4, 2025

Agenda Item 1.I

RECOMMENDATION

Staff recommends that the City Council adopt a resolution (1) awarding a construction contract to Tennyson Electric, LLC., of Livermore, CA, in the amount of \$797,850 for the Adaptive Traffic Signal System - Eleventh Street Project, Capital Improvement Project 72098, Federal Project Number STPCML-5192(051), (2) accepting the Surface Transportation Block Grant in the amount of \$379,161 (3) appropriating grant funds to project budget, and (4) authorizing the City Manager to approve change orders up to the contingency amount of \$79,785 and an overall project not-to-exceed budget of \$1,054,280.

EXECUTIVE SUMMARY

This agenda item seeks to adopt a resolution to award a construction contract to Tennyson Electric, LLC., of Livermore, CA, for the Adaptive Traffic Signal System - Eleventh Street Project, CIP 72098, Federal Project Number STPCML-5192(051) (Project) and related actions needed to complete the Project in the amount of \$797,850. This agenda item also seeks acceptance of the Surface Transportation Block Grant (STBG) in the amount of \$379,161 and authorizing the City Manager to approve change orders up to the contingency amount of \$79,785 and an overall project not-to-exceed budget of \$1,054,280.

BACKGROUND AND LEGISLATIVE HISTORY

Capital Improvement Project (CIP) 72098 (Project) is an approved project to install an Adaptive Traffic Signal system on Eleventh Street between Corral Hollow Road and MacArthur Drive. The City applied for Congestion Mitigation and Air Quality Grants (CMAQ) and received \$701,250 for the construction phase.

This Project will improve the traffic flow along the Eleventh Street corridor by reducing the total traffic delays, reducing the traffic stops made by vehicles, and improving the Level of Service (LOS) of the corridor. The Project will upgrade existing ten Type 170 traffic signal controllers in this corridor to advanced controllers, install/upgrade closed-circuit television (CCTV) cameras, install/modify system detectors at all intersections, install fiber interconnect communication system within project limits, update any outdated traffic signal equipment, and install required equipment to provide adaptive system on the corridor. The system shall be integrated to provide communication with the City's existing traffic control management system located in the City Hall - Support Services Building. The existing Advanced Traffic Management System (ATMS) consists of Quicknet by McCain Systems Inc., which will be upgraded as part of CIP 72118, to the most current ATMS software. An adaptive traffic signal license is required to operate an adaptive traffic signal control system which allows a traffic signal to adjust its timing based on real-time traffic conditions. This license is usually purchased from a vendor specializing in intelligent transportation systems (ITS) and will be purchased as part of CIP 72118. City staff is currently working on the CIP 72118 to upgrade the ATMS software.

Kimley-Horn & Associates, Inc., (Consultant) designed this Project and prepared plans, specifications, and cost estimates to bid this Project.

Agenda Item 1.I

March 4, 2025

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Bids were received and publicly opened in City Hall, Conference Room 203, and via teleconference at 2:00 p.m. on Tuesday, January 14, 2025, with the following results:

Contractor	Base Bid
Tennyson Electric LLC., Livermore, CA	\$ 797,850
Bear Electrical Solutions, Inc., Alviso CA	\$ 1,055,315

ANALYSIS

In accordance with Tracy Municipal Code Section 2.20.260 and the California Public Contract Code Section 22032, staff performed a subsequent bid analysis and determined that the lowest responsible bidder was Tennyson Electric LLC., Livermore, CA. Staff further verified that the bidder has the appropriate contractor's license in active standing with the State of California.

The total estimated cost of this Project, if awarded to the lowest bidder, is as follows:

Construction Bid	\$ 797,850
Construction Cost Contingency (10%)	\$ 79,785
Construction Engineering (15%)	
(Construction Management + Design Support During Construction)	\$ 131,645
Adaptive Traffic Signal License Fee (CIP 72118)	\$ 45,000
 Total Estimated Project Cost	 \$ 1,054,280

Tracy Municipal Code Section 2.20.090(b) authorizes the City Manager, or their designee, to approve change orders up to the contingency amount approved by Council. City staff recommends the contingency amount for this Project to be \$79,785, which is 10% of the construction cost.

In January 2024, the San Joaquin Council of Governments (SJCOC) informed the staff that the City has a \$379,161 Surface Transportation Block Grant (STBG/RSTP) available to the program. Based on staff's request, SJCOC programmed \$379,161 to the Project. No local match is required for this grant. Staff requests that the City Council accept the grant award and apply to the project budget for CIP 72098 to support the total project costs.

FISCAL IMPACT

The Adaptive Traffic Signal System - Eleventh Street Project, CIP 72098, is an approved Capital Improvement Project with an approved budget of \$961,413. Accepting the STBG/RSTP Grant in the amount of \$379,161 will increase the total project budget to \$1,340,574. There are sufficient funds available for the award of contract. The funding and Project budget is as follows:

<u>Funding Source</u>	<u>Budget</u>	<u>Expenses</u>	<u>Balance</u>
245 - Gas Tax	\$ 260,163	\$ 137,926	\$ 122,237
263 - CMAQ Grant	\$ 701,250	\$ -	\$ 701,250
	\$ 961,413	\$ 137,926	\$ 823,487
261 - Surface Transportation Block Grant	\$ 379,161	\$ -	\$ 379,161
Revised Available Budget	\$ 1,340,574	\$ 137,926	\$ 1,202,648

PUBLIC OUTREACH / INTEREST

Not Applicable.

COORDINATION

The City's Engineering staff coordinated with the Public Works Operations and Utilities Divisions.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) DETERMINATION

The Project is categorically exempt, per the following National Environmental Policy Act (NEPA) Categorical Exclusion Sections: 23 CFR 771.117(c): activity (c)(21). Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. Examples include, but are not limited to, traffic control and detector devices, lane management systems, electronic payment equipment, automatic vehicle locators, automated passenger counters, computer-aided dispatching systems, radio communications systems, dynamic message signs, and security equipment, including surveillance and detection cameras on roadways and in transit facilities and on buses. Staff recommends the City Council also find that the proposed project is exempt from review under the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 as improvements to the operation of existing facilities.

STRATEGIC PLAN

This agenda item supports the City of Tracy's Quality of Life Strategic Priority and specifically implements the following goal:

Goal 1: Advance green and roadway infrastructure projects that improve connectivity, reduce climate impacts, and improve the appearance of the City.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council, by resolution, (1) award a construction contract to Tennyson Electric, LLC., of Livermore, CA, in the amount of \$797,850 for the Adaptive Traffic Signal System - Eleventh Street Project, Capital Improvement Project 72098, Federal Project Number STPCML-5192(051), (2) accept the Surface Transportation Block Grant in the amount of \$379,161, (3) appropriating grant funds to project budget, and (4) authorize the City Manager

to approve change orders up to the contingency amount of \$79,785 and an overall project not-to-exceed budget of \$1,054,280.

Prepared by: Selvi Sivaraj, Associate Engineer

Reviewed by: Sara Castro, Finance Director

Andrew Shen, Interim City Attorney

Karin Schnaider, Assistant City Manager

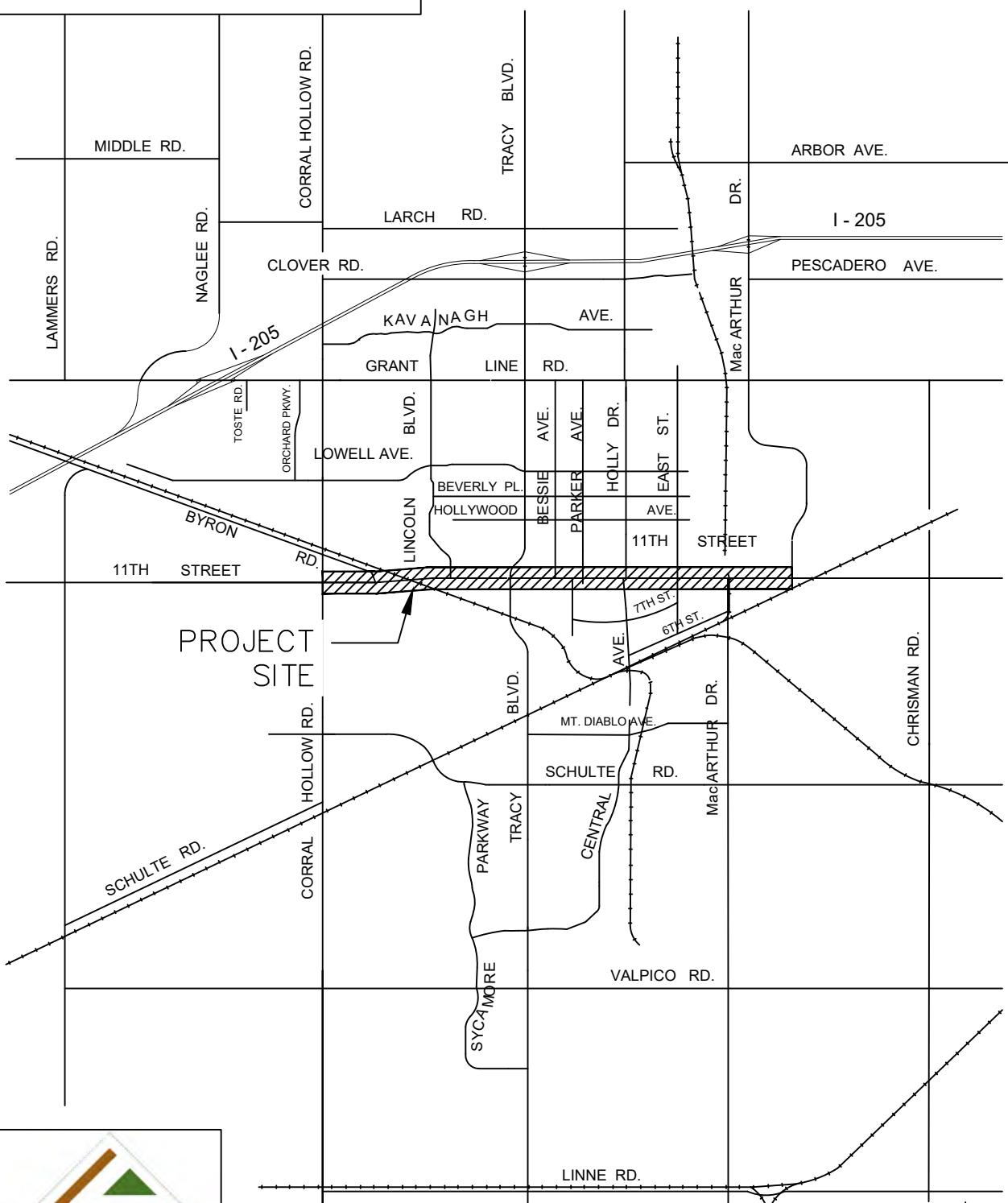
Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Location Map

CITY OF TRACY

Attachment A



Adaptive Traffic Signal System -
Eleventh Street Project CIP 72098
FEDERAL PROJECT NUMBER: CML - 5192 (051)
LOCATION MAP

NOT TO SCALE

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

(1) AWARDING A CONSTRUCTION CONTRACT TO TENNYSON ELECTRIC, LLC., OF LIVERMORE, CA, IN THE AMOUNT OF \$797,850 FOR THE ADAPTIVE TRAFFIC SIGNAL SYSTEM - ELEVENTH STREET PROJECT, CAPITAL IMPROVEMENT PROJECT 72098, FEDERAL PROJECT NUMBER STPCML-5192(051), (2) ACCEPTING THE SURFACE TRANSPORTATION BLOCK GRANT IN THE AMOUNT OF \$379,161 (3) APPROPRIATING GRANT FUNDS TO PROJECT BUDGET, AND (4) AUTHORIZING THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO THE CONTINGENCY AMOUNT OF \$79,785 AND AN OVERALL PROJECT NOT-TO-EXCEED BUDGET OF \$1,054,280.

WHEREAS, Capital Improvement Project (CIP) 72098 (Project) is an approved project to install an Adaptive Traffic Signal system on Eleventh Street between Corral Hollow Road and MacArthur Drive. The City applied for Congestion Mitigation and Air Quality Grants (CMAQ) and received \$701,250 for the construction phase; and

WHEREAS, the Project improves the traffic flow along the Eleventh Street corridor by reducing the total traffic delays, reducing the traffic stops made by vehicles, and improving the Level of Service (LOS) of the corridor; and

WHEREAS, the Project will upgrade all existing Type 170 traffic signal controllers in this corridor to advanced controllers with Omni firmware, install/upgrade closed-circuit television (CCTV) cameras, install/modify system detectors at all intersections, install fiber interconnect communication system within project limits, update any outdated traffic signal equipment, and install required equipment to provide adaptive system on the corridor; and

WHEREAS, the system will be integrated to provide communication with the City's existing traffic control management system located in the City Hall - Support Services Building; and

WHEREAS, the existing Advanced Traffic Management System (ATMS) consists of Quicknet by McCain Systems Inc., which will be upgraded as part of CIP 72118, to the most current ATMS software; and

WHEREAS, an adaptive traffic signal license is required to operate an adaptive traffic signal control system which allows a traffic signal to adjust its timing based on real-time traffic conditions, and this license will be purchased as part of CIP 72118; and

WHEREAS, Kimley-Horn & Associates, Inc., (Consultant) designed this Project and prepared plans, specifications, and cost estimates to bid this Project; and

WHEREAS, the Project was advertised for competitive bids on December 13, 2024, and December 20, 2024; and

WHEREAS, the bids were received and publicly opened in City Hall Conference Room 203, and via teleconference at 2:00 p.m. on Tuesday, January 14, 2025; and

WHEREAS, in accordance with Tracy Municipal Code Section 2.20.260 and the California Public Contract Code Section 22032, staff performed a subsequent bid analysis and determined that the lowest responsive and responsible bidder was Tennyson Electric LLC., Livermore, CA. Staff further verified that the bidder has the appropriate contractor's license in active standing with the State of California; and

WHEREAS, the bid analysis indicates their bid is "responsive" and the bidder is "responsible"; and

WHEREAS, the Project will be funded by Capital Improvement Project (CIP) 72098 funds, which has a current available budget of \$1,333,013, which includes a combination of funds from Measure K, City's Gas Tax, CMAQ grant, and STBG/RSTP grants; now, therefore, be it

RESOLVED: That the City Council of the City of Tracy hereby awards a construction contract to Tennyson Electric, LLC., of Livermore, CA in the amount of \$797,850 for the Adaptive Traffic Signal System - Eleventh Street Project, CIP 72098, Federal Project Number STPCML-5192(051); and be it

FURTHER RESOLVED: The City Council hereby accepts the Surface Transportation Block Grant in the amount of \$379,161 and appropriates the funds to the project budget: and be it

FURTHER RESOLVED: That the City Council of the City of Tracy authorizes the City Manager to approve change orders up to the contingency amount of \$79,785 and an overall project not-to-exceed budget of \$1,054,280; and be it

FURTHER RESOLVED: That the City Council finds that the actions taken herein are categorically exempt from National Environmental Policy Act (NEPA) review per Categorical Exclusion Sections: 23 CFR 771.117(c): activity (c)(21). Deployment of electronics, photonics, communications, or information processing used singly or in combination, or as components of a fully integrated system, to improve the efficiency or safety of a surface transportation system or to enhance security or passenger convenience. The City Council also finds that the proposed project is exempt from review under the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 as improvements to the operation of existing facilities.

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on the 4th day of March 2025 by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST:_____

NECY LOPEZ

Acting City Clerk and Clerk of the Council of the
City of Tracy, California

March 4, 2025

Agenda Item 3.A

RECOMMENDATION

The Planning Commission recommends that the City Council conduct a public hearing, and upon its conclusion:

1. **Adopt a resolution that (A) certifies an Environmental Impact Report (“EIR”) and adopts a mitigation monitoring and reporting program (“MMRP”), findings of fact and a statement of overriding considerations for the annexation and development of the Tracy Costco Depot Annex project, which consists of approximately 104.46 acres located at 16000 West Schulte Road, (B) approves a Development Review Permit for the Property for construction of two industrial warehouse buildings totaling approximately 1,736,724 square feet, provided that the Development Review Permit will not be effective until the first day following the effective date of San Joaquin County Local Agency Formation Commission’s (“LAFCo”) approval of the annexation of the Property to the City, and (C) authorizes the City Manager to submit a petition to LAFCo to annex that certain 104.46 acres located at 16000 West Schulte Road bearing Assessor’s Parcel Number 209-230- 02 (the “Property”) to the City of Tracy; and**
2. **Introduce an ordinance approving the pre-zoning of that certain 104.46-acre property located at 16000 West Schulte Road bearing Assessor’s Parcel Number 209-230-02 (“property”) to light industrial (M-1); and determining that the actions authorized by this ordinance were adequately evaluated by that certain Environmental Impact Report certified by the City Council on March 4, 2025, in full compliance with the California Environmental Quality Act (“CEQA”).**

EXECUTIVE SUMMARY

The applicant, David Babcock and Associates, on behalf of Costco, the property owner, proposes the Tracy Costco Depot Annex project, which involves a request for annexation and pre-zoning (Application Number A/P19-0001) and a Development Review Permit (Application Number D19-0014) for construction of two industrial warehouse buildings totaling approximately 1,736,724 square feet on an approximately 103-acre property located at 16000 West Schulte Road, Assessor’s Parcel Number 209-230-02. Staff and Planning Commission recommend that the City Council (1) adopt a resolution certifying an Environmental Impact Report, making findings of fact and adopting a statement of overriding considerations, and adopting a Mitigation Monitoring and Reporting Program; approving a Development Review Permit application for the development of two warehouse buildings totaling approximately 1,736,724 square feet on the Property; and authorizing staff to submit a petition to LAFCo for annexation of the Property (Attachment A); and (2) introduce an ordinance approving the prezung of the Property to Light Industrial (M-1) (Attachment B). Collectively, submittal of the annexation petition to LAFCo, the annexation of the Property to the City, the City’s approval of the Development Review Permit, and development and operation of the warehouse buildings on the Property as described in the EIR, may be referred to herein as the “Project.”

BACKGROUND

The Property is within the City's General Plan Sphere of Influence (SOI), which is a long-range vision of future development and expansion of the City for lands that are not currently within the City limits. Property within the City's SOI can be pursued for annexation into the City limits. In 2019, LAFCo approved the City's Municipal Services Review for the SOI, which shows the Property is located within the ten-year planning horizon. LAFCo policies required ten and thirty-year "horizons" in an effort to plan for and evaluate upcoming development within the City's SOI.

When annexing property into the City, pre-zoning must be established to determine the zoning designation that will take effect upon approval of annexation by LAFCo. The proposed zoning for the site is Light Industrial which is consistent with the property's General Plan designation of Industrial. The proposed project meets all the zone standards for the Light Industrial Zone.

ANALYSIS

Annexation and Prezoning

The Property is located within unincorporated San Joaquin County, adjacent to the southern boundary of the City and the Cordes Ranch Specific Plan area ([Attachment C - Location Map](#)). The Property is within the City's SOI, with a General Plan designation of Industrial. The applicants' proposal is to annex the Property into the City Limits and assign it a zoning designation of Light Industrial. This zoning for the site would be consistent with the General Plan designation of Industrial and with all the adjacent properties to the north, similarly developed with warehouses. The surrounding properties also have an Industrial designation in the General Plan with the exception of the City-owned property directly to the east that has a designation of Park. In accordance with the City's General Plan policies, including Land Use Objective 2.3, the annexation and development of the Property is consistent with the expansion of the City's industrial base. Annexation of the Property is a logical extension of the City limits, has been planned as a part of the City's Sphere of Influence, and was included for infrastructure planning as a part of the City's Infrastructure Master Plans.

The development area on the Property is 103 acres; however, there is also a small portion of the Property that is to the south of the Delta Mendota Canal, which intersects the Property. The additional acreage south of the Canal means that the total annexation would be 104.46 acres. The portion of land south of the Delta Mendota Canal will not be developed or modified as part of this project but since the Canal is a barrier to the small property to the south, it was included as part of the annexation area.

There is currently a Costco distribution warehouse located within San Joaquin County, just over a half of a mile west of the project site, located at 25501 Gateway Boulevard. The proposed project will provide additional storage and expand the operations for the existing Costco site as they now have the demand for additional space.

Architecture and Site Design

The project includes the construction and operation of two warehouse buildings, including Building 1 at approximately 543,326 square feet and Building 2 at approximately 1,202,750 square feet (Attachment D – Development Review Permit Plans). The project site is approximately 103 acres and currently vacant. The proposed warehouse design would be contemporary in style and would use a variety of massing and appropriate materials for the scale of the building. Architectural metal with varied textures and horizontal and vertical orientations would be used, while varying parapet cap heights would break up the long elevations both horizontally and vertically. The parapets will also assist in concealing rooftop-mounted mechanical equipment. The proposed architecture places and focuses the design's detailed elements, varied building materials and color changes towards the front of the buildings along West Schulte Road.

Landscaping would be placed along West Schulte Road to provide a substantial amount of canopy tree coverage which would also aid in screening and breaking up the bulk of the building. In addition, solar carport canopies will be placed in the parking area to provide shade and provide a renewable resource to be utilized on-site. The circulation system has been designed with a primary entrance for vehicles toward the center of the site while truck access will primarily be on the east side of the site. Ample truck stacking area is provided to ensure there is no back-up on Schulte Road. All City parking and circulation standards have been met or exceeded.

FINDINGS

Required Findings for Prezoning

Tracy Municipal Code (“TMC”) Section 10.08.970 (Classification of newly annexed territory) provides that territory proposed for annexation to the City be prezoned in accordance with Article 29 (Amendments) of the TMC. Article 29 of the TMC, Section 10.08.3840, states that the Planning Commission must find that the approval or denial of an application to amend the zoning ordinance (such as the instant application for rezoning) is “necessary to carry out the general purposes” of the zoning ordinance and state the “facts and reasons” that support this finding. The Planning Commission considered this matter on December 4, 2024, and recommends that the City Council make the following finding:

The approval of the rezoning of the Property to Light Industrial as set forth in Section 10.08.3022 of the Tracy Municipal Code is necessary to carry out the City's General Plan policies and Zoning regulations, because adding the property to the Light Industrial zone will allow for its annexation and development consistent with the City's General Plan Industrial Designation, the Sphere of Influence Plan approved by the San Joaquin County LAFCO, and the City of Tracy's Infrastructure Master Plans.

See Exhibit 1 to Attachment B.

Required Findings for Development Review Permit

Development Review Permits must meet the requirements set forth in Tracy Municipal Code (TMC) Article 30, including a noticed public hearing. Pursuant to TMC Section 10.08.3960, before approving a Development Review Permit, the reviewing body (in this case, the City Council) must review application materials and public comments submitted prior to or at the public hearing, and consider, among other things, the following several site-specific factors set forth in TMC 10.08.3960:

- general site considerations including height, bulk, and size of buildings;
- physical and architectural relationship with the existing and proposed structures;
- site layout, orientation, and location of the buildings and relationships with open areas and topography;
- location and type of landscaping;
- off-street parking areas;
- height, materials, colors and variations in boundary walls, fences, and screen plantings;
- appropriateness of exterior lighting; and
- appropriate City utilities, public infrastructure, circulation, and roadway access.

After consideration of the entire record, under TMC Section 10.08.3960, the reviewing body may approve the Development Review Permit, with or without conditions of approval, if the facts on the record support the following findings:

- (a) The proposal increases the quality of the project site, and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy; and
- (b) The proposal conforms to the Zoning Regulations of Tracy Municipal Code Chapter 10.08, the General Plan, any applicable specific plan, the City Design Goals and Standards, any applicable Infrastructure Master Plans, and other City regulations.

The Planning Commission recommends that the City Council conduct a noticed public hearing on March 4, 2025, and upon its conclusion, make the requisite findings to approve the request for the Development Review Permit, subject to specified conditions of approval, based on consideration of the entire record of evidence, including without limitation, the following:

- (a) The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy, because the proposed warehouse buildings will be constructed with complementary materials and colors to the existing industrial buildings in the area. Additionally, substantial landscaping proposed with project improvements will create a buffer between the right of way and the buildings also adding visual interest and aid in screening.
- (b) The proposal conforms to the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, California Building Codes, and California Fire Codes. The project has met all City requirements for the Light Industrial Zone, landscaping has been provided for screening and to provide shade for employees, complementary materials consistent with the industrial development in the surrounding area are proposed, a high-quality employee break area will be provided, and all other improvements meet City standards.

See Exhibits 4 and 5 to Attachment A.

CEQA DETERMINATION

The proposed Project is subject to the California Environmental Quality Act (“CEQA”), which prescribes the preparation of a project Environmental Impact Report (EIR) as described in CEQA Guidelines Section 15161. This type of EIR focuses primarily on the changes in the environment that would result from the development project. The EIR must examine all phases

of the project including planning, construction, and operation.

On August 28, 2020, a Notice of Preparation (NOP) was published for the EIR, to solicit comments from responsible agencies, various City departments, and the public regarding what areas should be studied within the EIR. A scoping meeting for the NOP took place on September 9, 2020, after which the EIR analysis commenced. On September 16, 2022, the Notice of Availability of the Draft EIR was published for public review and comment, a public hearing to solicit comments was held on October 12, 2022, and the comment period closed on October 31, 2022. Based on the comments received on the EIR during the comment period, the City modified certain sections (Introduction, Project Description, Air Quality, Greenhouse Gases, Climate Change and Energy, Other CEQA- Related Topics and References) of the Draft EIR, and on December 22, 2023, the City published a Recirculated Draft EIR containing the modified sections. The Recirculated Draft EIR was presented at the Environmental Sustainability Commission (ESC) meeting on January 25, 2024 and an additional, special ESC meeting on February 1, 2023. The comment period on the Recirculated Draft EIR closed on February 5, 2024. On November 4, 2024, the City published a Response to Comments document (the “RTC Document”) containing responses to all comments received on both the Draft EIR and the Recirculated Draft EIR, along with minor revisions to the EIR documents based on the comments received. The RTC Document also includes a full timeline of the entire EIR process and a record of all comments received on the Draft EIR and Recirculated Draft EIR.

The analyses of potential environmental effects in the EIR documents results in the conclusion that some impacts of the proposed project are potentially significant and unavoidable. These include the following:

- Aesthetics and Visual Resources
- Agricultural Resources
- Air Quality
- Noise
- Transportation and Circulation

On the day of the Planning Commission hearing, December 4, 2024, staff received several comment letters on the EIR documents and the Project, which are included and addressed in an Errata to the EIR published on February 27, 2025. The Errata further discusses the data included in the EIR documents and concludes that no changes to the EIR documents are needed due to any additional comments received. Together, the Draft EIR, the Recirculated Draft EIR, the RTC Document, and the Errata constitute and comprise the EIR for the Project and can be found as Exhibit 1 to Attachment A to this Staff Report.

The State Guidelines for CEQA provide that “no public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding. The possible findings are:

1. Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
2. Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

3. Specific economic, legal, social, technological or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR." (Guidelines, § 15091)

The required findings must be supported by substantial evidence in the record. CEQA requires that a lead agency (in this case, the City) balance the benefits of a project against its unavoidable environmental risks in determining whether to approve the project. If the lead agency determines that the benefits outweigh the unavoidable adverse effects, those effects may be considered acceptable pursuant to CEQA Guidelines Section 15093(a). If a lead agency intends to approve a project that may have significant and unavoidable adverse effects, it must state in writing the specific reasons for its approval, which reasons must be based on substantial evidence in the administrative record for the project. The lead agency's written reasons are referred to as a Statement of Overriding Considerations. These above-referenced findings and the Statement of Overriding Considerations are referred to herein as the "CEQA Findings," and can be found as Exhibit 2 to Attachment A to this Staff Report. In addition, as required by Section 15097 of CEQA's implementing regulations, the City has prepared a Mitigation Monitoring and Reporting Program ("MMRP") to ensure that, if the Project is approved, the mitigation measures in the EIR will be implemented appropriately. The MMRP can be found as Exhibit 3 to Attachment A to this Staff Report.

PUBLIC OUTREACH

This item was noticed in the local newspaper and public hearing notices were mailed to all owners of property within 300 feet of the subject site. There was additional outreach throughout the CEQA process where, at each stage, the various portions of the Project's CEQA review (NOP, DEIR, RDEIR, FEIR) were posted with the State Office of Planning and Research, posted with the San Joaquin County Clerk, posted on the City's website, and mailed/mailed to all interested parties on the Tracy Costco Depot Annex list and overall CEQA interested parties' lists.

PLANNING COMMISSION

The Planning Commission met and considered this agenda item on December 4, 2024. After hearing from staff, the applicant, and various interested parties, the Planning Commission voted 5-0 to recommend that City Council certify the EIR and approve the applications.

COORDINATION

This development application was reviewed by multiple City Departments and the South San Joaquin County Fire Authority as part of the City's normal application review process. As a part of the Project review, the EIR was also provided to the State Office of Planning and Research, various State and County agencies, posted at the San Joaquin County Clerk's office and on the City's website. This staff report was prepared by the Community and Economic Development Department, Planning Division.

FISCAL IMPACT

Staff has completed a preliminary financial assessment of the property annexation and development based on the expected use of the property. The applicant has indicated that Costco intends to construct a warehouse on the property that will replace the facilities operations currently located in Stockton. Based on this assumption staff anticipates the

warehouse will generate approximately \$290,000 in Property Tax, \$2.5 million in Sales Tax, and \$65,000 in Business Tax. The Tracy Rural Fire District, if not detached, would generate \$942,000 in Property Tax and special assessment. The City also compared the revenue difference if the property was detached from the Rural District. The City's revenue would be \$578,000 (or approximately increase \$288,000), while the remaining funds (approximately \$654,000) of the Rural District's portion of property tax would be absorbed by the County. Therefore, staff does not recommend detaching the annexed property from the Rural District.

Fiscal Analysis of the Annexation:

• **Property Tax**

Analysis:

The City has an existing tax sharing agreement between San Joaquin County that determines the tax share split for property tax once a property is annexed. In 2004, the City of Tracy and San Joaquin County entered into the existing property tax allocation agreement.

This property tax sharing agreement is sometimes referred to as the "Master Annexation Agreement." The City attempted to renegotiate without success and the third extension was signed for a seven-year contract in 2019. Per the agreement, properties annexed into the City and detached from the Tracy Rural Fire District (TRFD) have an 80/20 split of property tax allocations with San Joaquin County, and properties that do not involve detachment from TRFD have an 85/15 split.

In 2018, San Joaquin LAFCo adopted a policy requiring any property annexed into the City limits to detach from existing Special Districts. In particular, LAFCo was focused on TRFD detachment and its impact on County's tax split with the City.

Property Tax Sharing Methodology

If the City submits a request for annexation with detachment, the TRFD share of property tax is added to the County's tax share before the County's split 80/20.

If the City submits a request for annexation without detachment, TRFD keeps collecting its existing share of the property tax and the County tax share with the City is 85/15.

Examples:

	<i>Existing</i>	<i>85/15</i>	<i>80/20</i>
		<i>No Detachment</i>	<i>Detachment</i>
County	22%	18%	28%
TRFD	13%	13%	0
City	0%	4%	7%

By absorbing the tax share from existing special districts, such as Road District 5 and TRFD, the County increases its tax share. However, the services provided, particularly in a commercial development are de minimis to the County's operation to justify the absorption of the property tax share. In addition, the County's tax revenue will increase as a result of the development of the property for both secured and unsecured property. Staff recommends submitting a request for annexation without detachment.

The revenue difference is summarized below (assuming the County absorbs Road District 5).

	<i>Existing</i>	<i>85/15 No Detachment</i>	<i>80/20 Detachment</i>
<i>County</i>	\$ 1,619,588	\$ 1,646,248	\$ 2,302,938
<i>TRFD</i>	\$ 941,910	\$ 941,910	\$ -
<i>City</i>	\$ -	\$ 290,514	\$ 575,735

• **Sales Tax**

Bradley Burns 1% Analysis:

Costco has provided an analysis of potential sales tax they anticipate generating from warehouses built on the annexed property. Costco intends to relocate the operations of their Stockton facility to Tracy. Based on historical sales from the warehouse, 80% of the sales are expected to generate Bradley Burns 1% sales tax. The other 20% of sales are out of state or non-sales tax generating activities. Staff estimates a potential for \$2.5 million in sales tax could be possible from this location.

Two factors to consider when making these projections. First, Costco can change operations within the facility that could impact if the transactions will generate taxable sales. Second, the League of California Cities (CalCities) has adopted a policy that recommends consumer, e-commerce sales should be split between point-of-sale locations (warehouse location) and destination location.

Measure V 0.5% Analysis:

Costco provided some analysis on Measure V sales tax dollars. However, the City would receive these dollars regardless of warehouse location, as Transaction and Use Tax is destination based. Staff is therefore not considering this as additional revenue in this analysis.

• **Business Tax**

The addition of the Costco warehouses could generate \$65,000 under the current cap.

ACTION REQUESTED OF THE CITY COUNCIL

The Planning Commission recommends that the City Council:

1. Adopt a resolution that (A) certifies the EIR, makes CEQA Findings, and adopts an MMRP, for the annexation of the Property and development of the Project; (B) approves a Development Review Permit for the Project on the Property; and (C) authorizes the City Manager to submit a petition to LAFCo to annex the Property to the City; and
2. Introduce an ordinance approving the pre-zoning of that certain 104.46-acre property located at 16000 West Schulte Road bearing Assessor's Parcel Number 209-230-02 ("property") to light industrial (M-1); and determining that the actions authorized by this ordinance were adequately evaluated by that certain Environmental Impact Report certified by the City Council on March 4, 2025, in full compliance with the California Environmental Quality Act ("CEQA").

Prepared by: Genevieve Federighi, Senior Planner

Reviewed by: Scott Claar, Planning Manager
Forrest Ebbs, Director of Community and Economic Development
Sara Castro, Director of Finance
Karin Schnaider, Assistant City Manager

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Exhibit to the Resolution Links

Attachment B - Resolution to (1) certify EIR, make CEQA findings, and adopt MMRP, (2) approve Development Review Permit, and (3) authorize petition for annexation to LAFCo.

(Environmental Impact Report, is too large to include in the packet and can be found using the following links) <https://www.cityoftracy.org/our-city/departments/planning/specificplans-environmental-impact-reports-and-initial-studies/-folder-77>

Exhibit 1 to Resolution – Final EIR (Response to Comments):

<https://www.cityoftracy.org/home/showpublisheddocument/19298>

Exhibit 2 to Resolution - Draft EIR:

<https://www.cityoftracy.org/home/showpublisheddocument/13855/637989204233470000>

Exhibit 3 to Resolution - Notice of Preparation (NOP):

<https://www.cityoftracy.org/home/showpublisheddocument/1208/637451279660730000>

Exhibit 4 to Resolution - Recirculated Draft EIR:

<https://www.cityoftracy.org/home/showpublisheddocument/16937/638387481314930000>

Exhibit 5 to Resolution -Costco Tracy Depot Annex Final EIR and MMRP Errata:

<https://www.cityoftracy.org/home/showpublisheddocument/19839>

Attachment C – Ordinance

Exhibit 1 to the Resolution:

Environmental Impact Report, is too large to include in the packet and can be found using the following link:

<https://www.cityoftracy.org/our-city/departments/planning/specific-plans-environmental-impact-reports-and-initial-studies/-folder-77>

Final EIR (Response to Comments):

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Recirculated Draft EIR:

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Costco Tracy Depot Annex Final EIR and MMRP Errata:

<https://www.cityoftracy.org/home/showpublisheddocument/19839>

A copy will be available to view at the 03/04/25 City Council Meeting. A copy is also available at the City of Tracy Public Library.

APPROVED AS TO FORM

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

1. CERTIFYING AN ENVIRONMENTAL IMPACT REPORT (“EIR”), ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPTING A MITIGATION MONITORING AND REPORTING PLAN (“MMRP”) FOR THE ANNEXATION AND DEVELOPMENT OF INDUSTRIAL BUILDINGS ON A 104.46 ACRE PROPERTY LOCATED AT 16000 WEST SCHULTE ROAD BEARING ASSESSOR’S PARCEL NUMBER 209-230-02 (“PROPERTY”), ALL IN ACCORDANCE WITH THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (“CEQA”); AND
2. APPROVING A DEVELOPMENT REVIEW PERMIT FOR THAT CERTAIN 104.46-ACRE PROPERTY LOCATED AT 16000 WEST SCHULTE ROAD BEARING ASSESSOR’S PARCEL NUMBER 209-230-02 (THE “PROPERTY”) TO TAKE EFFECT ON THE FIRST DAY FOLLOWING THE EFFECTIVE DATE OF THE SAN JOAQUIN COUNTY LOCAL AGENCY FORMATION COMMISSION’S (“LAFCO’S”) APPROVAL OF THE ANNEXATION OF THE PROPERTY TO THE CITY OF TRACY (“CITY”); AND
3. APPROVING THE SUBMITTAL OF A PETITION TO THE SAN JOAQUIN COUNTY LOCAL AGENCY FORMATION COMMISSION (“LAFCO”) FOR THE ANNEXATION OF THE PROPERTY TO THE CITY OF TRACY (“CITY”).

WHEREAS, on April 24, 2019, the City received applications from the owners of the Property asking the City to submit a petition to LAFCo to annex the Property to the City of Tracy, to prezone the Property to Light Industrial (M-1) pursuant to Tracy Municipal Code (“TMC”) Section 10.08.970, and to approve a Development Review Permit for the Property pursuant to Article 30 of Chapter 10.08 of the TMC (collectively, the “Project”); and

WHEREAS, the Property is located within the City’s Sphere of Influence (“SOI”) and is designated for Industrial uses in the City’s General Plan; and

WHEREAS, to support its processing of the applications, and pursuant to the requirements of CEQA, the City conducted an environmental analysis of the proposed Project, resulting in the completion of an Environmental Impact Report bearing State Clearinghouse Number 2020080531 (the “EIR”) (**Exhibit 1**); and

WHEREAS, based on the analyses in the EIR, and pursuant to Sections 15091 and 15093 of CEQA’s implementing regulations (14 Cal. Code Regs. §§ 15000—15387) (the “CEQA Guidelines”), the City prepared certain findings and a statement of overriding considerations (together, the “CEQA Findings”) (**Exhibit 2**) and also prepared a Mitigation

Monitoring and Reporting Plan (the “MMRP”) (**Exhibit 3**) pursuant to Section 15097 of the CEQA Guidelines; and

WHEREAS, on December 4, 2024, the City’s Planning Commission held a public hearing to review and consider the Project applications and all materials and evidence relating to the Project applications, including the EIR, the CEQA Findings, and the MMRP, and voted to recommend that the City Council certify the EIR and approve the Project; and

WHEREAS, on March 4, 2025, the City Council held a duly-noticed public hearing to review and consider the Project applications and all materials and evidence relating to the Project applications, including the EIR, the CEQA Findings, and the MMRP.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TRACY:

Section 1 RECITALS. The City Council hereby finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City.

Section 2 CEQA COMPLIANCE. The City Council, based on its independent judgment and analysis, has reviewed and considered the proposed Project and determined, based on the whole record before it, including the EIR, that the proposed Project will have a significant effect on the environment, and hereby makes the CEQA Findings, including approval of a Statement of Overriding Considerations, as set forth in Exhibit 2, and hereby certifies the EIR as set forth in Exhibit 1, and hereby adopts the MMRP as set forth in Exhibit 3, in full compliance with the requirements of CEQA for the Project.

Section 3. DEVELOPMENT REVIEW PERMIT. Based on the findings set forth in **Exhibit 4** hereto, the City Council hereby approves Development Review Permit (D14-0019), which approval is subject to the applicant’s full and complete compliance with the Conditions of Approval set forth in **Exhibit 5** hereto; provided, however, that the approval of this Development Review Permit shall not be effective until the first day following the effective date of LAFCo’s approval of the annexation of the Property to the City, such that the Property is subject to the land use jurisdiction of the City of Tracy.

Section 4 PETITION TO LAFCo. The City Council hereby grants the applicants’ request to submit a petition to LAFCo to annex the Property to the City of Tracy and directs the City Manager to prepare and submit said application.

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council of the City of Tracy on March 4, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy

ATTEST: _____
NECY LOPEZ
Acting City Clerk and Clerk of the Council of the
City of Tracy
Date of Attestation: _____

Exhibit 1 – EIR
Exhibit 2 – CEQA Findings
Exhibit 3 – MMRP
Exhibit 4 – Findings to support approval of Development Review Permit
Exhibit 5 – Conditions of Approval for Development Review Permit

APPROVED AS TO FORM

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

ORDINANCE NO. _____

- 1) APPROVING THE PRE-ZONING OF THAT CERTAIN 104.46-ACRE PROPERTY LOCATED AT 16000 WEST SCHULTE ROAD BEARING ASSESSOR'S PARCEL NUMBER 209-230-02 ("PROPERTY") TO LIGHT INDUSTRIAL (M-1); AND**
- 2) DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE WERE ADEQUATELY EVALUATED BY THAT CERTAIN ENVIRONMENTAL IMPACT REPORT CERTIFIED BY THE CITY COUNCIL ON MARCH 4, 2025, IN FULL COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA").**

WHEREAS, on April 24, 2019, the City received applications from the owners of the Property asking the City to submit a petition to the San Joaquin Local Agency Formation Commission (LAFCo) to annex the Property to the City of Tracy, to prezone the Property to Light Industrial (M-1) pursuant to Tracy Municipal Code ("TMC") Section 10.08.970, and to approve a Development Review Permit for the Property pursuant to Article 30 of Chapter 10.08 of the TMC (collectively, the "**Project**"); and

WHEREAS, the Property is located within the City's Sphere of Influence ("SOI") and is designated for Industrial uses in the City's General Plan; and

WHEREAS, to support its processing of the applications, and pursuant to the requirements of CEQA, the City conducted an environmental analysis of the proposed Project, resulting in the completion of an Environmental Impact Report bearing State Clearinghouse Number 2020080531 (the "**EIR**"); and

WHEREAS, based on the analyses in the EIR, and pursuant to Sections 15091 and 15093 of CEQA's implementing regulations (14 Cal. Code Regs. §§ 15000—15387) (the "**CEQA Guidelines**"), the City prepared certain findings and a statement of overriding considerations (together, the "**CEQA Findings**") (**Exhibit 2**) and also prepared a Mitigation Monitoring and Reporting Plan (the "**MMRP**") (**Exhibit 3**) pursuant to Section 15097 of the CEQA Guidelines; and

WHEREAS, on December 4, 2024, the City's Planning Commission held a public hearing to review and consider the Project applications and all materials and evidence relating to the Project applications, including the EIR, the CEQA Findings, and the MMRP, and voted to recommend that the City Council certify the EIR and approve the Project; and

WHEREAS, on March 4, 2025, the City Council held a duly-noticed public hearing to review and consider the Project applications and all materials and evidence relating to the Project applications, including the EIR, the CEQA Findings, and the MMRP.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TRACY AS FOLLOWS:

SECTION 1 RECITALS. The City Council hereby finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City.

SECTION 2 CEQA COMPLIANCE. The City Council hereby finds that the actions authorized by this Ordinance were adequately evaluated by the EIR for the Project certified by the City Council on March 4, 2025, and that the City Council's certification of the EIR, adoption of the CEQA Findings and Statement of Overriding Considerations, and adoption of the MMRP, by City Council Resolution No. 2025-_____, constitute the City's full and complete compliance with the requirements of CEQA for the Project.

SECTION 3 PREZONING. Based on the findings set forth in **Exhibit 1** hereto, the City Council hereby approves the application to, and hereby does, prezone the Property as Light Industrial (M-1), as set forth in Article 20 of Chapter 10.08 of the TMC.

SECTION 4 SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 5 EFFECTIVE DATE. This Ordinance shall become effective upon the thirtieth (30th) day after final adoption.

SECTION 6 PUBLICATION. The City Clerk is directed to publish this Ordinance in a manner required by law.

SECTION 7 CODIFICATION. This Ordinance shall not be codified in the Tracy Municipal Code.

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 4th day of March 2025, and finally adopted on _____ day of _____ 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy

ATTEST: _____

NECY LOPEZ
Acting City Clerk and Clerk of the Council of the
City of Tracy

Date of Attestation: _____

Exhibit 1 – Findings to Support Prezoning (TMC 10.08.970 and 10.08.3900)

March 4, 2025

Agenda Item 3.B

RECOMMENDATION

Planning Commission and Staff recommend that the City Council conduct a public hearing, and upon its conclusion, take the following actions:

- 1. Introduce an ordinance approving a Zoning Text Amendment, Application Number ZA22-0004, removing Tracy Municipal Code (TMC) Section 10.08.800, “Service Station” definition, adding TMC Section 10.08.175, “Car Wash” definition, add TMC Section 10.08.375, “Fuel Station” definition, and amending TMC Section 10.08.1080, Permitted Uses, Use Group No. 44, removing and replacing “Automobile Service Stations” with “Car Washes” and “Fuel Stations;”**
- 2. Adopt a resolution: (a) granting a Conditional Use Permit to allow a car wash to be located at 4600 S. Corral Hollow Road, Application Number CUP24-0006; and (b) approving a Development Review Permit for construction of a car wash facility and related site improvements located at 4600 S. Corral Hollow Road, Application Number D22-0044.**

EXECUTIVE SUMMARY

The applicant, API Architecture, on behalf of Harpreet Singh and Varinder Pal Singh, property owners, proposes the Corral Hollow Car Wash project, which includes a zoning text amendment (Application Number ZA22-0004) to replace the definition of “Service Station” with two new definitions, “Car Wash” and “Fuel Station,” a Development Review Permit (Application Number D22-0044) for construction of an automated, tunnel car wash and associated site improvements and a Conditional Use Permit to allow a car wash in the Neighborhood Shopping Zone located on an approximately 10.97 acre site at 4600 S. Corral Hollow Road, Assessor’s Parcel Number 244-020-31 and determine that the project is categorically exempt from CEQA per Section 15183.

Currently, the definition of Service Station precludes the use of chain conveyors, blowers, and steam cleaning devices which are common equipment in modern car washes. By changing this definition to remove this limitation but continue to require car washes to receive Conditional Use Permits within more sensitive commercial areas, for example Neighborhood Shopping Zone, any concerns regarding these types of equipment will be addressed through the Conditional Use Permit review and issuance.

ANALYSIS

Background

The project site was rezoned to Neighborhood Shopping (NS) Zone in 2020. Prior to the rezone, the site was part of the Edgewood Planned Unit Development (PUD) Zone, which designated the site as “neighborhood shopping center.” The Edgewood PUD did not have any development standards for the neighborhood shopping center designation. Rather than amend the PUD to incorporate development standards, an application was approved to rezone the site to NS.

At the time of the rezone, the site also received approval of a Conditional Use Permit and Development Review Permit to construct a gas station and convenience store, which is now operating on the northwest corner of the parcel.

ZONING TEXT AMENDMENT

The NS Zone conditionally permits the list of uses in Use Group No. 44, which currently includes service stations. The Tracy Municipal Code (TMC) definition of service station includes fuel stations and car washes. However, the definition of service station states that the washing of automobiles shall be permitted only when no chain conveyor, blower, or steam cleaning device is involved. Car washes containing these mechanical elements are permitted in the General Highway Commercial (GHC) Zone as part of Use Group No. 46 and 47, which includes general automotive services.

The proposed car wash includes the use of chain conveyor, blower, and steam cleaning devices, which are not allowed in the NS Zone under the definition for "service station." In order to allow the proposed car wash in the NS Zone, the applicant proposed a Zoning Text Amendment, Application Number ZA22-0004, as shown below.

The proposed Zoning Text Amendment includes the following details:

1. Section 10.08.800, Service Station, of Title 10 (Planning and Zoning) of the Tracy Municipal Code would be removed as follows (with deletions in strikethrough):

10.08.800 Service station.

~~"Service station" shall mean a structure or area which provides for the servicing, washing, and fueling of motor vehicles, including minor repairs and the storage and sale of merchandise and supplies incidental thereto; provided, however, the washing of automobiles shall be permitted only when no chain conveyor, blower, or steam cleaning device is involved."~~

2. A new Section 10.08.175, Car Wash, of Title 10 (Planning and Zoning) of the Tracy Municipal Code would be added as follows (with additions underlined):

10.08.175 Car Wash.

"Car Wash" shall mean any building, structure, or area which provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower or other mechanical devices, and which may employ some hand labor."

3. A new Section 10.08.375, Fuel Station, of Title 10 (Planning and Zoning) of the Tracy Municipal Code would be added as follows (with additions underlined):

10.08.375 Fuel Station.

"Fuel station" shall mean any building, land area, or other premises used primarily for the retail dispensing or sales of gasoline or alternative fuel for automobiles."

4. Use Group No. 44 of Section 10.08.1080, Permitted Uses, of Title 10 (Planning and Zoning) of the Tracy Municipal Code would be amended to read as follows (with additions underlined, and deletions in strikethrough):

	Permitted in Zones	Conditionally Permitted in Zones
Use Groups No. 44: Consumer service and retail trade (Goods and services) <ul style="list-style-type: none"> (a) Automobile service stations <u>Car Washes and Fuel Stations</u> (not including repair work); (b) Auto accessory shops; (c) Building materials and hardware, including only: <ul style="list-style-type: none"> (1) Hardware; (2) Paint, glass, and wallpaper; and (3) Sales rooms for other building materials; (d) Catering establishments; and (e) Miscellaneous repair services, including only establishments engaged in repairing and servicing household and business equipment, machines, and furnishings. 	CS GHC	CBD NS

The reason that the proposed Zoning Text Amendment replaces the definition of service station with two new definitions (car wash and fuel station), rather than amending the definition of service station, is that the term service station is considered a bit antiquated, since full service does not typically occur at these stations as it did in the past, and this new approach will allow car washes to be separately defined, so that it will more clearly address all types of car washes.

If the City Council introduces and adopts an ordinance approving the proposed Zoning Text Amendment, as shown in Attachment C, the proposed car wash will remain a conditionally permitted use in the NS Zone. Staff believes that the Conditional Use Permit (CUP) process and the Development Review Permit process will be sufficient to address any site-specific concerns that might be associated with car washes including chain conveyor, blower, and steam cleaning devices.

CONDITIONAL USE PERMIT

The project site is located within the NS Zone and has a General Plan designation of Commercial. The proposed car wash use is well suited for this location, as this site is located within the Commercial land use designated area of the General Plan. The subject parcel is already partially developed with a gas station and convenience store, and a car wash would be a complementary use. The NS Zone's purpose is to provide services that are convenient to the surrounding neighborhoods, which is achieved with a car wash. The car wash and related site improvements are consistent with the standards of the NS Zone and the City Design Goals and Standards. Additionally, the location of the car wash on the southwest portion of the parcel would be greater than 500 feet away from any residential neighbors allowing any possible impacts, including noise from new equipment, to be as minimal as the site would allow.

The Conditional Use Permit cannot be approved until the City Council acts on the proposed Zoning Text Amendment and the Development Review Permit approval relies on the approval of the Conditional Use Permit. Therefore, staff recommended that the Conditional Use Permit (CUP24-0006) be combined with the Zoning Text Amendment (ZA22-0004) and the Development Review Permit (D22-0044) in Planning Commission's recommendations to the City Council. The Resolution's effective date is tied to be the same as the effective date of the Ordinance, ensuring, that, if the ordinance is not approved or subjected to referendum and ultimately not approved, then the Resolution would not take effect either.

DEVELOPMENT REVIEW PERMIT

The proposed car wash tunnel would be located on the southwest portion of the site, which allows the building's architecture to be on full display and aids in screening the view of the vacuum stalls from the public right-of-way. The project includes landscape improvements around the perimeter of the site, adjacent to the public right-of-way, as well as in the parking area, consisting of shade trees, shrubs, and ground cover, which meet the City's landscaping requirements. The project includes a driveway/access connection to Corral Hollow Road and access connection to the adjacent, existing gas station and convenience store. The project meets all requirements of the NS Zone.

The proposed architecture consists of an attractive design that includes a mix of building materials and features design elements on all four sides of the building, which is compatible with other buildings in the surrounding area, such as the adjacent gas station and convenience store. The proposed car wash tunnel walls feature painted cement plaster and stone veneer bordering the base of the structure, visible from every elevation. The main roof will be approximately 20 feet in height and a larger parapet, approximately 33 feet in height, will screen all roof mounted equipment and aid in enhancing the building's architectural style. The proposed exterior walls will have painted cement plaster finish that create architectural break and enhance the architectural elements of the building by accenting light tan archways with darker tan columns spaced uniformly along all building elevations. Decorative arched windows will be installed within the archways to add to the visual interest of the building. The proposed exterior materials, colors, and architectural elements are consistent with the City Design Goals and Standards.

In accordance with TMC Section 10.08.3950, this Development Review Permit application (D22-0044) is a Tier 1 application, which means that the City Council has approval authority, because it is paired with a Zoning Text Amendment application (ZA22-0004) that is subject to approval by the City Council. Therefore, the City Council will take action on all three applications (Zoning Text Amendment, Conditional Use Permit, and Development Review Permit).

CEQA DETERMINATION

California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), which is known as the "common sense exemption," states that CEQA only applies to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. The proposed zoning text amendment to the Tracy Municipal Code is exempt from the California Environmental Quality Act (CEQA) because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)(3)). The proposed text amendment replacing the outdated definition of service station with fuel stations and car washes, but without

changing which zones these facilities are allowed in, will not result in any significant environmental impacts as these definitional changes do not approve any changes in facilities on the ground.

Section 15183 of the CEQA Guidelines provides that projects which are consistent with the development density established by existing Community Plan, General Plan, or Zoning policies for which an Environmental Impact Report was certified, shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. In this case, the project (Application Numbers CUP24-0006 and D22-0044) does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and there are no project specific significant effects which are peculiar to the project or its site, and therefore, in accordance with CEQA Guidelines Section 15183, no further environmental assessment is required for the proposed development project itself, the new car wash.

PUBLIC OUTREACH

This item was duly noticed in the local newspaper and public hearing notices were mailed to owners of property within 300 feet of the subject site.

PLANNING COMMISSION

The Planning Commission met and considered this agenda item on December 4, 2024, where they voted 5-0 to recommend that City Council approve the proposed applications and determine the project is categorically exempt from CEQA.

COORDINATION

This development application was reviewed by multiple City Departments, the South San Joaquin County Fire Authority, Tracy Delta Disposal, and the Air Pollution Control District as part of the City's normal application review process. This staff report was prepared by the Community and Economic Development Department's Planning Division.

FISCAL IMPACT

This agenda item will not require any expenditure of funds.

SUMMARY

Planning Commission and Staff recommend that the City Council conduct a public hearing, and upon its conclusion, take the following actions:

1. Introduce an ordinance approving a Zoning Text Amendment, Application Number ZA22-0004, to remove Tracy Municipal Code (TMC) Section 10.08.800, "Service Station" definition, add TMC Section 10.08.175, "Car Wash" definition, add TMC Section 10.08.375, "Fuel Station" definition, and amend TMC Section 10.08.1080, Permitted Uses, Use Group No. 44, to remove and replace "Automobile Service Stations" with "Car Washes" and "Fuel Stations";
2. Adopt a resolution (a) granting a Conditional Use Permit to allow a car wash located at 4600 S. Corral Hollow Road, Application Number CUP24-0006; and (b) approving a Development Review Permit for construction of a car wash facility and related site improvements located at 4600 S. Corral Hollow Road, Application Number D22-0044.

Prepared by: Genevieve Federighi, Senior Planner

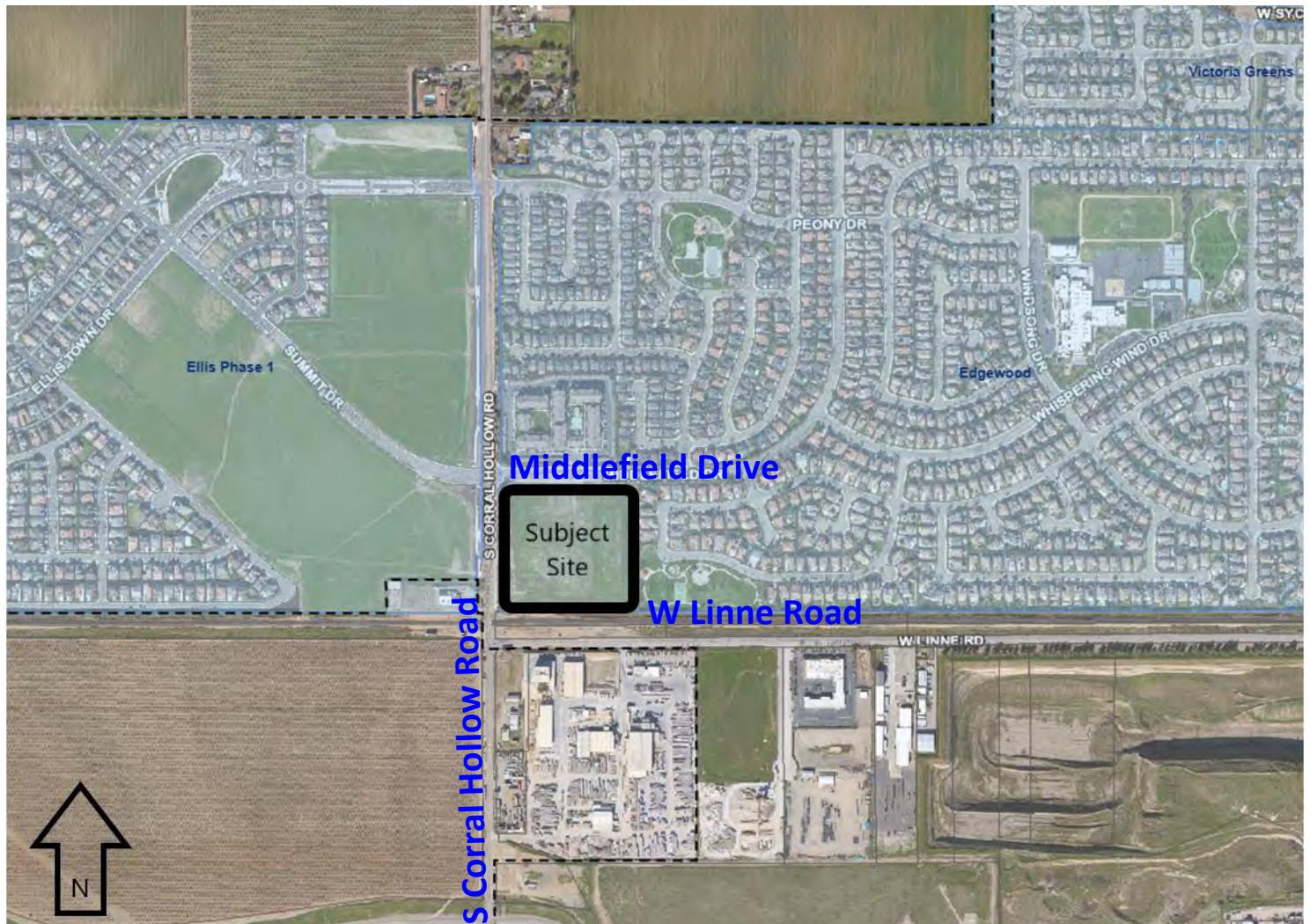
Reviewed by: Scott Claar, Planning Manager
Forrest Ebbs, Director of Community and Economic Development
Sara Castro, Director of Finance
Karin Schnaider, Assistant City Manager
Matthew Summers, Interim Assistant City Attorney

Approved by: Midori Lichtwardt, City Manager

ATTACHMENTS

Attachment A – Location Map
Attachment B – Project Plans
Attachment C – Ordinance for Zoning Text Amendment

Location Map



RECEIVED
 December 20, 2023
 City of Tracy
 Development Services

CORRAL HOLLOW CAR WASH

PROPOSED NEW DEVELOPMENT

CORRAL HOLLOW ROAD

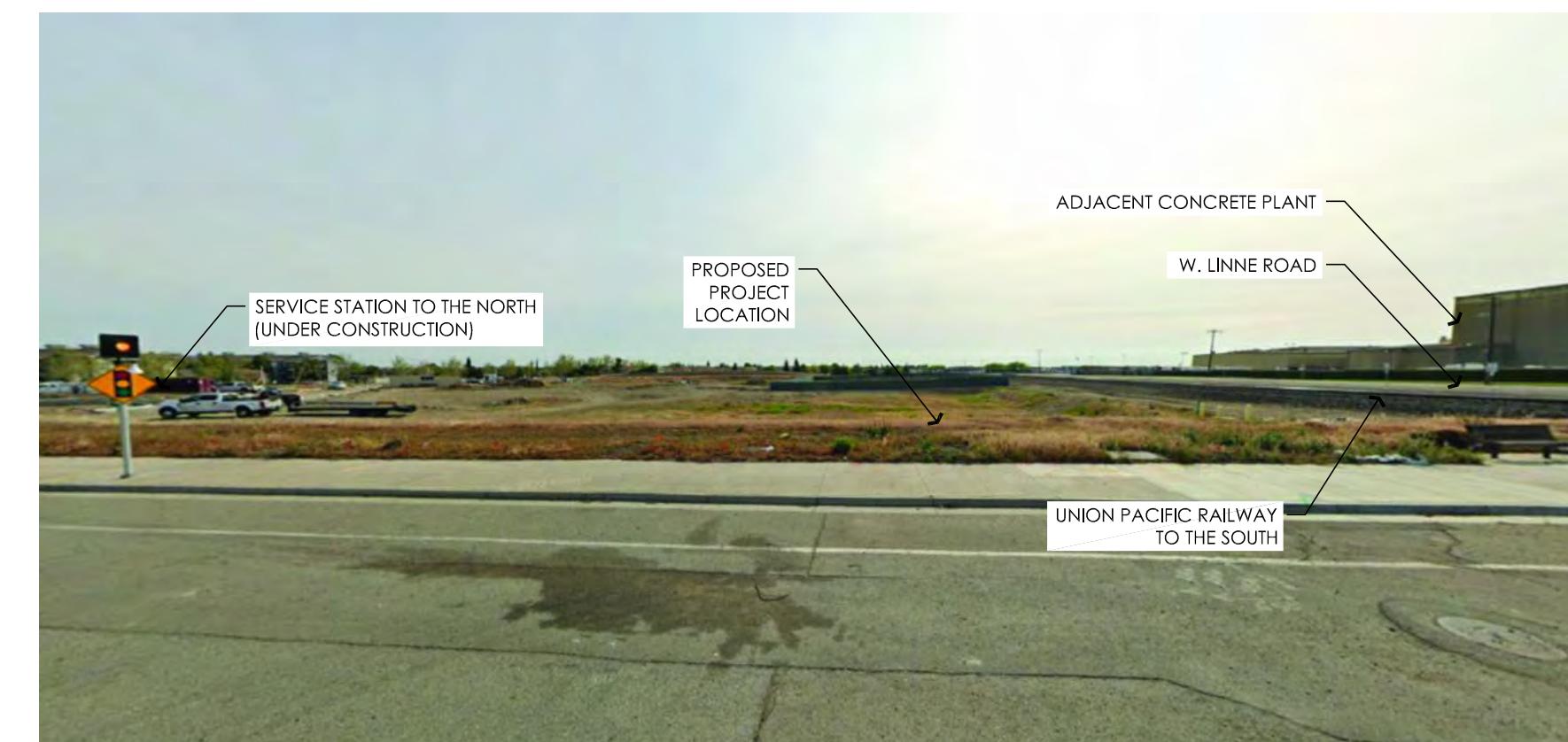
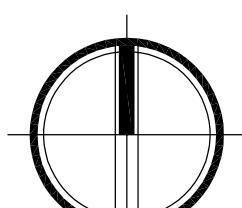
TRACY

CA



LOCATION MAP

NOT TO SCALE



EXISTING STREET VIEW TO THE EAST FROM CORRAL HOLLOW ROAD

NOT TO SCALE



EXISTING STREET VIEW TO THE NORTH FROM W. LINNE ROAD

NOT TO SCALE



EXISTING STREET VIEW TO THE SOUTH FROM MIDDLEFIELD DRIVE

NOT TO SCALE

**PROPOSED NEW
DEVELOPMENT:
CORRAL
HOLLOW
CAR WASH**

Corral Hollow Road
TRACY, CA.

PLANNING ■■■
ARCHITECTURE ■■■■■

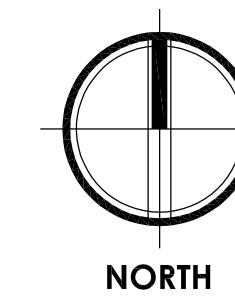
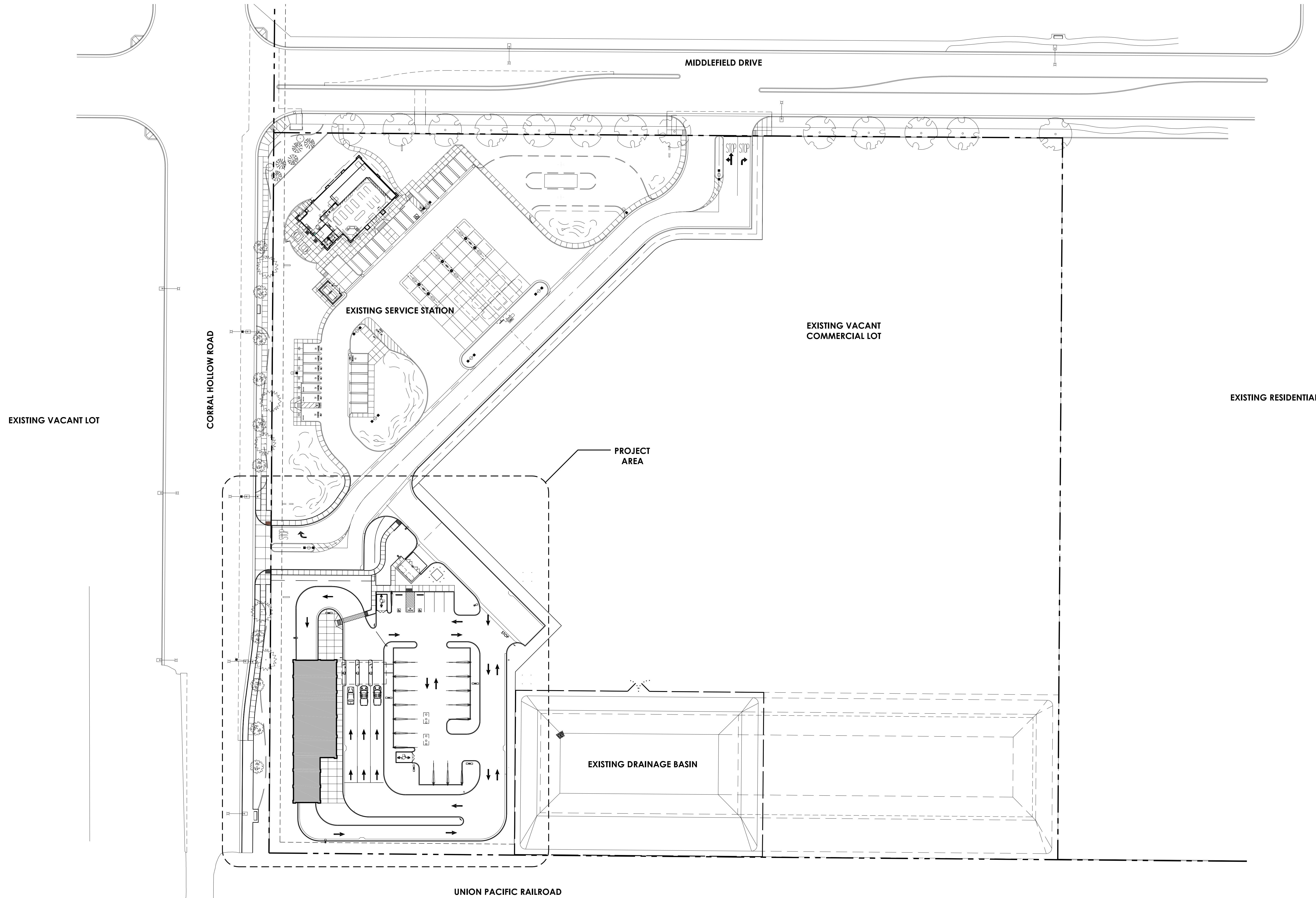
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A0



0 10' 20' 50'
SCALE: 1" = 40'-0"

PROPOSED NEW
DEVELOPMENT:
**CORRAL
HOLLOW
CAR WASH**

Corral Hollow Road
TRACY, CA.

PLANNING ■■■
ARCHITECTURE ■■■■■

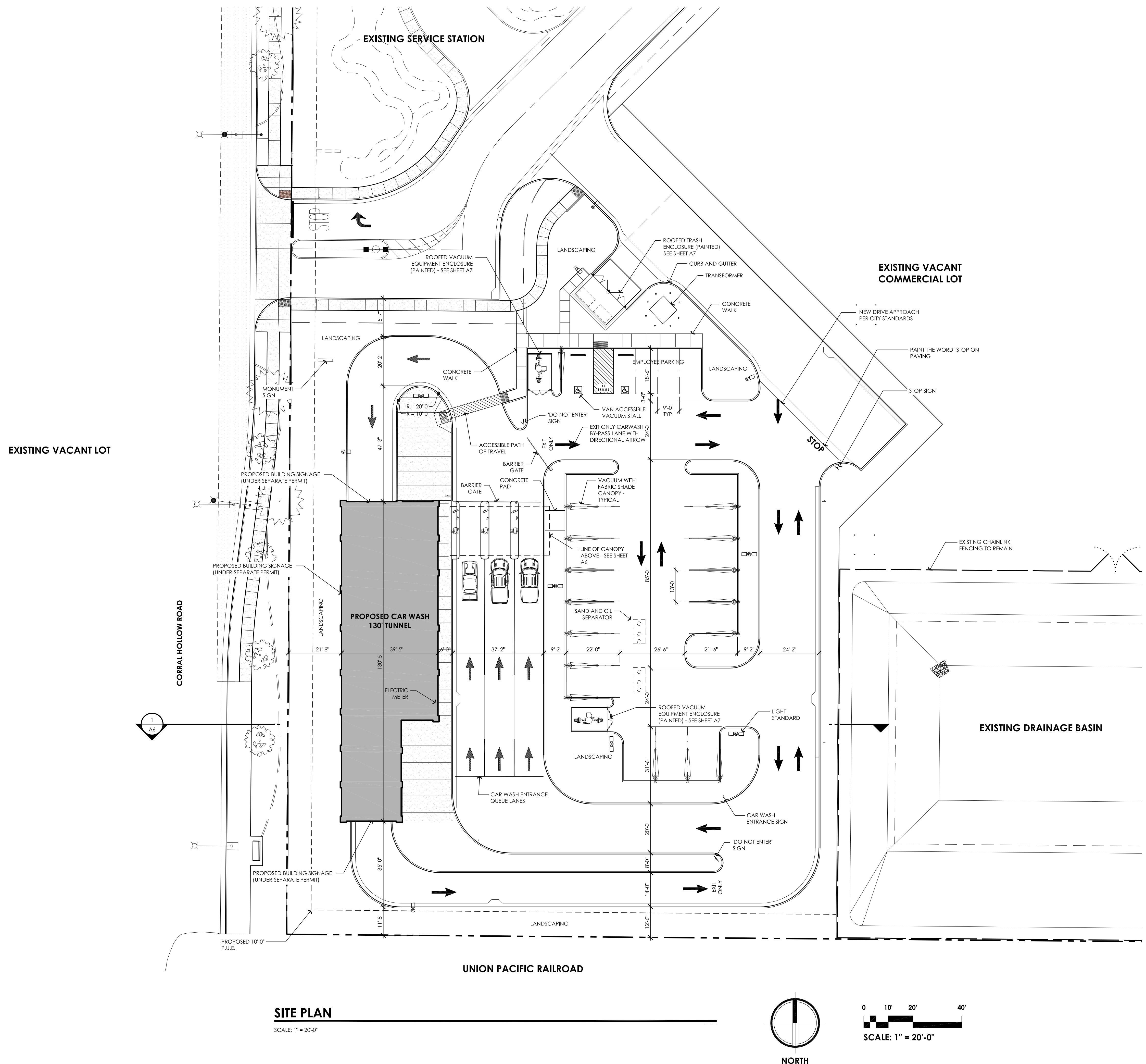
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A1



VICINITY MAP

CORRAL HOLLOW ROAD
TRACY, CA 95377

PROJECT LOCATION

CORRAL HOLLOW ROAD
TRACY, CA

PROJECT TEAM

OWNER:
HARPREET SINGH
(209) 676-0916
harmashiana@yahoo.com

SITE DATA

SITE DATA	
JURISDICTION:	CITY OF TRACY
ASSESSORS PARCEL NUMBER:	244-020-31
PROPERTY AREA:	56,427 SQ. FT. / 1.29 AC
BUILDING COVERAGE (OF PROJECT AREA):	4,455 SQ. FT. (7.8%)
LANDSCAPING COVERAGE:	+/-18137 SQ. FT. (32.1%)
CURRENT ZONE:	NS
GENERAL PLAN:	COMMERCIAL

BUILDING DATA

BUILDING DATA	
BUILDING AREA:	4,455 SQ. FT.
BUILDING USE:	CAR WASH FACILITY
BUILDING HEIGHT:	33'-6"
MAXIMUM BUILDING HEIGHT:	35' 0"

PARKING DATA

<u>PARKING DATA</u>	
<u>PARKING REQUIRED</u>	
EQUIPMENT ROOM 1:1000 785 SQ. FT. / 1000	1 STALLS
OFFICE 1:250 480 SQ. FT. / 250	2 STALLS

<u>PARKING PROVIDED</u>	
EMPLOYEE PARKING	
VAN ACCESSIBLE STALL	1 STALL
STANDARD	3 STALLS
<hr/>	
TOTAL PARKING PROVIDED	4 STALLS
 VACUUM STALLS:	
STANDARD VACUUM STALLS	15 STALLS
VAN ACCESSIBLE VACUUM STALL:	1 STALLS
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PROPOSED NEW DEVELOPMENT: **CORRAL HOLLOW CAR WASH**

Corral Hollow Road TRACY, CA.

PLANNING ■ ■ ■
ARCHITECTURE ■ ■ ■

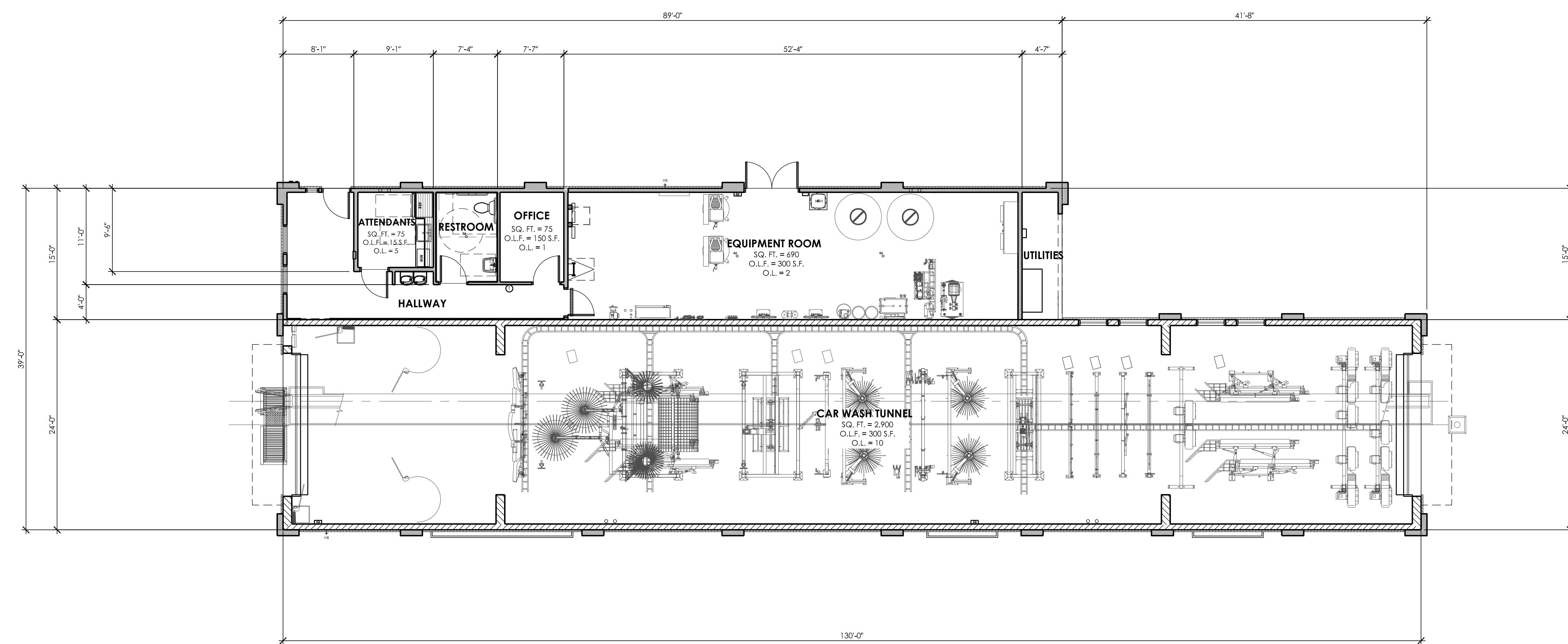
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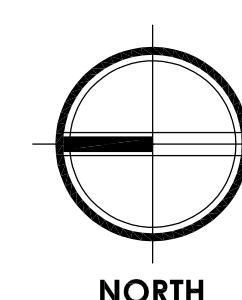
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FLOOR PLAN

SCALE: 1/8" = 1'-0"

FLOOR AREA 4455 S.F.



NORTH

**PROPOSED NEW
DEVELOPMENT:
CORRAL
HOLLOW
CAR WASH**

Corral Hollow Road
TRACY, CA.

PLANNING ■■■
ARCHITECTURE ■■■■■

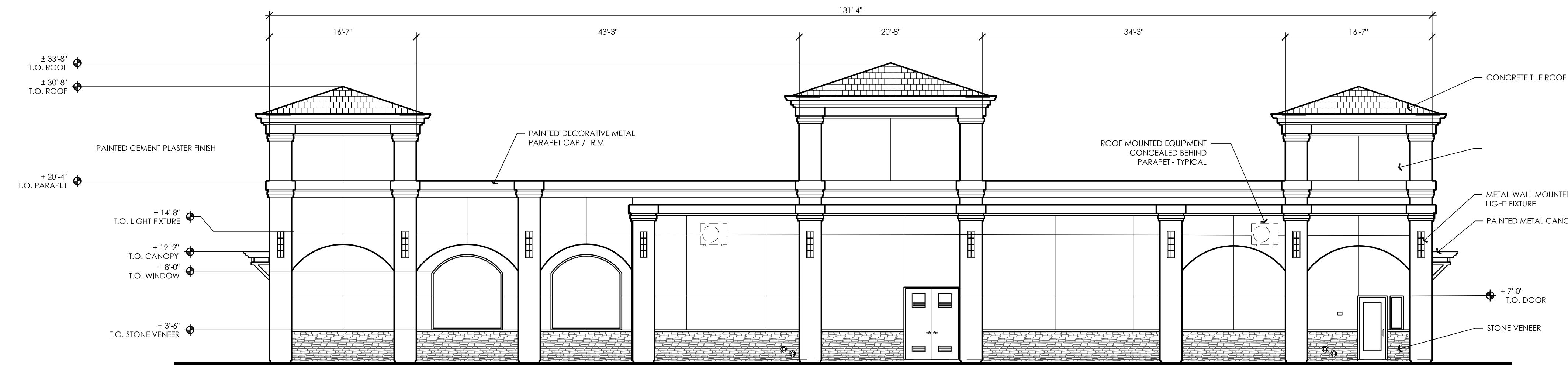
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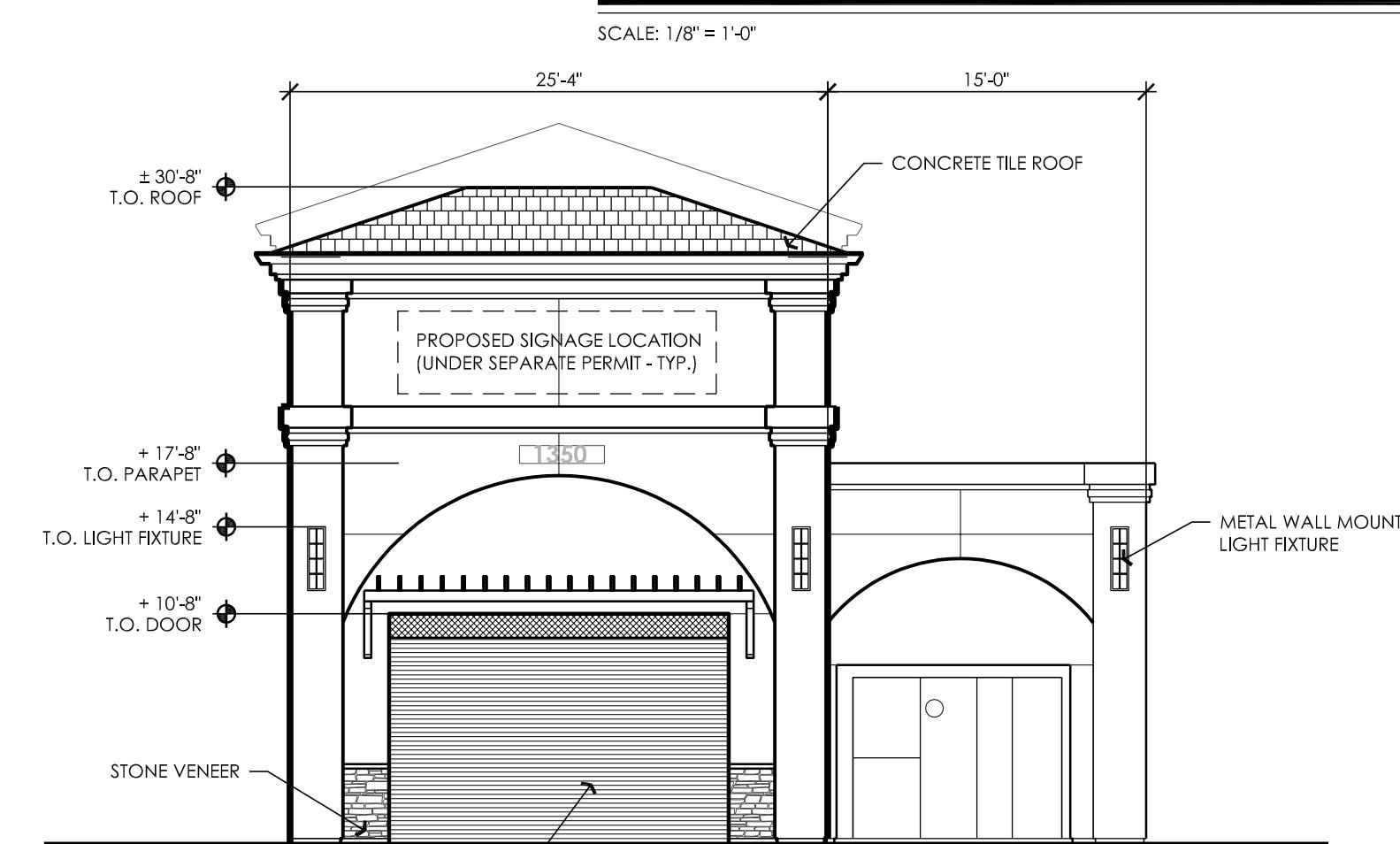
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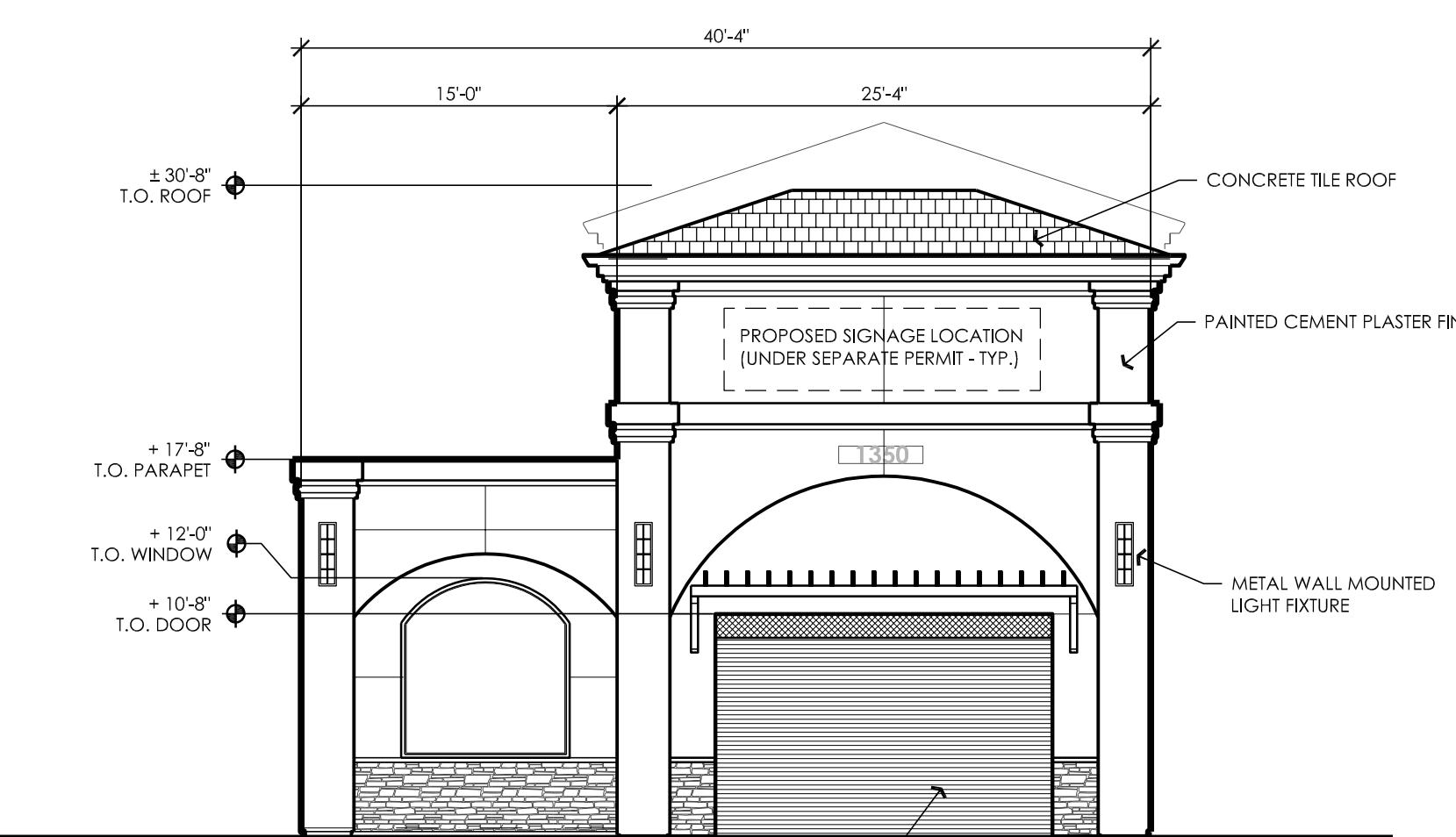
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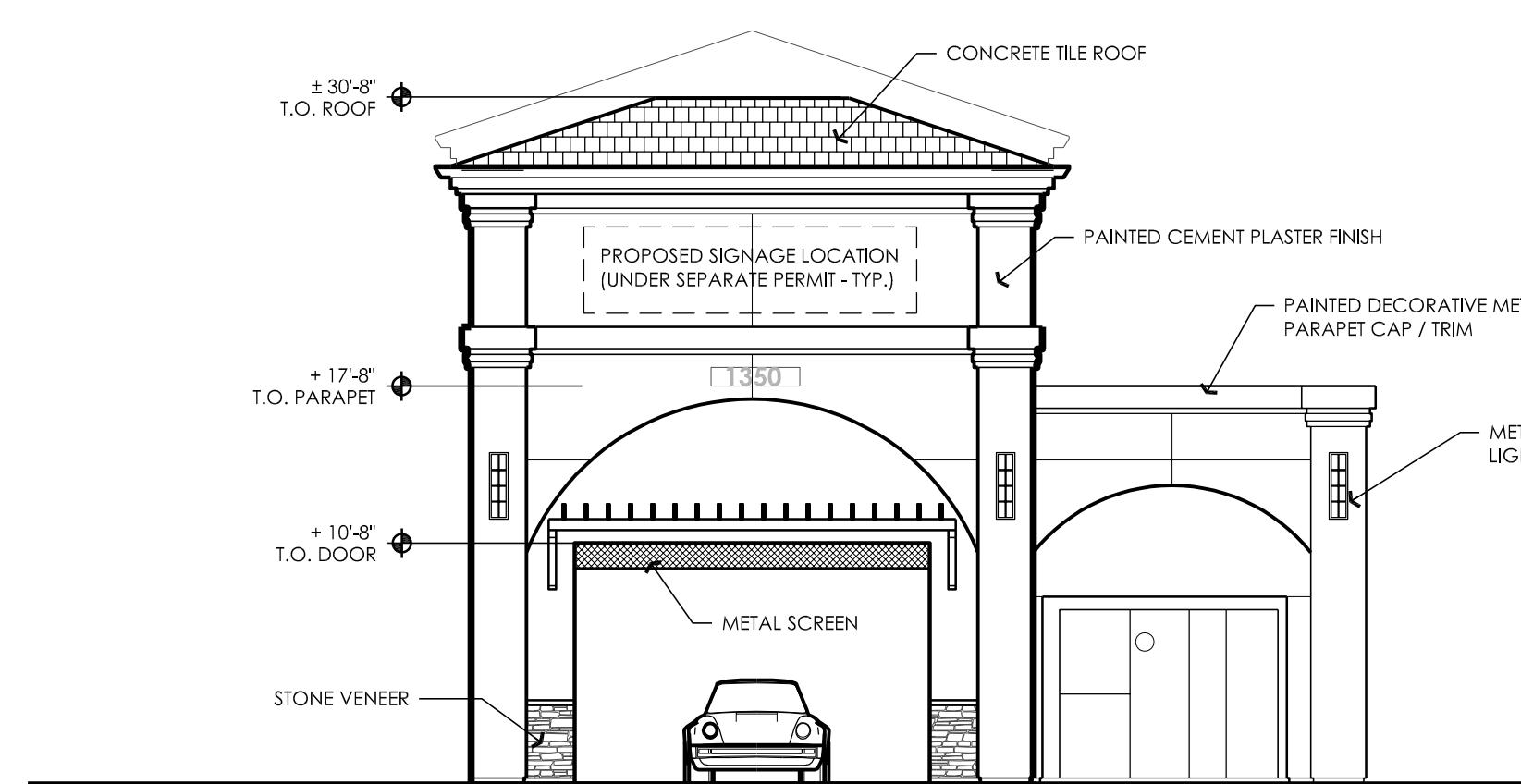
EAST ELEVATION



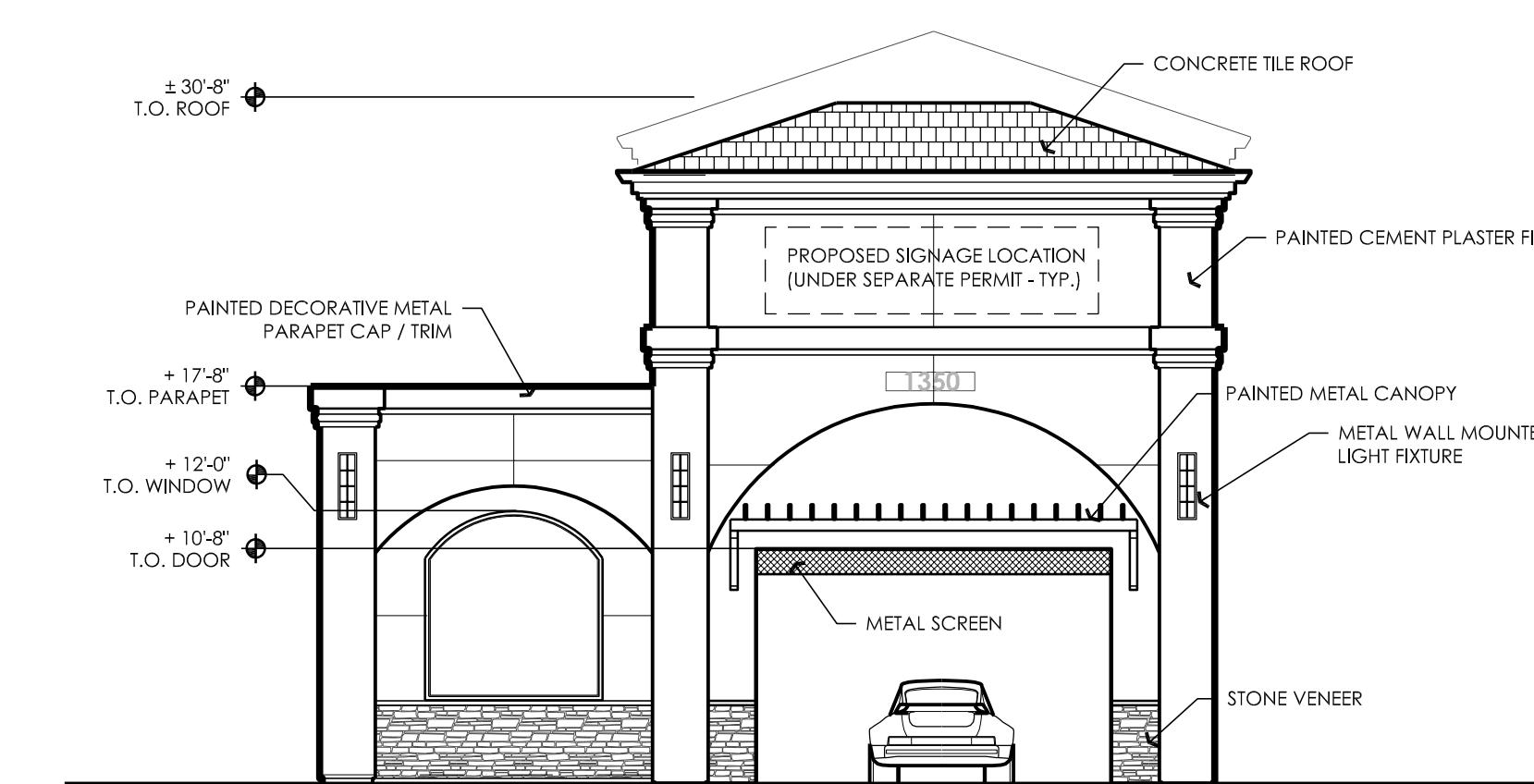
SOUTH ELEVATION



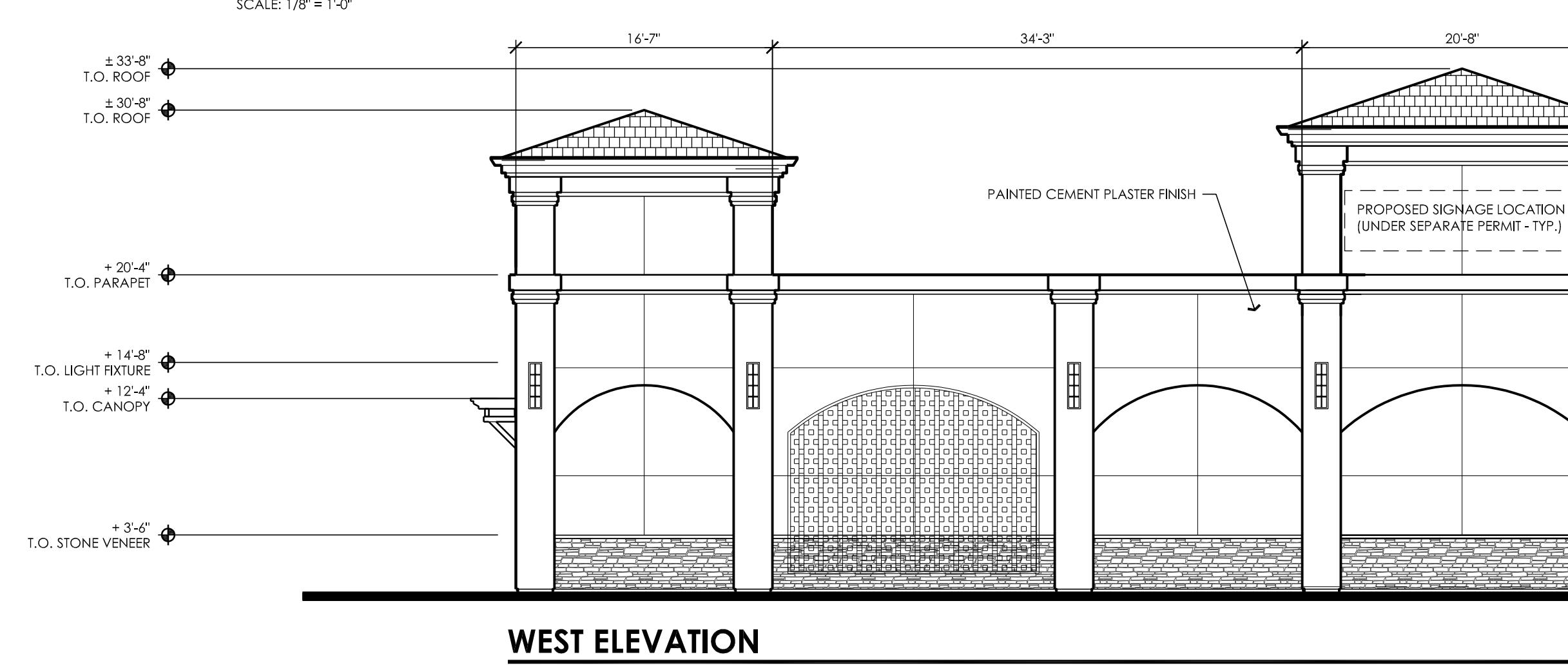
NORTH ELEVATION



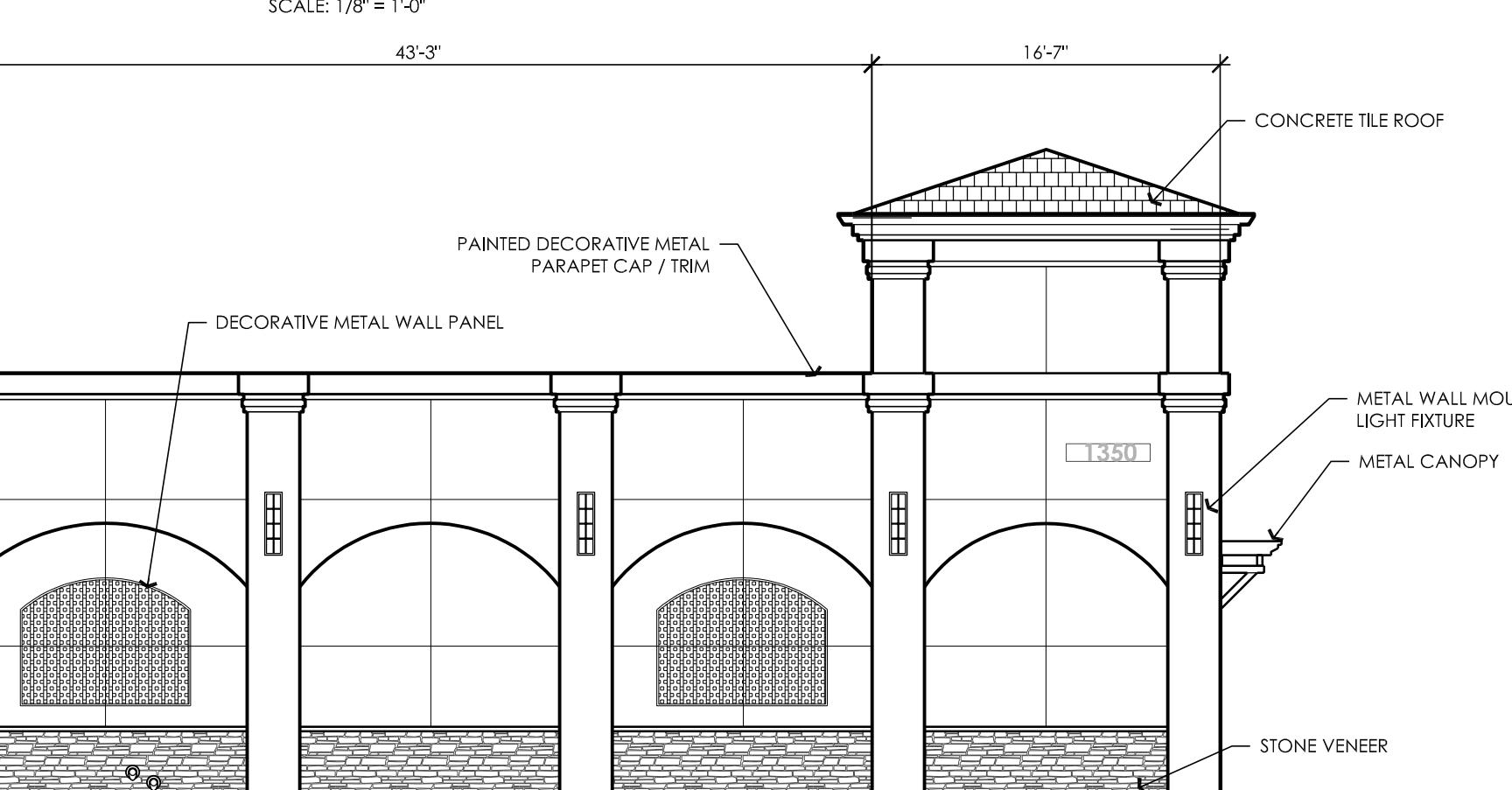
SOUTH ELEVATION - ROLL-UP DOOR OPEN



NORTH ELEVATION - ROLL-UP DOOR OPEN



WEST ELEVATION



**PROPOSED NEW
DEVELOPMENT:
CORRAL
HOLLOW
CAR WASH**

Corral Hollow Road
TRACY, CA.

PLANNING ■■■
ARCHITECTURE ■■■■■

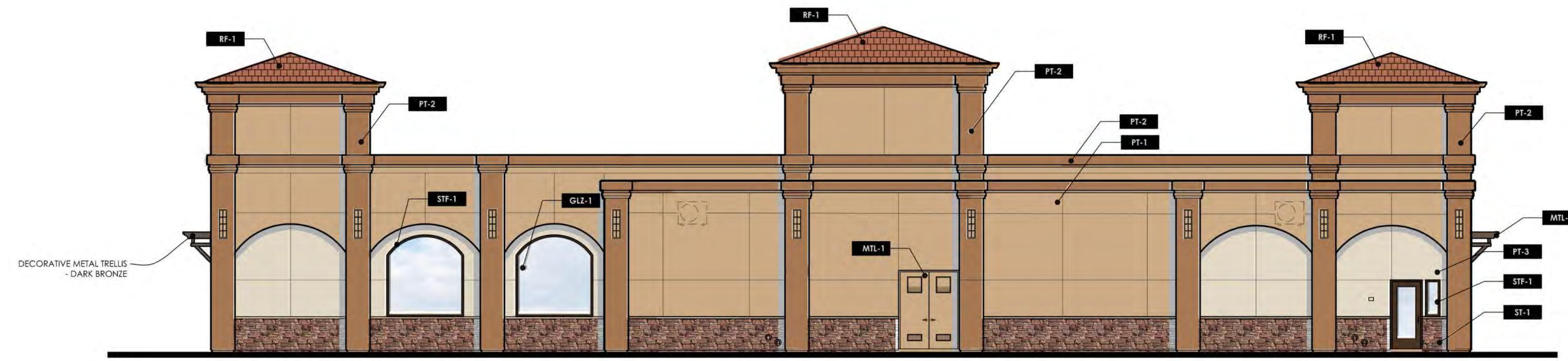
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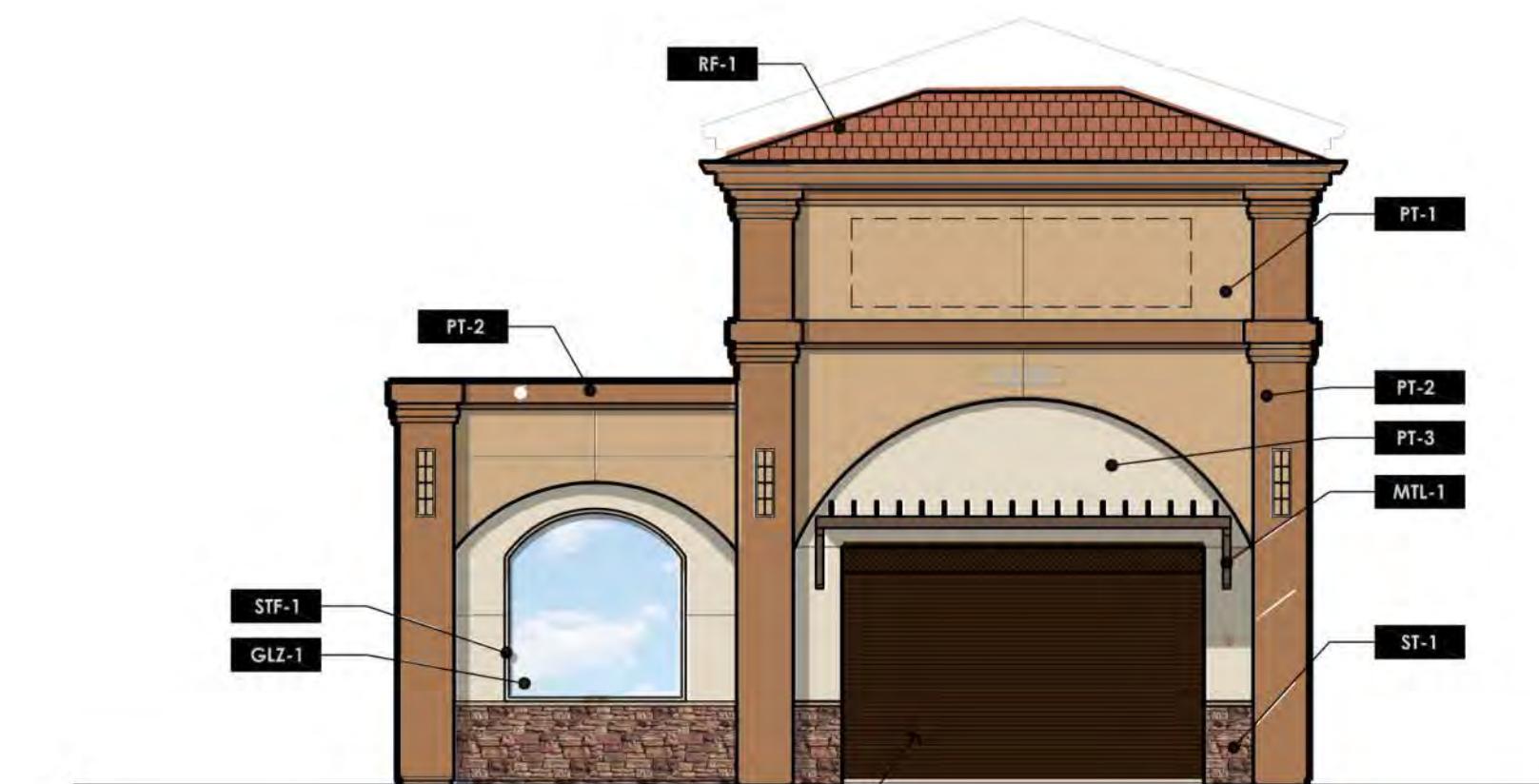
EAST ELEVATION

SCALE: 1/8" = 1'-0"



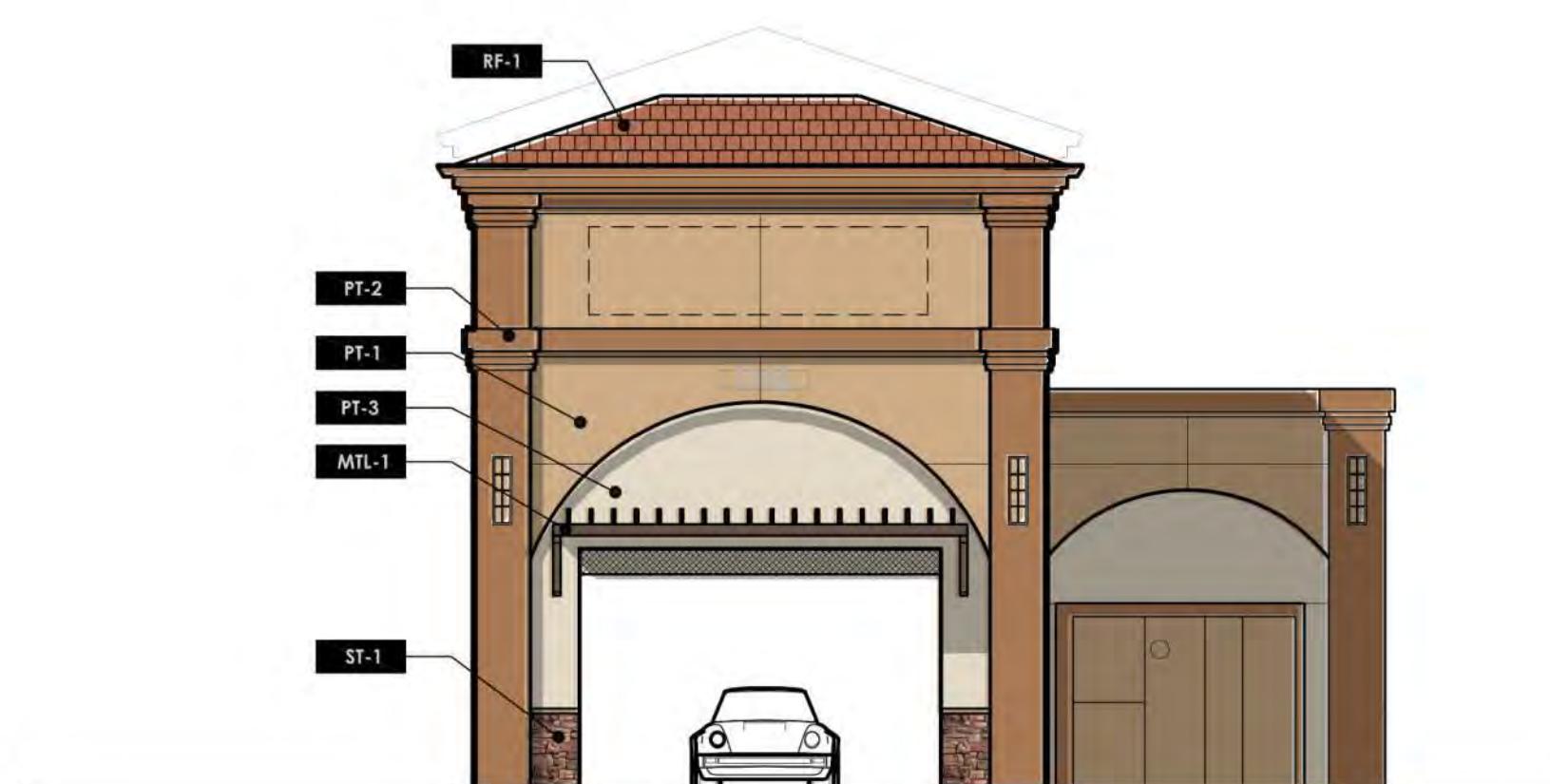
SOUTH ELEVATION

SCALE: 1/8" = 1'-0"



NORTH ELEVATION

SCALE: 1/8" = 1'-0"



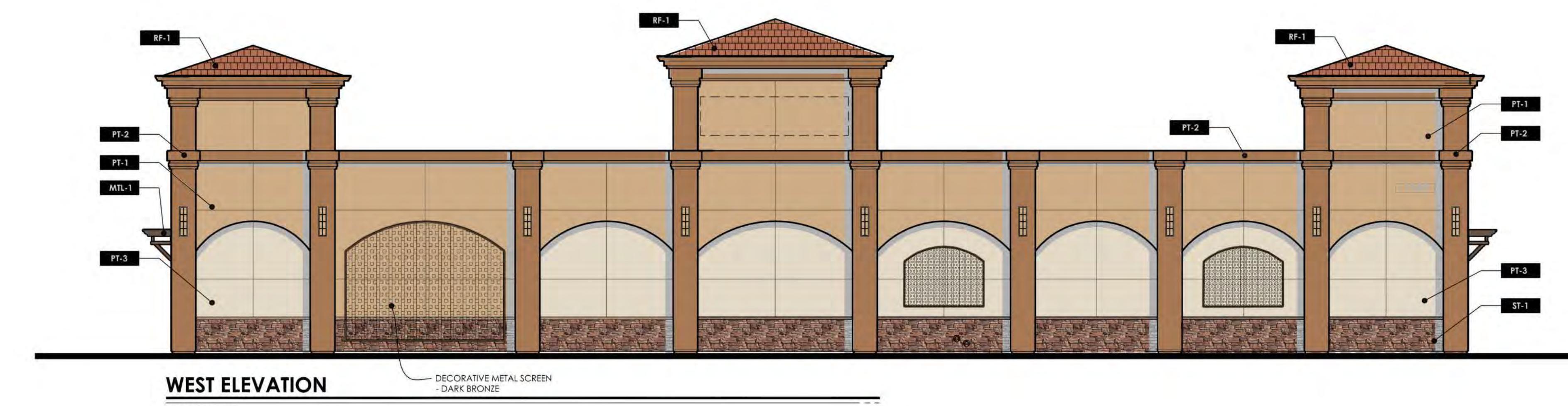
SOUTH ELEVATION - ROLL-UP DOOR OPEN

SCALE: 1/8" = 1'-0"



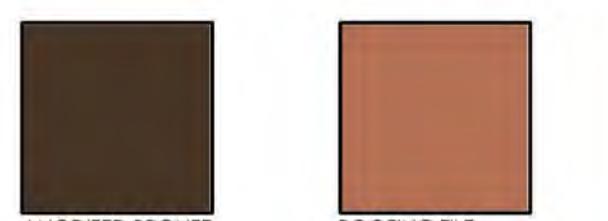
NORTH ELEVATION - ROLL-UP DOOR OPEN

SCALE: 1/8" = 1'-0"



WEST ELEVATION

SCALE: 1/8" = 1'-0"



FINISH LEGEND

- PT-1 SHERWIN WILLIAMS: TOTALLY TAN: SW6115
- PT-2 SHERWIN WILLIAMS: SMOKEY TOPAZ: SW6117
- PT-3 SHERWIN WILLIAMS: WARM WINTER: #SW9506
- ST-1 CORONADO STONE: OLD COUNTRY LEDGE: CARMEL MOUNTAIN
- MTL-1 SHERWIN WILLIAMS: VAN DYKE BROWN: SW7041
- MTL-2 ROLL-UP DOOR: COOKSON DOORS: BROWN
- GLZ-1 GLAZING
- STF-1 ALUMINUM STOREFRONT ASSEMBLY: ANODIZED BRONZE FINISH
- RF-1 CONCRETE ROOF TILE: EAGLE ROOFING: CAPISTRANO: SAN RAFAEL BLEND

PROPOSED NEW DEVELOPMENT: CORRAL HOLLOW CAR WASH

Corral Hollow Road
TRACY, CA.

PLANNING ■ ■ ■
ARCHITECTURE ■ ■ ■

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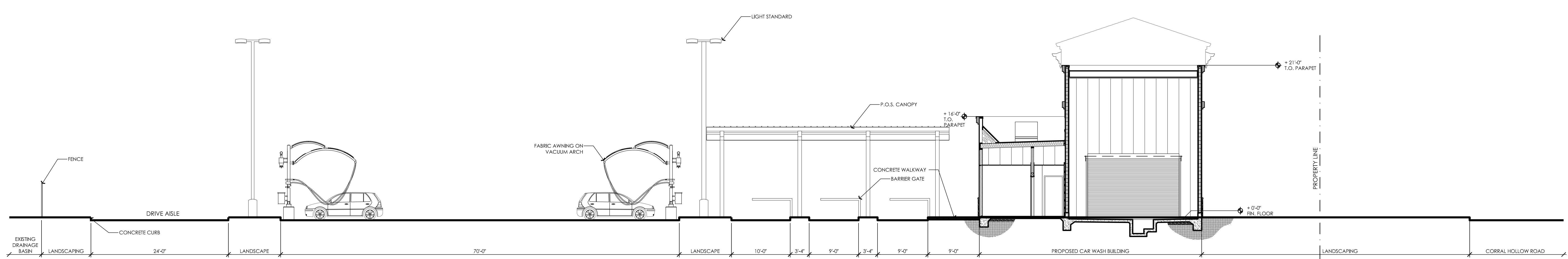
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GENERAL NOTES

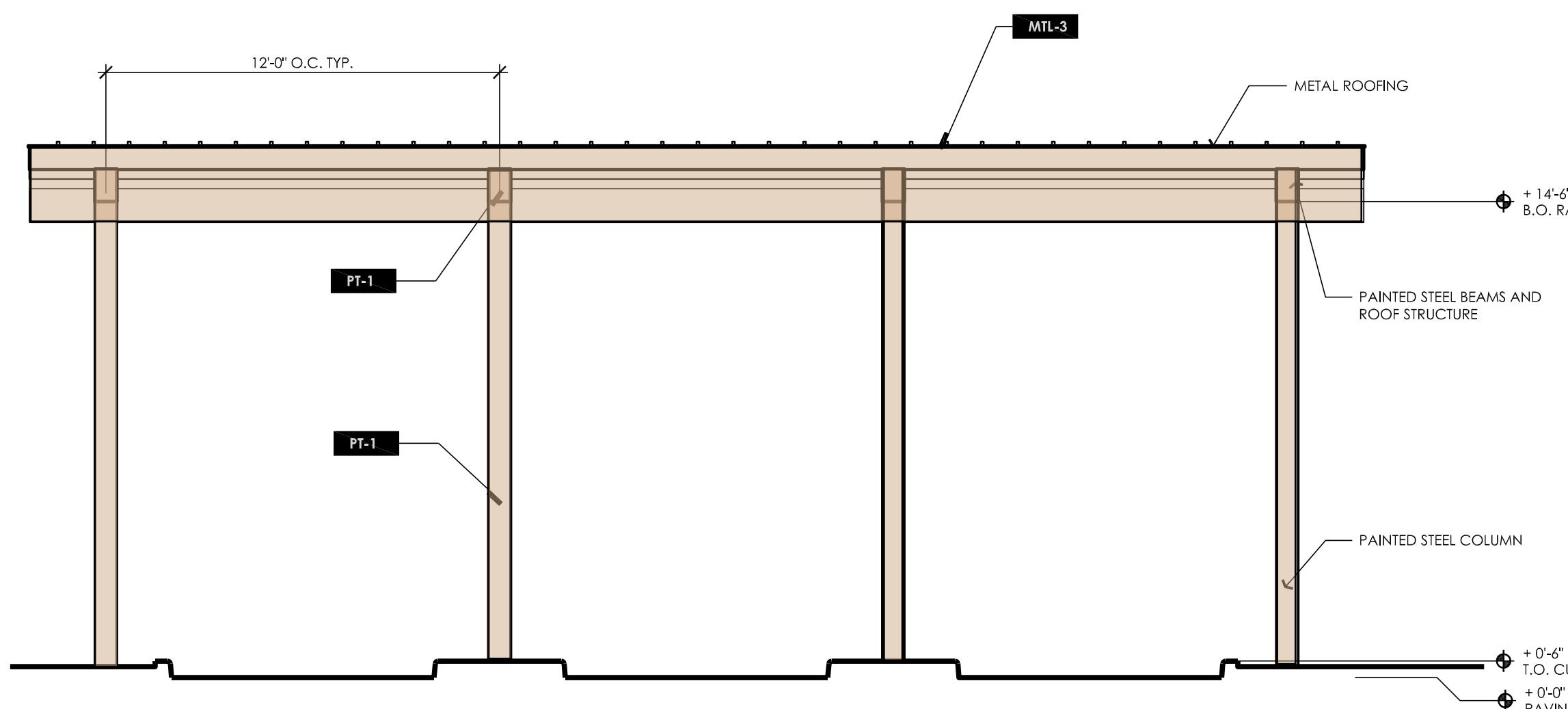
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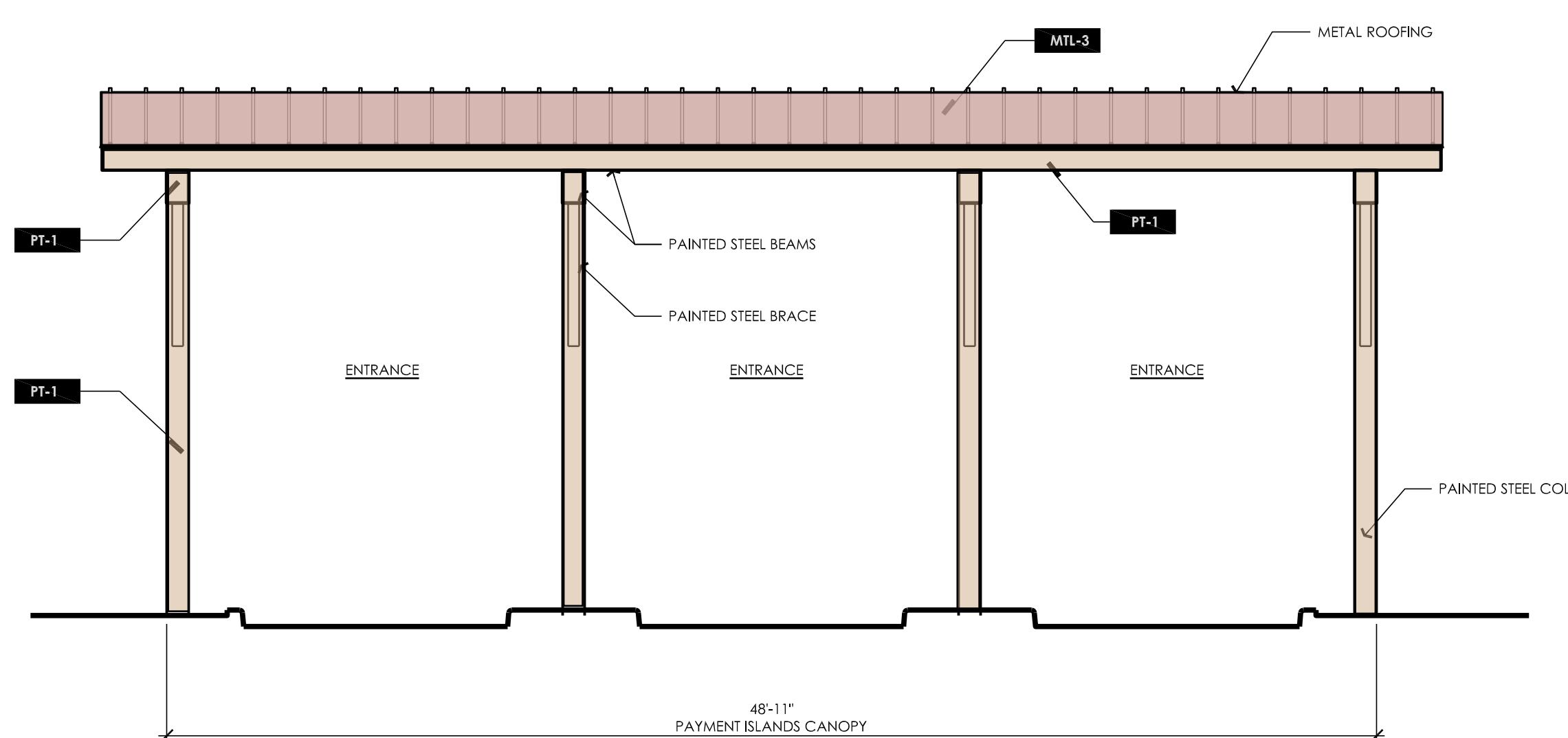
SITE SECTION 1

SCALE: 1/8" = 1'-0"



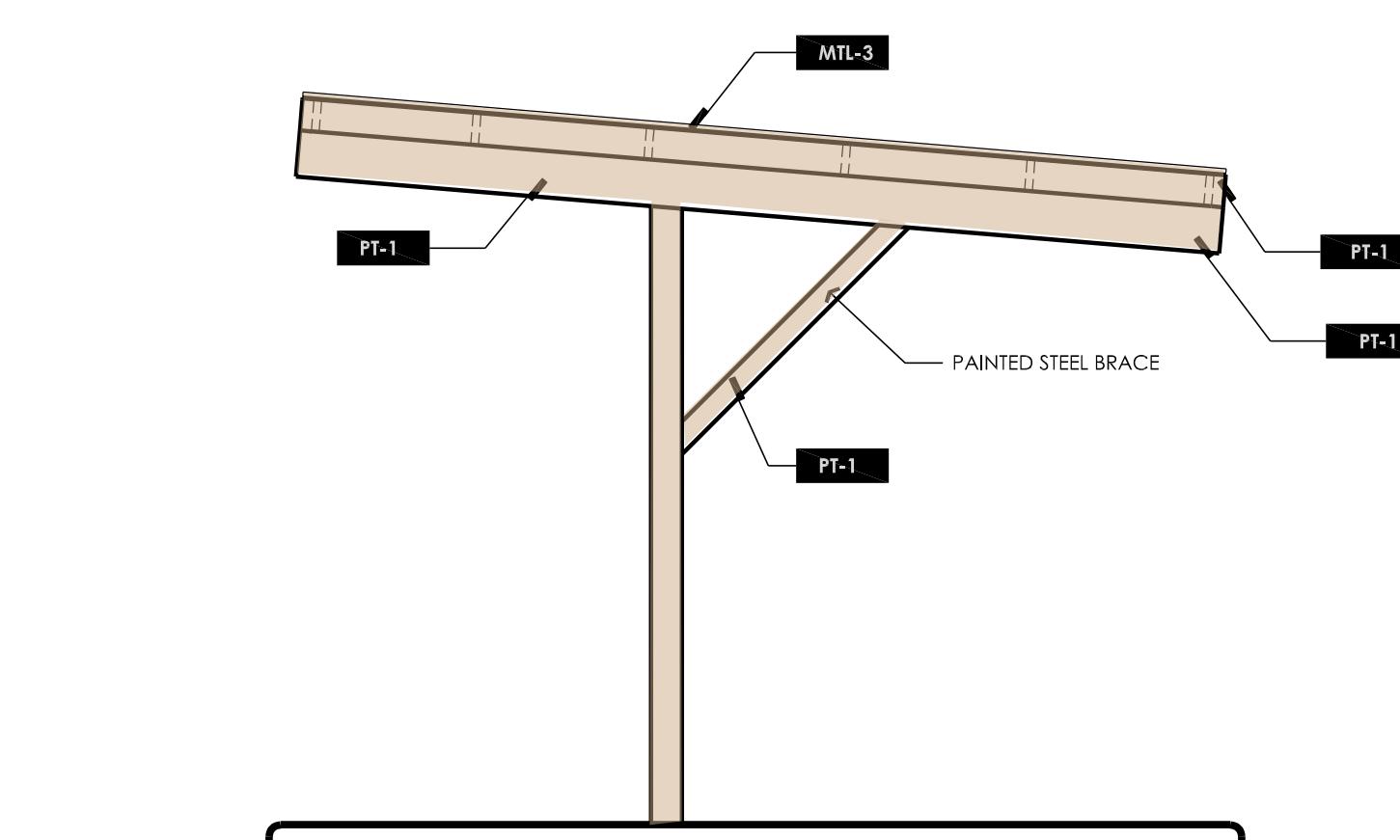
WEST ELEVATION - P.O.S. CANOPY

SCALE: 1/4" = 1'-0"



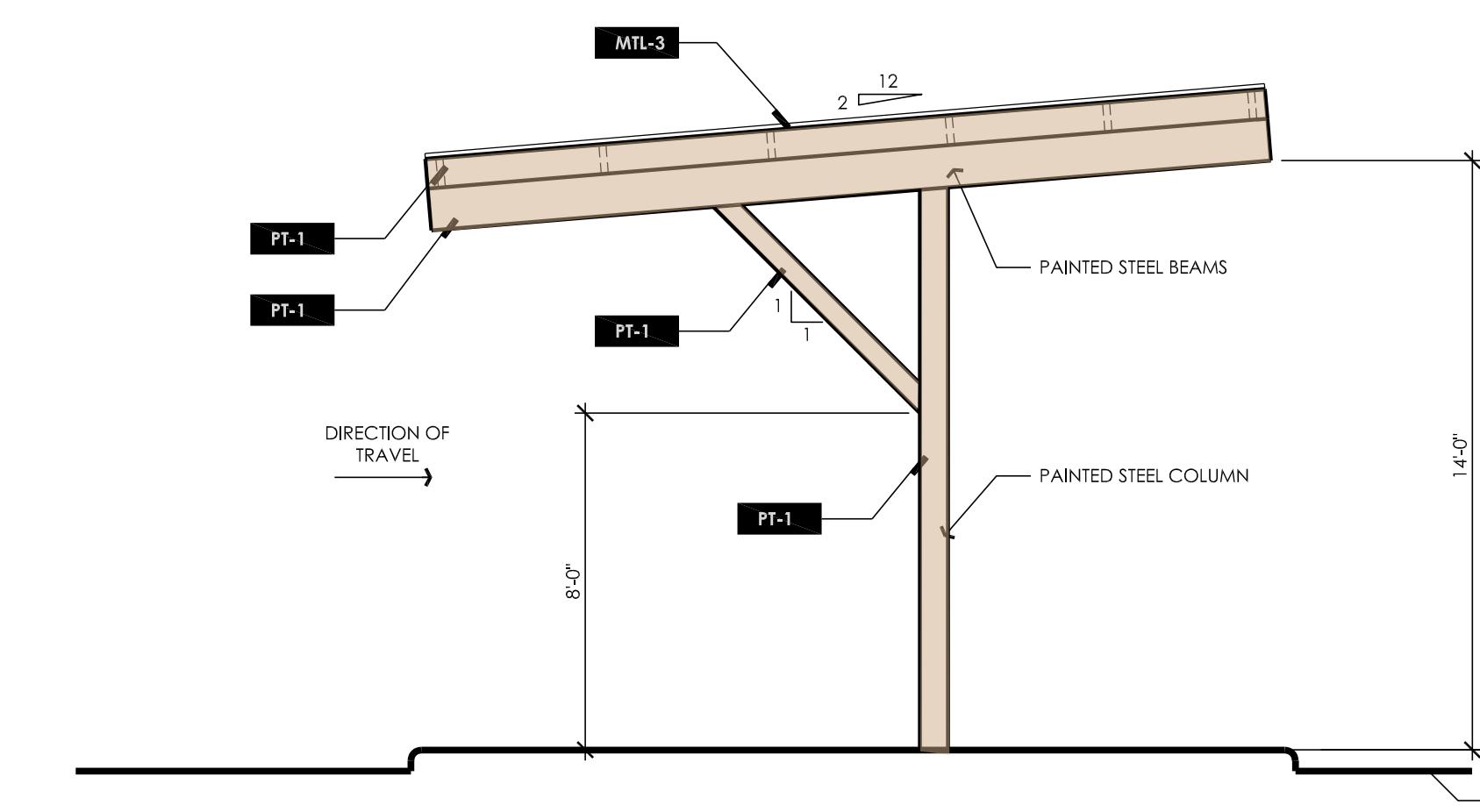
EAST ELEVATION - P.O.S. CANOPY

SCALE: 1/4" = 1'-0"



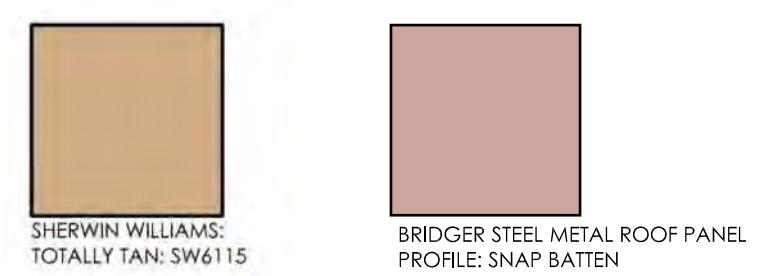
SOUTH ELEVATION - P.O.S. CANOPY

SCALE: 1/4" = 1'-0"



NORTH ELEVATION - P.O.S. CANOPY

SCALE: 1/4" = 1'-0"



FINISH LEGEND

PT-1 SHERWIN WILLIAMS: TOTALLY TAN: SW6115

MTL-3 BRIDGER STEEL METAL ROOF PANEL PROFILE: SNAP BATTEN COLOR: TERRA COTTA

PROPOSED NEW DEVELOPMENT:

CORRAL HOLLOW CAR WASH

Corral Hollow Road
TRACY, CA.

PLANNING ■■■
ARCHITECTURE ■■■■■

api

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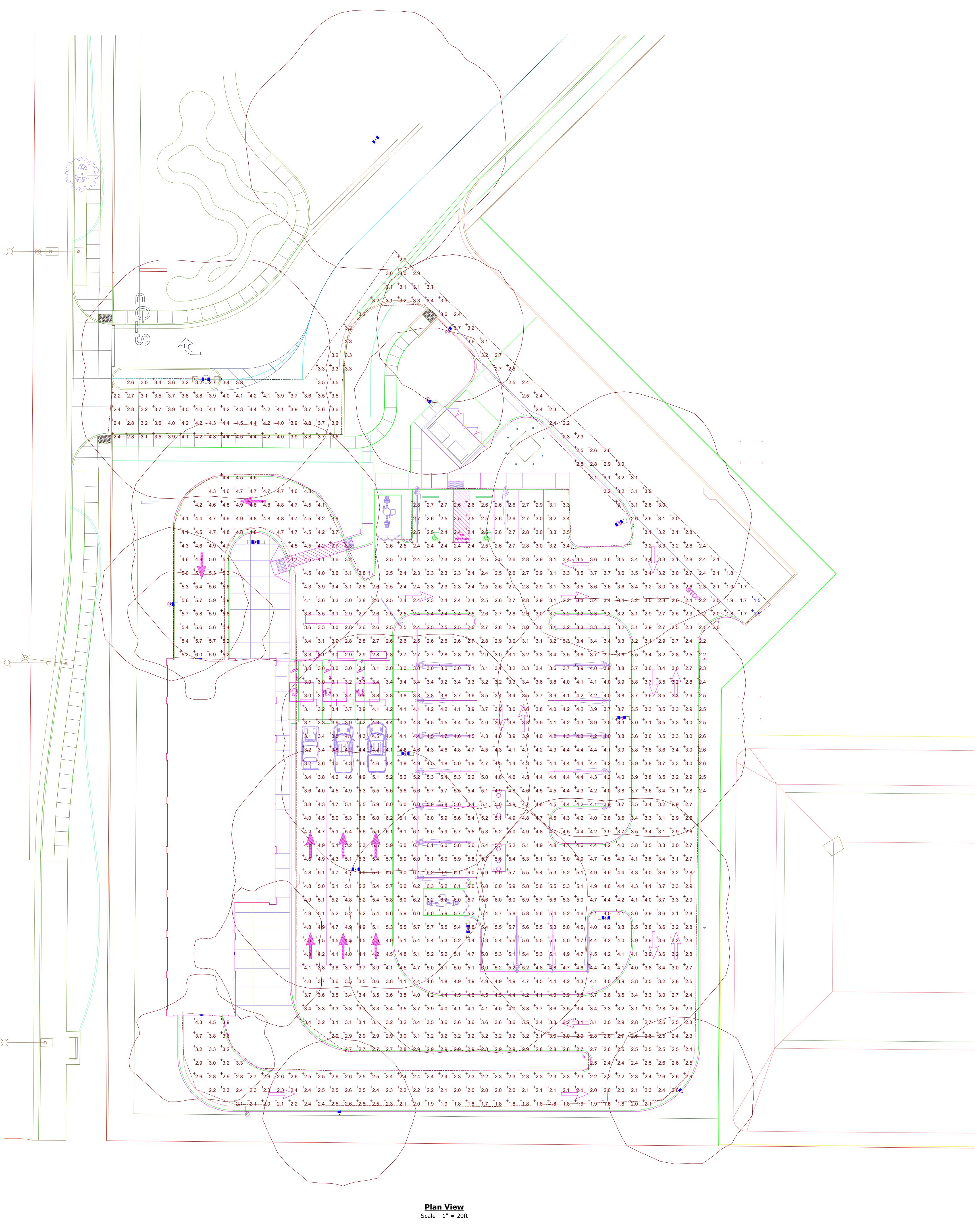
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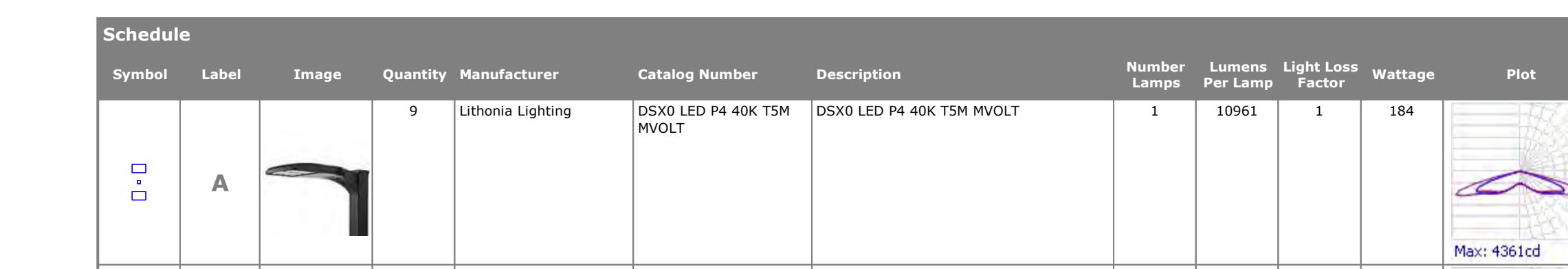
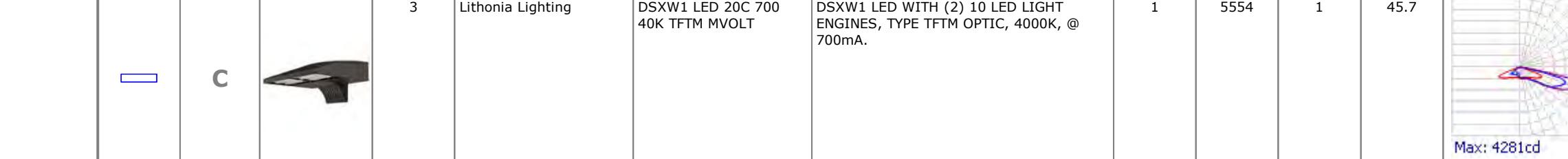
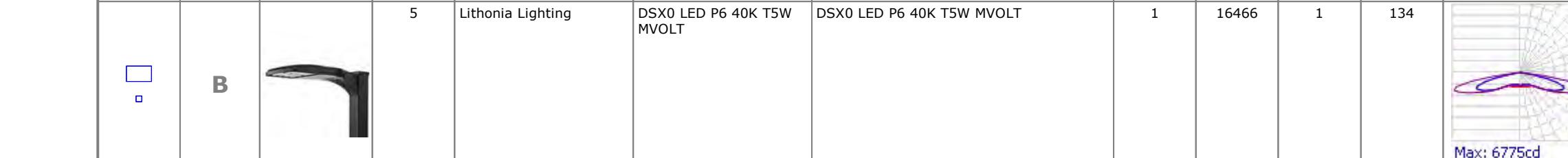
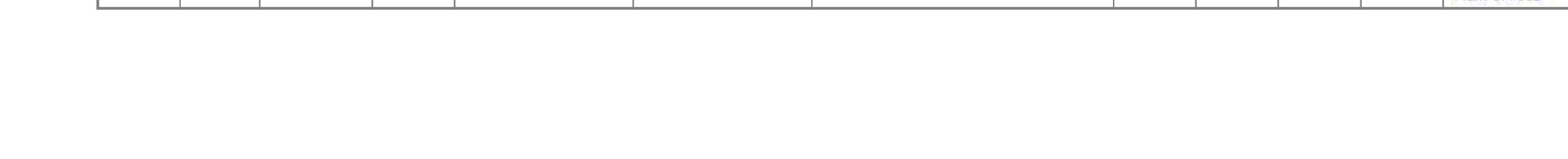
www.apiarc.com

GENERAL NOTES

1. COLORS INDICATED ON THIS DRAWING ARE APPROXIMATE AND WILL VARY DEPENDING ON PRINTER/MONITOR SOURCE.

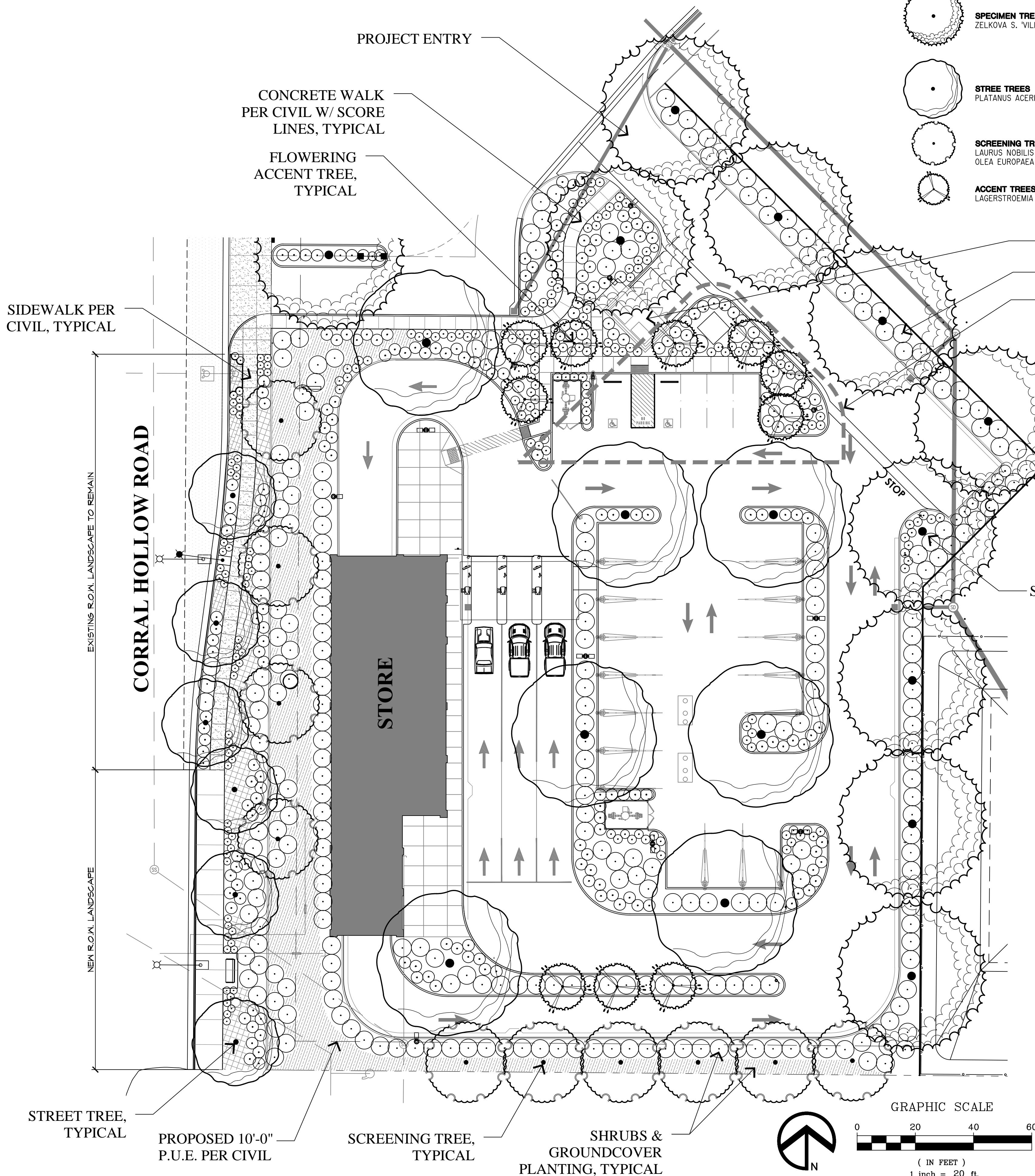
A6



Symbol	Label	Image	Quantity	Manufacturer	Catalog Number	Description	Number Lamps		Lumens Per Lamp	Light Loss Factor	Wattage	Plot
							1	10961				
□	A		9	Lithonia Lighting	DSXO LED P4 40K T5M MVOLT	DSXO LED P4 40K T5M MVOLT	1					
□	C		3	Lithonia Lighting	DSXW1 LED 20C 700 40K TFTM MVOLT	DSXW1 LED WITH (2) 10 LED LIGHT ENGINES, TYPE TFTM OPTIC, 4000K, @ 700mA.	1		5554	1	45.7	
□	B		5	Lithonia Lighting	DSXO LED P6 40K T5W MVOLT	DSXO LED P6 40K T5W MVOLT	1		16466	1	134	



Statistics						
Description	Symbol	Max/Min	Max	Min	Avg	Avg/Min
Calc Zone #2	+	4.2:1	6.3 fc	1.5 fc	3.7 fc	2.5:1



PRELIMINARY PROPOSED TREE PALETTE

BOTANICAL NAME	COMMON NAME	SIZE	WIDTH	WATER USE
SPECIMEN TREES				
ZELKOVA S. 'VILLAGE GREEN'	JAPANESE ZELKOVA	24" BOX	50' WIDE	MEDIUM
STREET TREES				
PLATANUS ACERIFOLIA 'BLOODGOOD'	LONDON PLANE TREE	24" BOX	50' WIDE	LOW
SCREENING TREES				
LARUS NOBILIS	SWEET BAY	24" BOX	30' WIDE	LOW
OLEA EUROPAEA 'SWAN HILL'	SWAN HILL OLIVE	24" BOX	30' WIDE	LOW
ACCENT TREES				
LAGERSTROEMIA I. 'TUSCARORA'	CREPE MYRTLE	24" BOX	15' WIDE	LOW



LAGERSTROEMIA TUSCARORA



CHONDROPELALUM TECTORUM



TULBAGHIA VIOLACEA



PHORMUM T.
'ATROPURPUREUM'



PHORMUM T.
'ATROPURPUREUM'



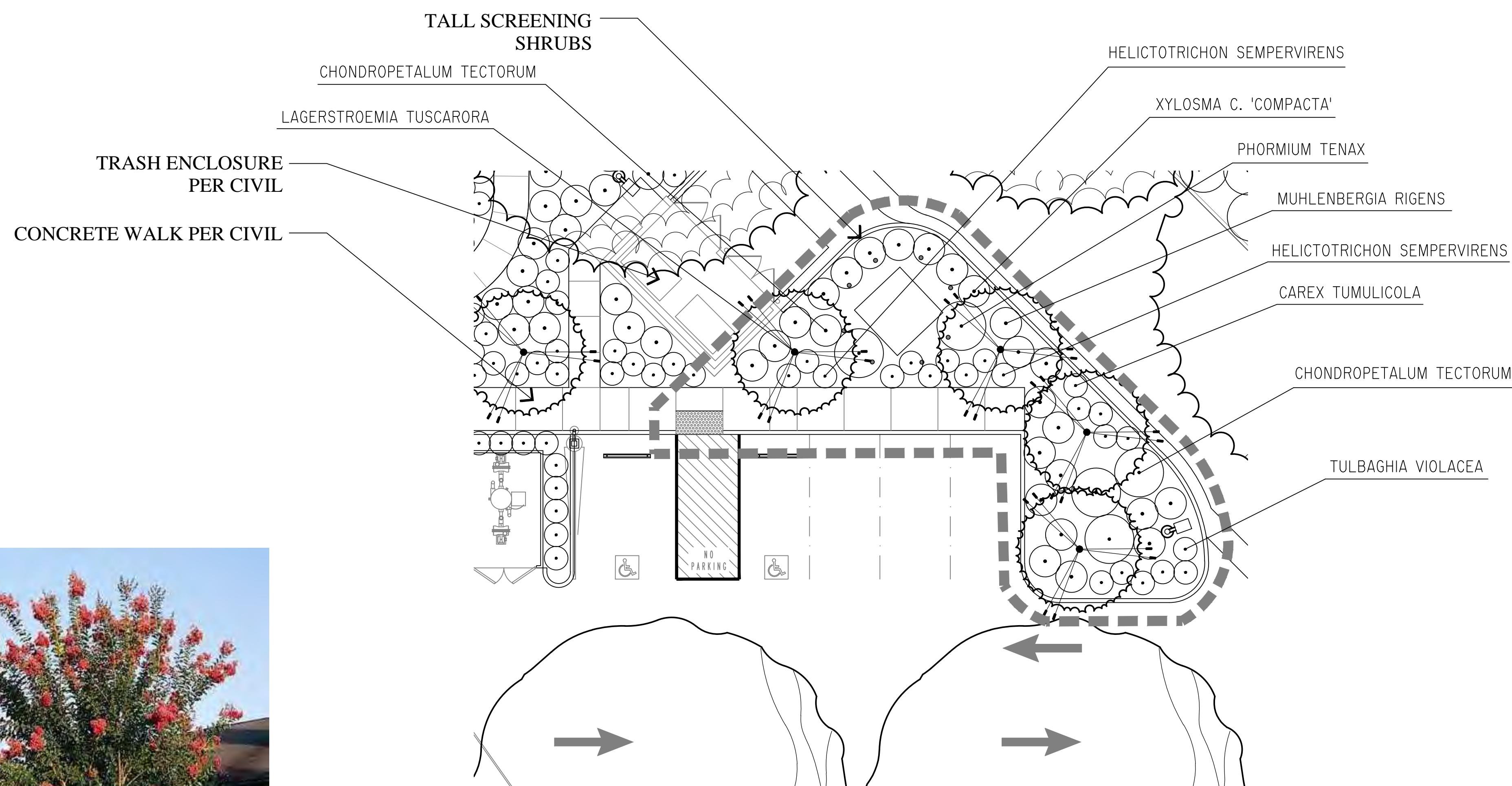
CAREX TUMULICOLA



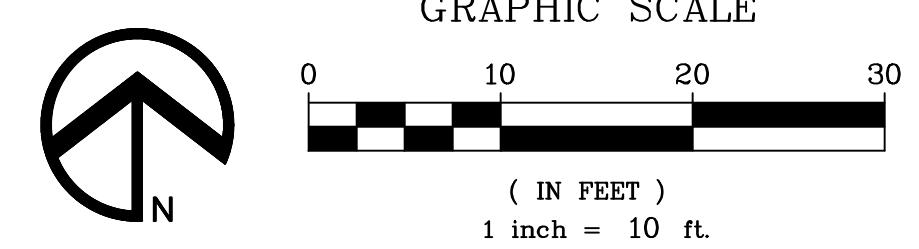
HELICTOTRICHON
SEMPERVIRENS



XYLOSMA C. 'COMPACTA'



PROPOSED LANDSCAPE AT ENTRY WALK



PRELIMINARY PROPOSED TREE PALETTE

BOTANICAL NAME	COMMON NAME	SIZE	WIDTH	WATER USE
SPECIMEN TREES				
ZELKOVA S. 'VILLAGE GREEN'	JAPANESE ZELKOVA	24" BOX	50' WIDE	EDIUM
STREET TREES				
PLATANUS ACERIFOLIA 'BLOODGOOD'	LONDON PLANE TREE	24" BOX	50' WIDE	LOW
SCREENING TREES				
LARUS NOBILIS	SWEET BAY	24" BOX	30' WIDE	LOW
OLEA EUROPAEA 'SWAN HILL'	SWAN HILL OLIVE	24" BOX	30' WIDE	LOW
ACCENT TREES				
LAGERSTROEMIA I. 'TUSCARORA'	CRAPÉ MYRTLE	24" BOX	15' WIDE	LOW

PRELIMINARY PROPOSED PLANT PALETTE

BOTANICAL NAME	COMMON NAME	WATER USE	SIZE
SHRUBS & VINES			
ACACIA REDOLENS	PROSTRATE ACACIA	LOW	5 GAL
BUDLEIA DAVIDII	BUTTERFLY BUSH	MED	5 GAL
CAREX MULICOLA	FOOTBALL SEDGE	LOW	5 GAL
CHONDROPELALUM TECTORUM	CAPE RUSH	LOW	5 GAL
CISTUS CRISPUS	CRISP ROSEROSE	LOW	5 GAL
DIETES BIGELOVII	FORTNIGHT LILY	LOW	5 GAL
ERICON KARVINSKIANUS	SANTA BARBARA DAISY	LOW	5 GAL
GREVILLEA 'NOELII'	WOOLY Grevillea	LOW	5 GAL
HELIOTRICHON SEMPERVIRENS	BLUE OAT GRASS	MED	5 GAL
KNIPHOFIA UVARIA	RED-HOT POKER	LOW	5 GAL
LANTANA MONTEVIDENSIS	TRAILING LANTANA	LOW	5 GAL
LAVANDULA A. 'MUNSTEAD'	ENGLISH LAVENDER	LOW	5 GAL
LAVATERA MARITIMA	SEA MALLOW	LOW	5 GAL
LEPTOSPERMUM S. 'SNOW WHITE'	NEW ZEALAND TEA TREE	MED	5 GAL
LOROPETALUM CHINENSE	CHINESE FRINGE FLOWER	MED	5 GAL
LIMONUM PEREZII	SEA LAVENDER	LOW	5 GAL
MIMULUS 'VALENTINE'	MONKEY FLOWER	LOW	5 GAL
MUHLENBERGIA RIGENS	DEER GRASS	LOW	5 GAL
MYRTUS COMMUNIS 'COMPACTA'	MYRTLE	LOW	5 GAL
OLEA E. 'LITTLE OLIE'	DWARF OLIVE	LOW	5 GAL
PENSTEMON HET. 'MARGARITA BOP'	FOOTHILL PENSTEMON	LOW	5 GAL
PHORMIUM TENAX	NEW ZEALAND FLAX	LOW	5 GAL
RHAMNUS CALIFORNICA	COFFEEBERRY	LOW	5 GAL
RHAPHIOLEPIS UMBELLATA MINOR	YEDDA HAWTHORN	LOW	5 GAL
ROSMARINUS O. 'TUSCAN BLUE'	ROSEMARY	LOW	5 GAL
SALVIA GREGGII 'ALBA'	AUTUMN SAGE	LOW	5 GAL
TULBAGHIA VIOLACEA	SOCIETY GARLIC	LOW	5 GAL
WESTRINGIA 'WNYABBE HIGHLIGHT'	WESTRINGIA	LOW	5 GAL
XYLOSMA C. 'COMPACTA'	COMPACT XYLOSMA	LOW	5 GAL

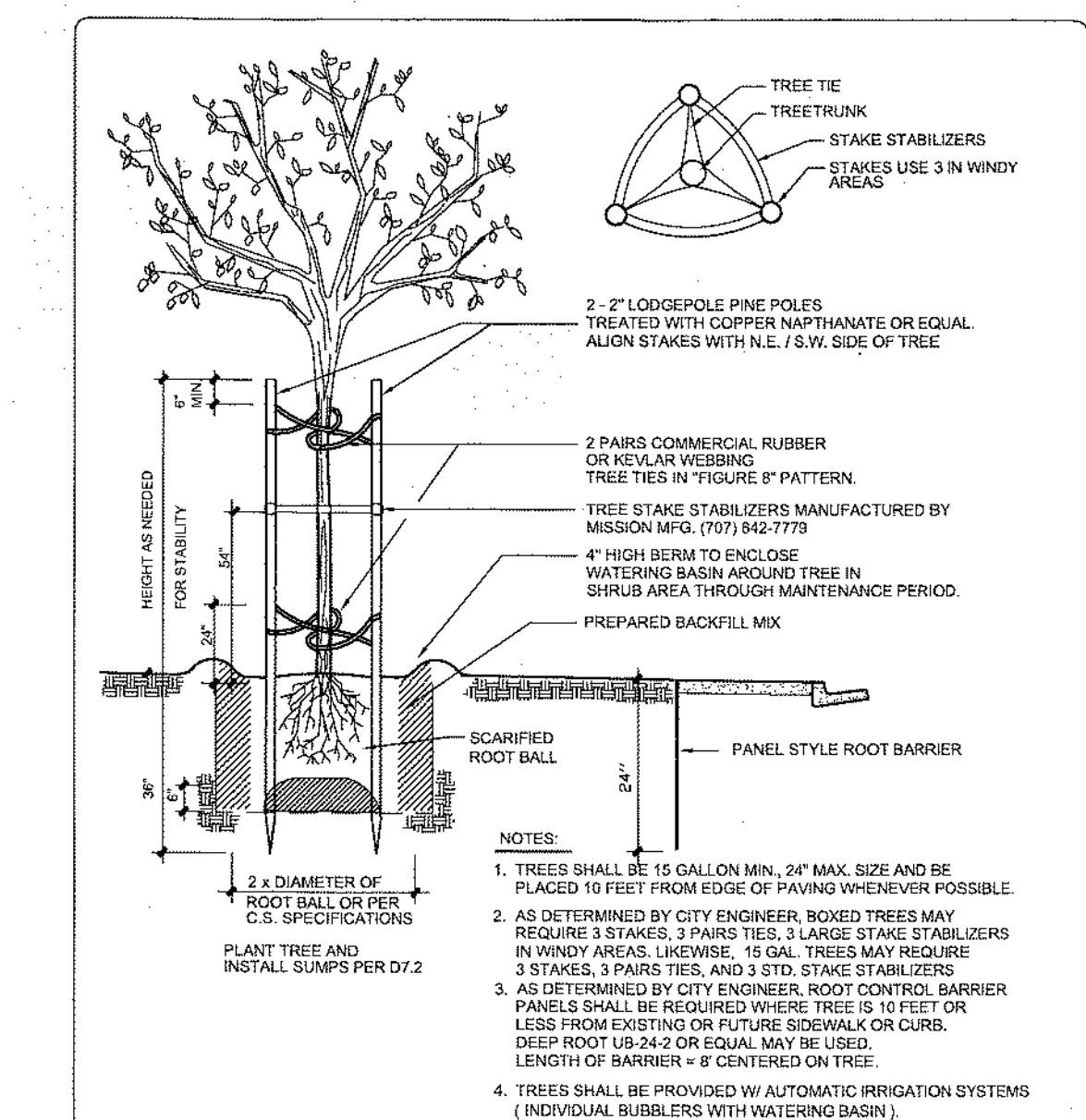
GROUNDCOVERS

APETIA 'RED APPLE'	NO COMMON NAME	LOW
I GALLON @ 60" O.C.		
MYOPORUM PARVIFOLIUM	MYOPORUM	LOW
I GALLON @ 60" O.C.		
ROSMARINUS O. 'PROSTRATUS'	ROSEMARY	LOW
I GALLON @ 60" O.C.		

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DRAWING RELEASE
 PRELIMINARY REVIEW 09/15/22
 INITIAL PLAN REVIEW 00/00/00
 ADDITIONAL PLAN REVIEW 00/00/00
 PERMIT ISSUANCE REVIEW 00/00/00
 FINAL CONSTRUCTION 00/00/00

EDgewood Commercial Center
Phase 2
Corral Hollow Car Wash
a. Corral Hollow Road
Tracy, California
PRELIMINARY LANDSCAPE ENLARGEMENT PLAN



REVIEWED BY: <i>John</i>	DETAIL No: D 7.4.1
CITY ENGINEER: <i>John</i>	Sheet 1 of 1
Res No: 2009-253	RCE: 37186
Rev: <i>Rev</i>	Rev: <i>Rev</i>
Rev: <i>Rev</i>	Rev: <i>Rev</i>

PARKS AND STREETSCAPE STANDARD PLANS

USA NORTH 81
Call 800 Before You Dig

DATE: 12/08/23
DRAWN BY: LC
CHECKED BY: AMC
JOB NO: 22.038
L2
OF 5 SHEETS

Schack & Company, Inc.
Professional Landscape Design Group
1025 Corral Hollow Road, Tracy, California 95376
Phone: (209) 833-1488
Fax: (209) 833-1488
www.schackandco.com
arch+env@schackandco.com



OLEA E. 'LITTLE OLLIE'



PENSTEMON HET. 'MARGARITA BOP'



PHORMUM TENAX 'ATROPURPUREA'



RHAMNUS CALIFORNICA



RHAPHIOLEPIS UMBELLATA MINOR

REVISIONS	
DATE	SMOK
00/00/00	1
00/00/00	2
00/00/00	3
00/00/00	4
00/00/00	5
00/00/00	6
00/00/00	7

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ROSMARINUS O. 'TUSCAN BLUE'



SALVIA GREGGII 'ALBA'



TULBAGHIA VIOLENCEA



MYOPORUM PARVIFOLIUM



ROSMARINUS O. 'PROSTRATUS'

DRAWING RELEASE	
DESCRIPTION	DATE
PRELIMINARY REVIEW	08/15/22
INITIAL PLAN REVIEW	09/00/00
ADDITIONAL PLAN REVIEW	09/00/00
PERMIT ISSUANCE READY	09/00/00
FINAL CONSTRUCTION	09/00/00

DEVELOPMENT REVIEW
Edgewood Commercial Center
Phase 2
Corral Hollow Car Wash
Corral Hollow Road
Tracy, California
PRELIMINARY PLANTING PALETTE

TREES



ZELKOVA S. 'VILLAGE GREEN'



PLATANUS ACERIFOLIA 'BLOODGOOD'



LAGERSTROEMIA TUSCARORA



LAURUS NOBILIS

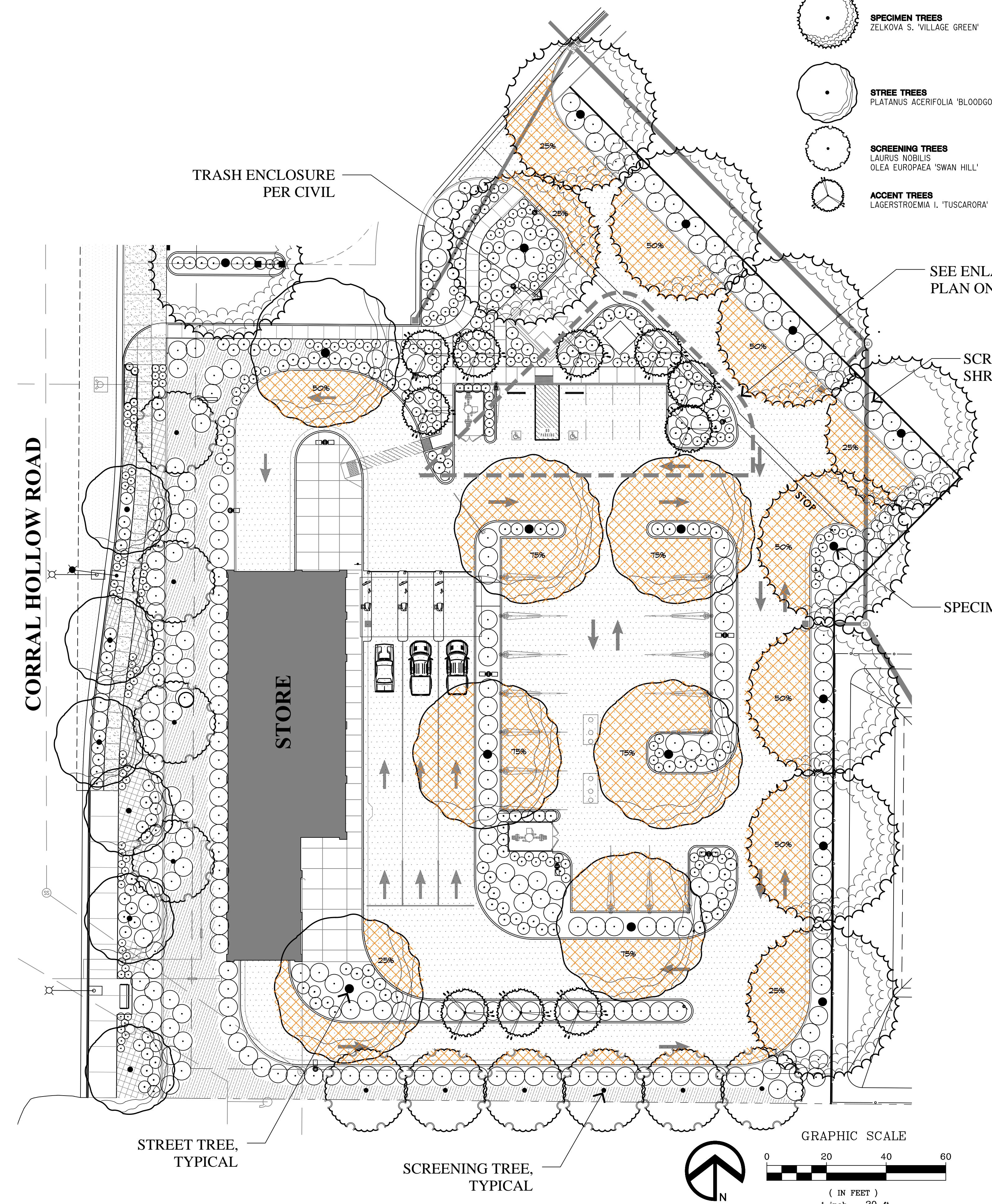


OLEA EUROPAEA 'SWAN HILL'



Call 811 Before You Dig

DATE:	12/08/23
DRAWN BY:	LC
CHECKED BY:	AMC
JOB NO:	22.038



PRELIMINARY PROPOSED TREE PALETTE

BOTANICAL NAME	COMMON NAME	SIZE	WIDTH	WATER USE
SPECIMEN TREES				
ZELKOVA S. 'VILLAGE GREEN'	JAPANESE ZELKOVA	24" BOX	50' WIDE	MEDIUM
STREET TREES				
PLATANUS ACERIFOLIA 'BLOODGOOD'	LONDON PLANE TREE	24" BOX	50' WIDE	LOW
SCREENING TREES				
LAURUS NOBILIS	SWEET BAY	24" BOX	30' WIDE	LOW
OLEA EUROPAEA 'SWAN HILL'	SWAN HILL OLIVE	24" BOX	30' WIDE	LOW
ACCENT TREES				
LAGERSTROEMIA L. 'TUSCARORA'	CRAPE MYRTLE	24" BOX	15' WIDE	LOW

PRELIMINARY PROPOSED PLANT PALETTE

BOTANICAL NAME	COMMON NAME	WATER USE	SIZE
SHRUBS & VINES			
ACACIA REDOLENS	PROSTRATE ACACIA	LOW	5 GAL
BUDDLEJA DAVIDII	BUTTERFLY BUSH	MED	5 GAL
CAREX TUMULICOLA	FOOTHILL SEDGE	LOW	5 GAL
CHORONDOPETALUM TECTORUM	CAPE RUSH	LOW	5 GAL
CISTUS CRISPUS	CRISPUS ROCKROSE	LOW	5 GAL
DIETES BICOLOR	FORTNIGHT LILY	LOW	5 GAL
ERIGERON KARVINSKIANUS	SANTA BARBARA DAISY	LOW	5 GAL
GREVILLEA 'NOELLI'	WOOLY GREVILLEA	LOW	5 GAL
HELIOTRICHON SEMPERVIRENS	BLUE OAT GRASS	MED	5 GAL
KNIPHOFIA UVARIA	RED HOT POKER	LOW	5 GAL
LANTANA MONTEVIDENSIS	TRAILING LANTANA	LOW	5 GAL
LAVANDULA A. 'MUNSTEAD'	ENGLISH LAVENDER	LOW	5 GAL
LAVATERA MARITIMA	SEA MALLOW	LOW	5 GAL
LEPTOSPERMUM S. 'SNOW WHITE'	NEW ZEALAND TEA TREE	MED	5 GAL
LOROPETALUM CHINENSE	CHINESE FRINGE FLOWER	MED	5 GAL
LIMONIUM PEREZII	SEA LAVENDER	LOW	5 GAL
MIMULUS 'VALENTINE'	MONKEY FLOWER	LOW	5 GAL
MUHLENBERGIA RIGENS	DEER GRASS	LOW	5 GAL
MYRTUS COMMUNIS 'COMPACTA'	MYRTLE	LOW	5 GAL
OLEA E. 'LITTLE OLLIE'	DWARF OLIVE	LOW	5 GAL
PENSTEMON HET. 'MARGARITA BOP'	FOOTHILL PENSTEMON	LOW	5 GAL
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SALVIA GREGGII 'ALBA'	AUTUMN SAGE	LOW	5 GAL
TULBAGHIA VIOLACEA	SOCIETY GARLIC	LOW	5 GAL
WESTRINGIA 'WYNYABBIE HIGHLIGHT'	WESTRINGIA	LOW	5 GAL
XYLOSMA C. 'COMPACTA'	COMPACT XYLOSMA	LOW	5 GAL

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DRAWING RELEASE			
<input type="checkbox"/>	DESCRIPTION	DATE	
<input checked="" type="checkbox"/>	PRELIMINARY REVIEW	08/15/22	
<input checked="" type="checkbox"/>	INITIAL PLAN REVIEW	00/00/00	
<input checked="" type="checkbox"/>	ADDITIONAL PLAN REVIEW	00/00/00	
<input checked="" type="checkbox"/>	PERMIT ISSUANCE READY	00/00/00	
<input checked="" type="checkbox"/>	FINAL CONSTRUCTION	00/00/00	

**EDGEGOOD COMMERCIAL CENTER
PHASE 2
CORRAL HOLLOW CAR WASH
Development
6. CORRAL HOLLOW ROAD
TRACY, CALIFORNIA**

TREE SHADING TABLE		100% SHADE			75% SHADE			50% SHADE			25% SHADE			TOTAL		
TREE DESCRIPTION		DIA	QTY	SQFT	AREA	QTY	SQFT	AREA	QTY	SQFT	AREA	QTY	SQFT	AREA	QTY	AREA
ZELKOVA S. 'VILLAGE GREEN'	50'	0	1,964	0	0	1,473	0	5	982	4,910	4	491	1,964	9	6,874	
PLATANUS A. 'BLOODGOOD'	50'	0	1,964	0	5	1,473	7,365	1	982	982	1	491	491	7	8,838	
TOTALS (SF)			0		7,365			5,892				2,455	16	15,712		

REQUIRED CANOPY TREE COVERAGE TO PARKING AREA RATIO (40%)

PARKING LOT AREA = 34,988 SF

TREE SHADE AREA = 15,712 SF

15 712 / 34 988 = 44.9%

SHADE LEGEND

PARKING ARE REQUIRED

PARKING AREA SHADED



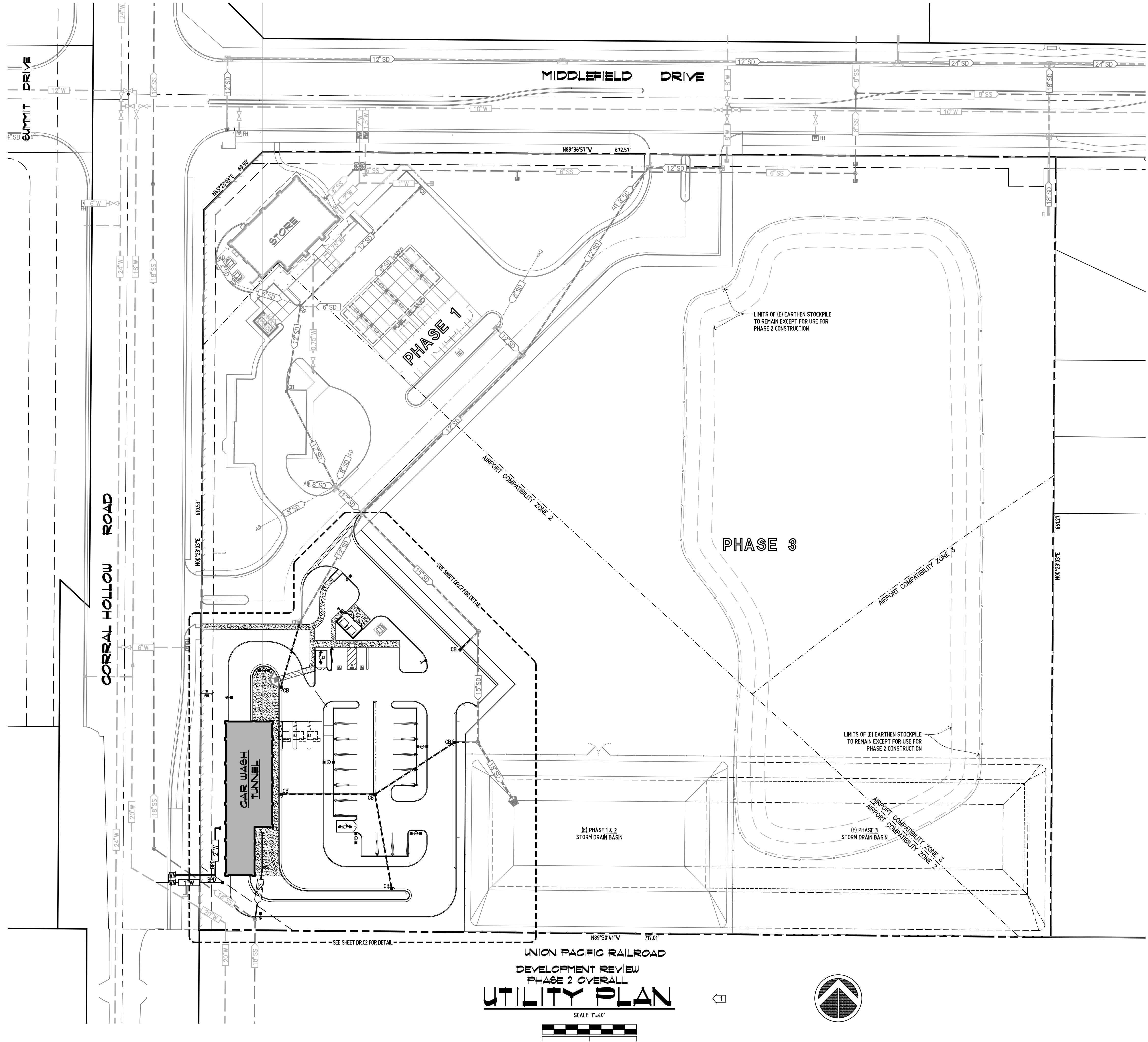
DATE: 12/08/23

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DRAWING RELEASE			
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<input type="checkbox"/>	PRELIMINARY REVIEW	08/15/22	
<input type="checkbox"/>	INITIAL PLAN REVIEW	09/22/22	
<input type="checkbox"/>	ADDITIONAL PLAN REVIEW	11/22/23	
<input type="checkbox"/>	PERMIT ISSUANCE READY		
<input type="checkbox"/>	FINAL CONSTRUCTION		

DEVELOPMENT REVIEW
digewood Commercial Center
Phase 2
Corral Hollow Car Wash
Development
e. CORRAL HOLLOW ROAD
TRACY, CALIFORNIA

Schack & Company, Inc.
Professional Design Group

25 Central Avenue Tracy, California 95376
Ph: (209) 835-2178 • Fax: (209) 835-1488

www.schackandco.com
arch-engr@schackandco.com

DATE: 11/20/23

DRAWN BY: SFS/MQN

CHECKED BY: SFS

JOB NO: 22.038

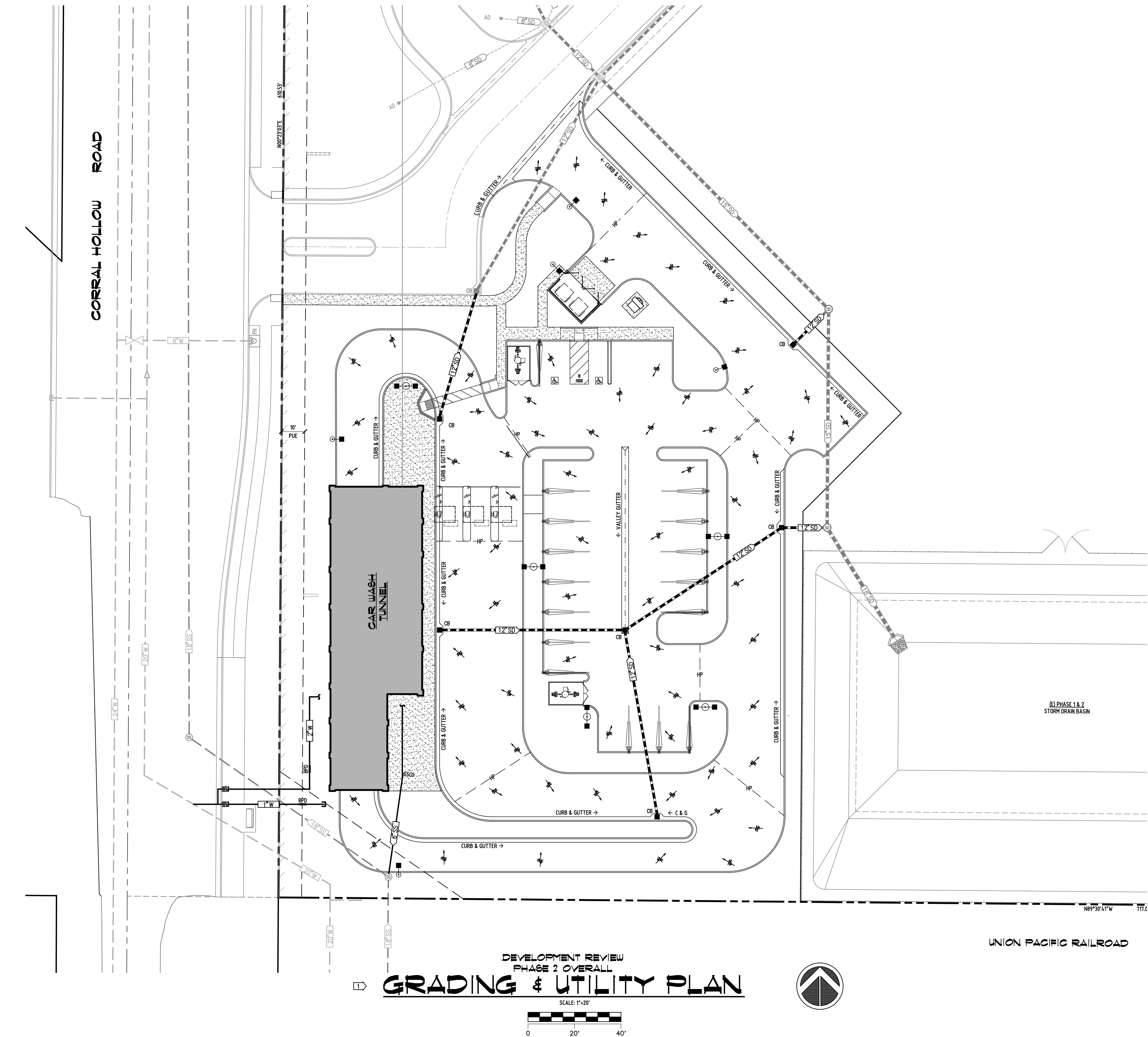
DR.C1

SYMBOL LEGEND

NEW	EXIST	SYMBOL DESCRIPTION
12' SD	12' SD	STORM DRAIN W/ LINE SIZE (8" OR GREATER)
CB	CB	STORM DRAIN CATCH BASIN
DI	DI	STORM DRAIN DROP INLET
12' SS	12' SS	STORM DRAIN W/ LINE SIZE (SMALLER THAN 8")
AD	AD	STORM AREA DRAIN
SDCO	SDCO	STORM DRAIN CLEAN-OUT
OF	OF	STORM DRAIN OVERFLOW
12' SS	12' SS	SANITARY SEWER W/ LINE SIZE
SSCO	SSCO	SANITARY SEWER MANHOLE
SSCO	SSCO	SANITARY SEWER CLEAN-OUT
12' W	12' W	SANITARY SEWER WYE/SWEEP TO SEWER MAIN
WATER	WATER	WATER W/ LINE SIZE
WM	WM	WATER VALVE
FES	FES	WATER METER
FH	FH	FIRE SERVICE W/ LINE SIZE
FDC	FDC	FIRE HYDRANT
FBD	FBD	FIRE DEPARTMENT CONNECTION
SCV	SCV	FIRE SERVICE BACKFLOW PREVENTION DEVICE
JTU	JTU	FIRE SERVICE SINGLE CHECK VALVE
JTU	JTU	JOINT TRENCH UNDERGROUND UTILITIES
ETU	ETU	JOINT OVERHEAD UTILITIES
ELU	ELU	ELECTRIC UNDERGROUND LINES
TELU	TELU	ELECTRIC OVERHEAD LINES
TELU	TELU	TELEPHONE UNDERGROUND LINES
TELU	TELU	TELEPHONE OVERHEAD LINES
CIVU	CIVU	CABLE TELEVISION UNDERGROUND LINES
CIVU	CIVU	CABLE TELEVISION OVERHEAD LINES
GAS	GAS	GAS LINES
PP	PP	POWER POLE, TELEPHONE POLE OR JOINT POLE
TP	TP	STREET LIGHTS (PUBLIC)
JP	JP	SITE LIGHTS (PRIVATE)
GD	GD	GRADE SLOPE DIRECTION

GENERAL NOTES

- (E) MAIN ELECTRIC PANEL & METERS ARE INSTALLED INSIDE THE BUILDING. GAS SERVICE & METER WILL BE SCREENED BY LANDSCAPING OR ARCHITECTURAL FEATURE, IF REQ'D



Schack & Company, Inc.
Professional Design Group
1025 Central Avenue Tracy, California 95376
Ph: (209) 835-2178 Fax: (209) 833-1488
www.schackaco.com
architect@schackaco.com

DATE: 11/17/23
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CHECKED BY: SFS
JOB NO: 22.038
DR.C2
OF 2 SHEETS

DRAWING RELEASE
EDGEMOOR COMMERCIAL CENTER
PHASE 2 CORRAL HOLLOW CAR WASH
DEVELOPMENT REVIEW
11/22/23

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DATE: 11/22/23
SYMBOL: 1
PLANNING COMMENTS/RECONFIGURATION

APPROVED AS TO FORM AND LEGALITY

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

ORDINANCE

APPROVING A ZONING TEXT AMENDMENT, APPLICATION NUMBER ZA22-0004, TO REMOVE TRACY MUNICIPAL CODE (TMC) SECTION 10.08.800, "SERVICE STATION" DEFINITION, ADD TMC SECTION 10.08.175, "CAR WASH" DEFINITION, ADD TMC SECTION 10.08.375, "FUEL STATION" DEFINITION, AND AMEND TMC SECTION 10.08.1080, PERMITTED USES, USE GROUP NO. 44, TO REMOVE AND REPLACE "AUTOMOBILE SERVICE STATIONS" WITH "CAR WASHES" AND "FUEL STATIONS."

WHEREAS, Tracy Municipal Code (TMC) Section 10.08.800, Service Station, states that "service station" shall mean a structure or area which provides for the servicing, washing, and fueling of motor vehicles, including minor repairs and the storage and sale of merchandise and supplies incidental thereto; provided, however, the washing of automobiles shall be permitted only when no chain conveyor, blower, or steam cleaning device is involved; and

WHEREAS, An application was submitted to remove Tracy Municipal Code (TMC) Section 10.08.800, "Service Station" definition, add TMC Section 10.08.175, "Car Wash" definition, add TMC Section 10.08.375, "Fuel Station" definition, and amend TMC Section 10.08.1080, Permitted Uses, Use Group No. 44, to remove and replace "Automobile Service Stations" with "Car Washes" and "Fuel Stations;" and

WHEREAS, The proposed zoning text amendment would establish a definition for "car wash" that includes car washes that operate with a chain conveyor, blower or other mechanical devices; and

WHEREAS, "Car Washes" and "Fuel Stations" would be permitted uses in the Community Shopping Center (CS) Zone and the General Highway Commercial (GHC) Zone, and conditionally permitted uses in the Central Business District (CBD) Zone and the Neighborhood Shopping (NS) Zone, which is the same as previously established for "Service Stations" in those same zones; and

WHEREAS, The Conditional Use Permit (CUP) process and the Development Review Permit process would be sufficient to address any site-specific concerns that might be associated with car washes including chain conveyor, blower, or other mechanical devices; and

WHEREAS, California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3), which is known as the "common sense exemption," states that CEQA only applies to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA; and

WHEREAS, The proposed amendment to the Tracy Municipal Code is exempt from the California Environmental Quality Act (CEQA) because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)(3)) as the proposed text amendment replacing the outdated definition of service station with fuel stations and car washes, but without changing which zones these facilities are allowed in, will not result in any significant environmental impacts as these definitional changes do not approve any changes in facilities on the ground; and

WHEREAS, The Planning Commission considered this matter at a duly noticed public hearing held on December 4, 2024, and recommended that the City Council introduce and adopt an ordinance to approve the proposed zoning text amendment; and

WHEREAS, The City Council considered this matter at a duly noticed public hearing held on March 4, 2025;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TRACY DOES ORDAIN AS FOLLOWS:

SECTION 1: Incorporation of Recitals/Findings. The City Council finds and determines the foregoing recitals are true and correct and are hereby incorporated herein as findings and determinations of the City.

SECTION 2: Section 10.08.800, Service Station, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is hereby removed as follows (with deletions in strikethrough):

~~“10.08.800 Service station.~~
~~“Service station” shall mean a structure or area which provides for the servicing, washing, and fueling of motor vehicles, including minor repairs and the storage and sale of merchandise and supplies incidental thereto; provided, however, the washing of automobiles shall be permitted only when no chain conveyor, blower, or steam cleaning device is involved.”~~

SECTION 3: A new Section 10.08.175, Car Wash, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is hereby added as follows (with additions underlined):

10.08.175 Car Wash.

“Car Wash” shall mean any building, structure, or area which provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower or other mechanical devices, and which may employ some hand labor.”

SECTION 4: A new Section 10.08.375, Fuel Station, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is hereby added as follows (with additions underlined):

10.08.375 Fuel Station.

“Fuel station” shall mean any building, land area, or other premises used primarily for the retail dispensing or sales of gasoline or alternative fuel for automobiles.”

SECTION 5: Use Group No. 44 of Section 10.08.1080, Permitted Uses, of Title 10 (Planning and Zoning) of the Tracy Municipal Code is hereby amended to read as follows (with additions underlined, and deletions in strikethrough):

	Permitted in Zones	Conditionally Permitted in Zones
Use Groups No. 44: Consumer service and retail trade (Goods and services) (a) Automobile service stations <u>Car Washes and Fuel Stations</u> (not including repair work); (b) Auto accessory shops; (c) Building materials and hardware, including only: (1) Hardware; (2) Paint, glass, and wallpaper; and (3) Sales rooms for other building materials; (d) Catering establishments; and (e) Miscellaneous repair services, including only establishments engaged in repairing and servicing household and business equipment, machines, and furnishings.	CS GHC	CBD NS

SECTION 6: CEQA Determination. The City Council finds that the Zoning Text Amendment is exempt from the California Environmental Quality Act (CEQA) because it does not have the potential for causing a significant effect on the environment (CEQA Guidelines, 14 California Code of Regulations, §15061(b)(3)[“common sense” exemption]). The proposed text amendment replacing the outdated definition of service station with fuel stations and car washes, but without changing which zones these facilities are allowed in, will not result in any significant environmental impacts as these definitional changes do not approve any changes in facilities on the ground.

SECTION 7. Severability. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional.

SECTION 8. Effective Date. This ordinance shall become effective upon the thirtieth (30th) day after final adoption.

SECTION 9. Publication. The City Clerk is directed to publish this ordinance in a manner required by law.

SECTION 10. Codification. This Ordinance shall be codified in the Tracy Municipal Code.

* * * * *

The foregoing Ordinance _____ was introduced at a regular meeting of the Tracy City Council on the 4th day of March 2025, and finally adopted on the _____ day of _____ 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST: _____

NECY LOPEZ

Acting City Clerk and Clerk of the Council of the
City of Tracy

Date of Attestation: _____

CITY ATTORNEY'S OFFICE

TRACY CITY COUNCIL

RESOLUTION 2025-_____

1. GRANTING A CONDITIONAL USE PERMIT, APPLICATION NUMBER CUP24-0006, TO ALLOW A CAR WASH LOCATED AT 4600 S. CORRAL HOLLOW ROAD; AND
2. APPROVING A DEVELOPMENT REVIEW PERMIT, APPLICATION NUMBER D22-0044, FOR CONSTRUCTION OF A CAR WASH FACILITY AND RELATED SITE IMPROVEMENTS LOCATED AT 4600 S. CORRAL HOLLOW ROAD, ASSESSOR'S PARCEL NUMBER 244-020-31.

WHEREAS, on October 31, 2022, applications were submitted for a Zoning Text Amendment (Application Number ZA22-0004), a Conditional Use Permit (Application Number CUP24-0006, and a Development Review Permit (Application Number D22-0044) to construct a car wash facility and related site improvements on a 1.29-acre portion of a 10.92-acre parcel located at 4600 S. Corral Hollow Road, Assessor's Parcel Number 244-020-31 (Project); and

WHEREAS, the Project consists of an approximately 4,455 square-foot car wash facility, which includes a 130-foot-long automated tunnel, attached equipment room, office area with restroom, attendant's room, and a three-lane detached "point of sale" canopy with payment stations and barrier gates, as well as a trash enclosure, two vacuum equipment enclosures, 16 outdoor vacuum stalls, exterior lighting, landscaping, and four parking spaces for employees; and

WHEREAS, the project is consistent with the City of Tracy General Plan, in that the site is designated Commercial by the General Plan, and the proposed project is allowed under the Commercial land use designation; and

WHEREAS, the project site is located in the Neighborhood Shopping (NS) Zone; and

WHEREAS, the applicant is requesting the Zoning Text Amendment to replace the definition of "Service Station" with two new definitions, "Car Wash" and "Fuel Station," as the current definition of Service Station precludes the use of chain conveyors, blowers, and steam cleaning devices which are common equipment in modern car washes; and

WHEREAS, by changing the definition to remove this limitation but continue to require car washes to receive Conditional Use Permits within more sensitive commercial areas, for example Neighborhood Shopping Zone, any concerns regarding these types of equipment will be addressed through the Conditional Use Permit review and issuance; and

WHEREAS, since the Conditional Use Permit application (CUP24-0006) is paired with a Zoning Text Amendment (ZA22-0004) that is subject to approval by the City Council, the Conditional Use Permit (CUP24-0006) is being combined with the Zoning Text Amendment (ZA22-0004) and the Development Review Permit (D22-0044) for consideration by the City Council; and

WHEREAS, the City Council may approve a Conditional Use Permit based on the application and evidence submitted, subject to making all of the requisite findings set forth in Tracy Municipal Code (TMC) Section 10.08.4310; and

WHEREAS, in accordance with TMC Section 10.08.3950, the Development Review Permit application (D22-0044) is a Tier 1 application, which means that the City Council has approval authority, because it is paired with a Zoning Text Amendment application (ZA22-0004) that is subject to approval by the City Council; and

WHEREAS, the City Council may approve a Development Review Permit on the basis of the application and evidence submitted, subject to making all of the requisite findings set forth in TMC Section 10.08.3960; and

WHEREAS, the Statement of Findings attached hereto as Exhibit 1 articulates the requisite findings and the evidentiary support for those findings for the Conditional Use Permit and the Development Review Permit; and

WHEREAS, Section 15183 of the California Environmental Quality Act (CEQA) Guidelines provides that projects which are consistent with the development density established by existing Community Plan, General Plan, or Zoning policies for which an Environmental Impact Report was certified, shall not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site; and

WHEREAS, the project proposing a new car wash (Application Numbers CUP24-0006 and D22-0044) does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and there are no project-specific significant effects which are peculiar to the project or its site, and therefore, in accordance with CEQA Guidelines Section 15183, no further environmental assessment is required; and

WHEREAS, the Planning Commission considered this matter at a duly noticed public hearing on December 4, 2024 and recommended that the City Council approve the project; and

WHEREAS, the City Council conducted a duly noticed public hearing to review and consider this matter on March 4, 2025; now, therefore, be it

RESOLVED: That the City Council determines that the project (Application Numbers CUP24-0006 and D22-0044) does not increase the development density established by the General Plan for which an Environmental Impact Report was certified, and there are no project-specific significant effects which are peculiar to the project or its site, and therefore, in accordance with CEQA Guidelines Section 15183, no further environmental assessment is required; and be it

FURTHER RESOLVED: That the City Council adopts the findings set forth in Exhibit 1, supporting the granting of a Conditional Use Permit to allow a car wash located at 4600 S. Corral Hollow Road, Assessor's Parcel Number 244-020-31; and be it

FURTHER RESOLVED: That the City Council grants a Conditional Use Permit (CUP24-0006) to allow a car wash located at 4600 S. Corral Hollow Road, subject to the conditions of approval contained in Exhibit 2, and to take effect only upon the effective date of the Ordinance approving the Zoning Text Amendment (ZA22-0004) related to car washes and if such Ordinance is not made effective, the grant of CUP 24-0006 shall be automatically rescinded and be of no further force or effect without further action; and be it

FURTHER RESOLVED: That the City Council adopts the findings set forth in Exhibit 1, supporting the approval of a Development Review Permit for the construction of a car wash facility and related site improvements at 4600 S Corral Hollow Road, Assessor's Parcel Number 244-020-31; and be it

FURTHER RESOLVED: That the City Council approves a Development Review Permit (D22-0044) for a car wash facility and related site improvements at 4600 S Corral Hollow Road, Assessor's Parcel Number 244-020-31, subject to the Conditions of Approval contained in Exhibit 2, and to take effect only upon the effective date of the Ordinance approving the Zoning Text Amendment (ZA22-0004) related to car washes and if such Ordinance is not made effective, the approval of D22-0044 shall be automatically rescinded and be of no further force or effect without further action; and be it

FURTHER RESOLVED: That the City Council determines that the Development Review Permit (D22-0044) and Conditional Use Permit (CUP24-0006) shall be valid for a 2-year term, within which time a building permit must be issued, and the use established, or a request to renew both permits must be submitted prior to the expiration date.

* * * * *

The foregoing Resolution 2025-_____ was adopted by the Tracy City Council on March 4, 2025, by the following vote:

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

DAN ARRIOLA
Mayor of the City of Tracy, California

ATTEST: _____
NECY LOPEZ
Acting City Clerk and Clerk of the Council of the
City of Tracy, California
Date of Attestation: _____

EXHIBITS:

- 1 – Findings for approval of Conditional Use Permit (CUP24-0006) and Development Review Permit (D22-0044)
- 2 – Conditions of Approval for Conditional Use Permit (CUP24-0006) and Development Review Permit (D22-0044)

City of Tracy
Conditional Use Permit Findings
Application Number CUP24-0006
March 4, 2025

Conditional Use Permits (CUPs) must meet the requirements set forth in Tracy Municipal Code (TMC) Sections 10.08.4250-10.08.4330. Since this Conditional Use Permit application (CUP24-0006) is paired with a Zoning Text Amendment (ZA22-0004) that is subject to approval by the City Council, the Planning Commission recommended that this Conditional Use Permit be acted on by the City Council. Pursuant to TMC Section 10.08.4290, the City Council shall conduct a noticed public hearing, consider the application materials, pertinent evidence, and testimony in support of the findings required for approval provided in TMC Section 10.08.4310. Upon conclusion of the public hearing and consideration of the entire record, the City Council may approve the CUP if the record supports all of the following findings:

- (a) That there are circumstances or conditions applicable to the land, structure, or use which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right;
- (b) That the proposed location of the conditional use is in accordance with the objectives of Tracy Municipal Code, Chapter 10.08 – Zoning Regulations, and the purposes of the zone in which the site is located;
- (c) That the proposed location of the use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity; and
- (d) That the proposed use will comply with each of the applicable provisions of Tracy Municipal Code, Chapter 10.08 – Zoning Regulations.

Therefore, the City Council conducted a noticed public hearing on February 4, 2025, and upon its conclusion, makes the requisite findings for the Conditional Use Permit based on consideration of the entire record of evidence, including, without limitation, the following:

- (a) There are circumstances or conditions applicable to the use, which make the granting of a use permit necessary for the preservation and enjoyment of substantial property right because a car wash is compatible with the permitted uses in the Neighborhood Shopping (NS) Zone, which is intended to provide convenient retail goods and consumer services to the surrounding residential neighborhoods.
- (b) The proposed location of the conditional use is in accordance with the objectives of Tracy Municipal Code, Chapter 10.08, Zoning Regulations, and the purposes of the zone in which the site is located because the location of the site and the proposed design of the car wash and related site improvements are consistent with the standards of the NS Zone, the requirements and policies of the City Design Goals and Standards, and the General Plan designation of Commercial.
- (c) The proposed location of the use and the conditions under which it would be operated or maintained will not be injurious or detrimental to the public health, safety, or welfare or materially injurious to, or inharmonious with, properties or improvements in the vicinity

because the project site is greater than 500 feet away from any residential neighbors and the car wash is a complementary use to the adjacent, existing gas station, and the car wash facility and related site improvements, as designed and conditioned, will be harmonious with the properties and improvements in the vicinity.

(d) The proposed use will comply with each of the applicable provisions of Chapter 10.08, Zoning Regulations, because the project is consistent with the zoning and other applicable elements of the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, City Standards, and all requirements of the NS Zone.

**City of Tracy
Development Review Permit Findings
Application Number D22-0044**
March 4, 2025

Development Review Permits must meet the requirements set forth in TMC Article 30, including a noticed public hearing. Pursuant to TMC Section 10.08.3960, before approving a Development Review Permit, the City Council must review application materials and public comments submitted prior to or at the public hearing, and consider the following site-specific factors set forth in TMC Section 10.08.3960:

- general site considerations including height, bulk, and size of buildings;
- physical and architectural relationship with the existing and proposed structures;
- site layout, orientation, and location of the buildings and relationships with open areas and topography;
- location and type of landscaping;
- off-street parking areas;
- height, materials, colors and variations in boundary walls, fences, and screen plantings;
- appropriateness of the sign design and exterior lighting; and
- appropriate City utilities, public infrastructure, circulation, and roadway access.

After consideration of the entire record, under TMC Section 10.08.3960, the City Council may approve the Development Review Permit if the facts in the record support the following findings:

- (a) That the proposal increases the quality of the project site, and enhances the property in a manner that therefore improves the property in relation to the surrounding area and the citizens of Tracy; and
- (b) That the proposal conforms to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, the General Plan, any applicable specific plan, the Design Goals and Standards, any applicable Infrastructure Master Plans, and other City regulations.

Therefore, the City Council conducted a noticed public hearing on February 4, 2025, and upon its conclusion, makes the requisite findings for the Development Review Permit based on consideration of the entire record of evidence, including, without limitation, the following:

- (a) The proposal increases the quality of the project site and enhances the property in a manner that therefore improves the property in relation to the surrounding area and

the citizens of Tracy, because the proposed project will be complementary to the existing, adjacent gas station, the permitted uses of the Neighborhood Shopping (NS) Zone, and the surrounding residential neighborhoods. The purpose of the NS Zone is to provide convenient retail goods and consumer services to the surrounding residential neighborhoods, which is achieved through a car wash. Design elements will be present on all sides of the building and include high quality materials, such as stacked stone, high tile parapet walls to screen all roof-mounted equipment, and a decorative color pallet that adds visual interest to the structure.

- (b) The proposal, as conditioned, conforms to Chapter 10.08, Zoning Regulations, of the Tracy Municipal Code, the City of Tracy General Plan, the City Design Goals and Standards, applicable City Standards, applicable Infrastructure Master Plans, California Building Codes, and California Fire Codes, including building design, off-street parking and circulation, and landscaping design. The site design has taken into consideration the existing, adjacent gas station, as well as additional businesses that may locate on the site in terms of circulation, orientation, and visibility.

City of Tracy
Conditional Use Permit and Development Review Permit
Conditions of Approval
Corral Hollow Car Wash
Application Numbers CUP24-0006 and D22-0044
March 4, 2025

A. General Provisions and Definitions.

A.1. General. These Conditions of Approval apply to:

The Project: Conditional Use Permit and Development Review Permit, Application Numbers CUP24-0006 and D22-0044, for construction of an approximately 4,455 square foot car wash (known as Corral Hollow Car Wash) and related site improvements on an approximately 1.29-acre portion of a 10.92-acre parcel located at the southeast corner of Corral Hollow Road and Middlefield Drive.

The Property: 4600 S. Corral Hollow Road, Assessor's Parcel Number 244-020-31

A.2. Definitions.

- a. "Applicant" means any person, or other legal entity, defined as a "Developer."
- b. "City Engineer" means the City Engineer of the City of Tracy, or any other duly licensed Engineer designated by the City Manager, or the Community and Economic Development Director, or the City Engineer to perform the duties set forth herein.
- c. "City Regulations" means all written laws, rules, and policies established by the City, including those set forth in the City of Tracy General Plan, the Tracy Municipal Code, ordinances, resolutions, policies, procedures, and the City's Design Documents (including the Standard Plans, Standard Specifications, Design Standards, and relevant Public Facility Master Plans).
- d. "Community and Economic Development Director" means the Community and Economic Development Director of the City of Tracy, or any other person designated by the City Manager or the Community and Economic Development Director to perform the duties set forth herein.
- e. "Conditions of Approval" shall mean the conditions of approval applicable to the Project located at the Property. The Conditions of Approval shall specifically include all conditions set forth herein.
- f. "Developer" means any person, or other legal entity, who applies to the City to divide or cause to be divided real property within the Project boundaries, or who applies to the City to develop or improve any portion of the real property within the Project boundaries. The term "Developer" shall include all successors in interest.

A.3. Compliance with submitted plans. Except as otherwise modified herein, the project shall be constructed in substantial compliance with the plans received by the

Community and Economic Development Department on December 20, 2023. This includes the site plan, civil plans, landscape plans, and building elevations, colors, and materials.

- A.4. Payment of applicable fees. The applicant shall pay all applicable fees for the project, including, but not limited to, development impact fees, building permit fees, plan check fees, grading permit fees, encroachment permit fees, inspection fees, school fees, or any other City or other agency fees or deposits that may be applicable to the project.
- A.5. Compliance with laws. The Developer shall comply with all laws (federal, state, and local) related to the development of real property within the Project, including, but not limited to:
 - the Planning and Zoning Law (Government Code sections 65000, et seq.)
 - the California Environmental Quality Act (Public Resources Code sections 21000, et seq., "CEQA"), and
 - the Guidelines for California Environmental Quality Act (California Administrative Code, title 14, sections 1500, et seq., "CEQA Guidelines").
- A.6. Permit Expiration. The Conditional Use Permit (CUP) shall lapse and become void two years following the effective date of the CUP, unless a building permit and construction are diligently pursued toward completion, or an extension is granted by the Planning Commission in accordance with TMC Section 10.08.4350 and 4360.
- A.7. Use to be conducted wholly indoors. With exception of normal outdoor operations of a car wash, the use shall be conducted wholly indoors in accordance with the NS Zone.

B. Community and Economic Development Planning Division Conditions

- B.1. Parking Area.
 - B.1.1. Before the approval of a building permit, the applicant shall provide site plans and construction details that demonstrate minimum 12-inch wide concrete curbs along the perimeter of landscape planters where such planters are parallel and adjacent to vehicular parking spaces to provide access to vehicles without stepping into the landscape planters.
 - B.1.2. Before the approval of a building permit, the applicant shall provide detailed plans that demonstrate a minimum of one-foot candle illumination throughout the parking and circulation area.
 - B.1.3. Before final inspection or certificate of occupancy, all exterior and parking area lighting shall be directed downward or shielded, to prevent glare or spray of light off of glass and metal surfaces, into the public rights-of-way, and onto any adjacent private property to the satisfaction of the Community and Economic Development Director.
- B.2. Landscaping & irrigation. Before the issuance of a building permit, the applicant shall provide detailed landscape and irrigation plans consistent with the Tracy Municipal Code Section 10.08.3560 for parking area landscaping and the following, to the satisfaction of the Community and Economic Development Director.
 - B.2.1. Trees shall be a minimum of 24" box size, shrubs shall be a minimum size of 5 gallon, and groundcover shall be a minimum size of 1 gallon.

- B.2.2 Where trees are planted ten feet or less from a sidewalk or curb, root barriers dimensioned 8 feet long by 24 inches deep shall be provided adjacent to such sidewalk and curb, centered on the tree.
- B.2.3. Each planter shall contain a combination of trees, shrubs, and groundcover. No planter area shall be comprised of solely of mulch or rock.
- B.2.4. All existing street trees, except for any that are needed to be removed and replaced for the construction of required frontage improvements as determined by the City, shall remain and be protected during construction.
- B.2.5. **Landscape & Irrigation Maintenance.** Prior to the issuance of a building permit, the Developer shall execute a two-year landscape and irrigation maintenance agreement and submit financial security, such as a performance bond, to ensure the success of all on-site landscaping for the term of the agreement. The security amount shall be equal to \$2.50 per square foot of the landscaped area or equal to the actual labor and material installation cost of all on-site landscaping and irrigation.
- B.3. **Screening utilities and equipment.**
 - B.3.1. Before final inspection or certificate of occupancy, no roof mounted equipment, including, but not limited to, HVAC units, vents, fans, antennas, sky lights and dishes, whether proposed as part of this application, potential future equipment, or any portion thereof, shall be visible from any public right-of-way to the satisfaction of the Community and Economic Development Director. Detailed plans documenting compliance with this condition shall be submitted to the City prior to the issuance of a building permit.
 - B.3.2. Before final inspection or certificate of occupancy, all PG&E transformers, phone company boxes, Fire Department connections, backflow preventers, irrigation controllers, and other on-site utilities, shall be vaulted or screened from view from any public right-of-way, behind structures or landscaping, to the satisfaction of the Community and Economic Development Director.
 - B.3.3. Before final inspection or certificate of occupancy, all vents, gutters, downspouts, flashing, electrical conduits, bollards, and other wall-mounted or building-attached utilities shall be internal to the structures where feasible or otherwise painted to match the color of the adjacent surfaces or otherwise designed in harmony with the building exterior to the satisfaction of the Community and Economic Development Director.
 - B.3.4. A trash enclosure shall be designed and appropriately sized for this project, including allowance for recycling collection. The trash and recycling collection enclosure shall include a solid roof structure, solid metal doors, and solid walls sufficiently sized to fully screen the dumpsters (no less than six feet in height). The enclosure, including the roof, shall be architecturally compatible with the buildings, which includes but is not limited to, design, materials, and colors. A six-inch concrete curb and/or bollards may be installed on the interior of the enclosure for the protection and durability of the enclosure walls. A building permit is required prior to construction of such enclosures for the evaluation of design and location to the satisfaction of the Community and Economic Development Director.
- B.4. **Habitat conservation.** Prior to issuance of any permits for ground disturbance, including a building permit or grading permit, the developer shall demonstrate

compliance with the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and the Incidental Take Minimization Measures prepared by San Joaquin Council of Government (SJCOC) Habitat Division, to the satisfaction of the Community and Economic Development Director. A signed copy of the Incidental Take Minimization Measures shall be submitted to the City as verification of compliance.

B.5. **Signage.** No business identification signs are approved with this permit. All business identification signs shall obtain a sign permit in accordance with the Tracy Municipal Code.

C. Engineering Conditions

C.1. Technical Analysis incorporated into these Conditions.

Developer shall comply with the applicable recommendations of the technical analyses/ reports prepared for the Project listed as follows:

1. None.

C.2. Grading Permit

Prior to Grading Permit release, the Developer shall provide all documents related to said Grading Permit required by City requirements and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

C.2.1 All grading work (on-site and off-site) shall require a grading plan and a City grading permit. The Developer will complete all requirements set forth by in this section.

C.2.2 Prior to grading permit release, Developer shall prepare grading and drainage plans for all required earthmoving and drainage to serve the Project (on-site and off-site) including grading details, grading quantities, and retaining walls design (Grading Plans). The said Grading Plans shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, and these Conditions of Approval.

C.2.3 Prior to grading permit release, Developer shall prepare Grading Plans that are stamped and prepared under the supervision of a California registered Civil Engineer (CA-CE). Grading Plans shall be prepared on a 24-inch x 36-inch size 20-pound bond white paper and shall use the City's Title Block.

C.2.4 Prior to grading permit release, Developer shall prepare Grading Plans in substantial conformance all site building, parking, utility, grading, and other site improvements identified on submitted site improvements drawing package for D22-0044, latest submittal.

- C.2.5 Prior to grading permit release, Developer shall provide a PDF copy of the Project's Geotechnical Report to the City, and it shall be stamped by the Project's California registered Geotechnical Engineer (CA-GE). The technical report must include relevant information related to soil types and characteristics, soil bearing capacity, compaction recommendations, slope recommendations, retaining wall design recommendations, paving section recommendations, and elevation of the highest observed groundwater level. All Grading Plans and grading work shall be performed and completed in accordance with the recommendation(s) of the Project's CA-GE.
- C.2.6 Prior to grading permit release, Developer shall depict in the Grading Plans to use reinforced and engineered masonry blocks for retaining soil when the grade differential exceeds twelve (12) vertical inches. The Developer will include construction details of these minor and major retaining walls with the Grading Plans. Developers may use slopes to transition between the lots to address the grade differential, but the said slope shall not exceed a gradient of three (3) horizontal feet to one (1) vertical foot unless approved by a CA-GE. If adjacent and affected property(s) owner(s) grants said easements to the Developer, these slope easements will be subject to review and approval by the City Engineer prior to grading permit.
- C.2.7 Slopes are an acceptable option as a substitute to engineered retaining walls, where cuts or fills do not match existing ground or final grade with the adjacent property or public right of way, up to a maximum grade differential of two (2) vertical feet, and subject to approval by the City Engineer.
- C.2.8 Prior to grading permit release, the Developer shall depict the proposed retaining walls and masonry walls to be shown on the Grading Plans. The Developer is required to submit construction footing details, structural calculations, masonry walls details of all retaining wall design to Building Safety for review and approval. Retaining wall and masonry wall design parameters will be included in the geotechnical report and submitted to the city building for review.
- C.2.9 Prior to grading permit release, Developer shall provide a copy of the approved building permit from Building Safety for all retaining walls depicted on the Grading Plans.
- C.2.10 Prior to grading permit release, the Developer shall obtain all applicable signatures by Project's CA-GE, City departments, Fire Marshal, and outside agencies (where applicable) on the Grading Plans prior to submitting the Grading Plans to Engineering for City Engineer's signature.
- C.2.11 Prior to grading permit release, the Developer shall depict on the Grading Plans all erosion control measures needed to be implemented for the Project in accordance city and state on the Grading Plans. All grading work not completed before October 15 may be subject to additional requirements as applicable by field conditions as defined by City Engineer. Grading Plans shall specify all proposed erosion control methods and construction details to be employed

during construction of the Project. The plans shall also specify all materials to be used during and after the construction be included in the grading permit.

- C.2.12 Prior to grading permit release, the Developer shall pay all Grading Permit fees which include grading, plan checking, and inspection fees, and other applicable fees per the City fee schedule.
- C.2.13 Prior to grading permit release, the Developer shall obtain written approval (i.e., recorded easements for slopes, drainage, utilities, access, parking, etc.) of all other public agencies and private entities with jurisdiction over the required public and/or private facilities and/or property prior to grading permit issuance. A copy of the recorded easement document(s) shall be provided to the City upon request.
- C.2.14 Prior to grading permit release, the Developer shall obtain a demolition permit to remove all existing structures, utilities or other improvements located within the Project's limits. The developer shall conduct an asbestos survey of the existing buildings in accordance with City requirements and identify all hazardous materials that must be removed prior to demolition and removal of the existing buildings. The Developer shall then remove all asbestos and all hazardous materials in accordance with state and city requirements prior to new construction to the satisfaction of the City Engineer. Demolition of the existing site utilities such as: water, sewer, drainage, electrical, phone or internet service to the existing houses of this facility. The Developer shall install temporary utility services until permanent services can be restored. If demolition of parking, sidewalks and access to existing residential buildings takes place, the developer shall provide adequate notice to the existing residents of demolition of the site. Prior to any demolition of the site, the Developer shall install a temporary fence of the entire construction area of the new Project. At all times, the Developer shall maintain safe and clean working conditions for the general public and those residents that will be living in close proximity to the construction of the Project. At all times, the Developer shall provide adequate warning devices, barricades, metal plating of open trenches and other safety measures installed during construction.
- C.2.15 Prior to grading permit release, the Developer shall have obtained the necessary permits to abandon or remove all existing on-site water well(s), septic system(s), leech field(s), and title drain(s), if any, in accordance with City and San Joaquin County requirements. The Developer shall be responsible for all costs associated with the abandonment or removal of the aforementioned items including the cost of permit(s) and inspection. A copy of the permits shall be provided to the City upon request.
- C.2.16 Prior to grading permit release, the Developer shall provide a copy of the approved Incidental Take Minimization Measures (ITMM) habitat survey [San Joaquin County Multi-Species Habitat Conservation & Open Space Plan (SJMSCP)] from San Joaquin Council of Governments (SJCOG) prior to grading permit.

- C.2.17 Prior to grading permit release, the Developer shall provide a copy of the approved Air Impact Assessment (AIA) with an Indirect Source Review (ISR) and Dust Control from San Joaquin Valley Air Pollution Control District (SJVAPCD) prior to grading permit.
- C.2.18 If at any point during grading that the Developer, and their respective officials, employees, subcontractor, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall 1) inform the City Engineer; 2) shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and 3) subsequent Cultural Resource Policy or mitigation in any applicable environmental document.
- C.2.19 Seven calendar days after the release of the grading permit, the Developer shall request a pre-construction (grading) meeting with the City's Construction Management team. At this meeting, the Developer shall provide three (3) paper copies of the Grading Plans. The Developer shall provide additional copies as requested.

Grading Permit Special Condition(s)

- C.2.20 Prior to grading permit release, the Developer shall prepare and submit calculations for the on-site basin.

C.3.0 Encroachment Permit and Improvement Agreement(s)

Prior to construction permit release, Developer shall provide all documents as required by City requirements and these Conditions of Approval, to the satisfaction of the City Engineer, including, but not limited to, the following:

- C.3.1 All construction activity involving public improvements (on-site and off-site) will require approved improvement plans; an encroachment permit. Any construction activity involving public improvements without all three items is prohibited. The Developer will complete all requirements set forth in this section prior to any construction.
- C.3.2 Prior to construction permit release, the Developer shall prepare public infrastructure improvement plans for all required improvements required to serve the Project (on-site and off-site) including construction details, paving sections, joint-trench, traffic signals, etc. (Improvement Plans).
- C.3.3 Prior to construction permit release, the Developer shall prepare Improvement Plans that are stamped and prepared under the supervision of a California registered Civil Engineer (CA-CE). Other disciplines' work shall also be stamped and prepared under the supervision of each disciplines' registered design professional.
- C.3.4 Prior to construction permit release, the Developer shall prepare Improvement Plans on a 24-inch x 36-inch size 20-pound bond white paper and shall use the

City's Title Block. The said Improvement Plans, specifications and details depicted on said Improvement Plans shall be prepared in accordance with the City's Subdivision Ordinance (Tracy Municipal Code (TMC) Chapter 12.36), City Design Documents as defined in Title 12 of the TMC, City's Facilities Master Plan for storm drainage, roadways, wastewater, and water as adopted, amended, and updated by the City, or as otherwise specifically approved by the City, and all requirements described in the documents described hereon, and these Conditions of Approval.

- C.3.5 Prior to construction permit release, the Developer shall prepare Improvement Plans in substantial conformance with the site building, parking, utility, grading, and other on-site and off-site improvements identified on submitted site improvements drawing package for D24-0044.
- C.3.6 Prior to construction permit release, the Developer shall provide a PDF copy of the Project's Geotechnical/Soils Report prepared and stamped by the Project's CA-GE. The technical report must include relevant information related to street pavement thickness (asphalt concrete and aggregate base), compaction recommendations, building pad section and compaction recommendation, soil bearing capacity, retaining wall footing design parameters, slope recommendations, peculation rates, ground water depth, and other pertinent information for grading the site and building the building foundations.
- C.3.7 Prior to construction permit release, the Developer shall submit an encroachment permit application with prepared Improvement Plans to specifically include, but not be limited to all existing and proposed utilities to be constructed such as domestic water line, irrigation service, water fire service, domestic water services, storm drain, sanitary sewer, all existing surface improvements such as PCC, curb, gutter, sidewalk, ADA ramps, fire hydrants, streetlights, landscaping, irrigation, irrigation controllers, striping, etc. including the size and location of all pipes.
- C.3.9 Prior to construction permit release, the Developer shall identify and depict on the Improvement Plans all existing improvements of pavement, curb and gutter, sidewalk, ADA ramps, fire hydrants, streetlights, landscaping, and irrigation in need of repair (cracked, settled, and/or damaged). The Developer shall then note on the Improvement plans the location of the said improvements need repair and shall be repaired accordance with City requirements to the Satisfaction of the City Engineer. Any repair, removal, and replacement shall be in a similar manner to the current improvement, i.e., similar width, color, finish, meander, etc.
- C.3.10 Prior to construction permit release, Developer shall provide all supporting engineering calculations, materials information or technical specifications, cost estimate, and technical reports shall be submitted at the time of grading, site improvement and building permit reviews. All improvement plans shall contain a note stating that the Developer will be responsible for preserving and protecting all existing survey monuments and other survey markers such as benchmarks prior to building permits.

C.3.11 Storm Water

Prior to construction permit release, the developer shall depict on the Improvement Plans the location of the existing storm drain located on Middlefield Drive. The Project's storm water connection to the City's existing storm water system shall be in accordance with City standard plans and city requirements and to the satisfaction of the City Engineer.

The Developer shall provide calculations for the sizing of the storm drain(s) and shall be submitted with the hydrology and storm water report during plan review. The Developer shall comply with the applicable requirements of the City's storm water masterplan adopted by the City Council in 2012 and any subsequent amendments.

All proposed detention basin(s) shall comply with the applicable requirements of the City's storm water masterplan adopted by the City Council in 2012 and clean water program and any subsequent amendments.

C.3.12 The Developer shall construct a storm drain pretreatment facility water to the satisfaction of the City C3 storm drain requirements. Per Item No. 15, Section V on page 94 of the 2008 Design Standards, all storm water run-off from the site shall not cross property lines. The Developer shall provide an overland drainage release point where onsite storm water line leaves the Project property. This storm drainage release point is where storm water leaves the Project in a 100-year storm event or when the Project property's on-site storm drainage system fails to function, or it is clogged. The storm drainage release point is recommended to be at least 0.70-feet lower than the new building's finish floor elevation and shall be designed and improved to the satisfaction of the City Engineer.

C.3.13 Sanitary Sewer

Proposed car wash does not propose to use sewer capacity for its operations due on on-site recycling of car wash water.

C.3.14 Water Distribution

Prior to construction permit release, the Developer shall depict on the Project Improvement Plans a potable domestic, irrigation, and fire sprinkler water services to each building within the Project site. Fire sprinkler lines and domestic water services to every building within the Project shall comply with the City Design criteria and city standard plans. The sizing, layout and looping of all water lines shall meet national and state fire code requirements for this type of building development. During the construction of the Project, the Developer is responsible for providing water infrastructure (temporary or permanent) capable of delivering adequate fire flows and pressure that is appropriate to all stages of construction and as approved by the City Fire Marshal.

The Developer shall connect the fire sprinkler line and the domestic water services to the existing water line on Corral Hollow Road for fire protection and domestic water service. If trenching is required, the pavement trenching and restoration in Corral Hollow Road shall be per the Design Standards.

Interruption to the water supply to the existing businesses and other users will not be allowed to facilitate construction of improvements related to the Project. The Developer is responsible for notifying business owner(s) and users, regarding any disruptions from the construction work. The written notice, as approved by the City Engineer, shall be delivered to the affected residents or business owner(s) at least seventy-two (72) hours before the start of work. Prior to starting the work described in this section, the Developer shall submit prepare a work plan acceptable to the City that demonstrates no interruptions to the water supply, and Traffic Control Plan to be used during the installation of the off-site water mains and connections.

The Project's water service connections shall be a remote-read (radio-read) master water meter (the water meter to be located within City's right-of-way) and a Reduced Pressure Type back-flow protection device in accordance with City requirements. The City Engineer shall approve the location of the water meters.

After improvement, acceptance, repair, and maintenance of the water service from the water meter to the point of connection with the water distribution main in the street shall be the responsibility of the City. Water service repairs after the water meter is the responsibility of the Developer or individual lot owner(s).

Prior to improvement acceptance, the repair and maintenance of all on-site water lines, laterals, sub-water meters, valves, fittings, fire hydrant and appurtenances shall be installed by the developer.

All costs associated with the installation of the Project's water connection(s) including the cost of removing and replacing asphalt concrete pavement, pavement marking and striping such as crosswalk lines and lane line markings on existing street or parking area(s) that may be disturbed with the installation of the permanent water connection(s), or domestic water service, and other improvements shall be paid by the Developer.

Fire Service Line(s) and Hydrants – Location and construction details of installing the fire service line shall include the installation of fire hydrant(s) that are to serve the Project, shall be protected with 4 concrete bollards around each hydrant. The layout of all fire hydrants shall be approved by the City Fire Marshal prior to the approval of the Improvement Plans by the City Engineer. The Developer shall submit a layout of the fire hydrants and obtain written approval of the location of fire hydrants and fire connections to the building from the Fire Marshal, prior completion of the of the water line design.

C.3.15 Prior to construction permit release, the Developer shall prepare Joint Trench Plans and Composite Utility Plans, prepared on a 24-inch x 36-inch size 4-

millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to the building(s).

C.3.16 Prior to construction permit release, the Developer shall provide signed and stamped Engineer's Estimate that summarizes the cost of constructing all the public improvements shown on the Improvement Plans.

C.3.17 Prior to construction permit release, the Developer shall provide payment of fees required by the City requirements including but not limited to plan checking, grading, construction inspection, agreement processing, encroachment permits, and other fees. The engineering review fees will be calculated based on the fee rate adopted and updated by the City Council.

C.3.18 Traffic Control Plan - Prior to starting the work for any work within City's right-of-way, the Developer shall submit a Traffic Control Plan (TCP). TCP can be split among the different construction phases. TCP will show the method and type of construction signs to be used for regulating traffic at the work areas within these streets. TCP shall conform to the Manual on Uniform Traffic Control Devices as amended by the State of California, latest edition (MUTCD-CA). TCP shall be prepared under the supervision of, signed and stamped by a Registered Civil Engineer or Registered Traffic Engineer.

Access and Traffic Circulation to Existing Businesses/Residents - Developer shall take all steps necessary to plan and construct site improvements such that construction operations do not impact safety and access (including emergency vehicles) to the existing businesses and residents throughout the duration of construction. The Developer shall coordinate with the owners and cooperate to minimize impacts on existing businesses. All costs of measures needed to provide safe and functional access shall be borne by the Developer.

C.3.19 No street trench shall be left open, uncovered, and/or unprotected during night hours or when the Developer's contractor is not performing construction activities. Appropriate signs and barricades shall be installed on the street and on all trenches during construction. If the Developer or his contractor elects to use steel plates to cover street trenches, said steel plates will be skid-resistant, and shall be ramped on all sides. Ramps will be a minimum two-foot wide and will run the entire length of each side.

C.3.20 If at any point during utility installation or construction, the Developer, or his contractor, engineers, and their respective officials, employees, subcontractors, and/or subconsultant exposes/encounters/uncovers any archeological, historical, or other paleontological findings, the Developer shall 1) inform the City Engineer; 2) shall address the findings as required per the General Plan Cultural Resource Policy and General Plan EIR; and 3) subsequent Cultural Resource Policy or mitigation in any applicable environmental document.

C.3.21 Improvement Security - Developer shall provide improvement security for all public facilities, as required by the TMC. The form of the improvement of security may be a bond, or other form in accordance with the Government Code, and the TMC. The amount of the improvement security shall be in accordance with Title 12 of the TMC.

Insurance – Developer shall provide written evidence of insurance coverage that meets the TMC.

Construction Permit Special Condition(s)

C.3.22 The Developer shall file for an encroachment permit for the demolition and construction of new improvements in the city right of way.

C.3.23 Prior to construction permit release, Developer shall obtain all applicable signatures by City departments and outside agencies (where applicable) on the Improvement Plans including the Fire Marshal prior to submitting said plans to Engineering for City Engineer's signature.

C.4. Building Permit

Prior to building permit release, the Developer shall demonstrate, to the satisfaction of the City Engineer, compliance with all required Conditions of Approval, including, but not limited to, the following:

C.4.1 The Developer has satisfied all the requirements set forth in these Conditions of Approval.

C.4.2 Prior to building permit release, the Developer shall pay the development impact fees to the satisfaction of the City Engineer.

C.4.3 Prior to building permit release, the Developer shall have obtained a Grading Permit.

Building Permit Special Condition(s)

None

C.5. Acceptance of Public Improvements and Occupancy

Prior to acceptance of public improvements, the Developer shall demonstrate to the satisfaction of the City Engineer completion of the following:

C.5.1 The Developer has satisfied all the requirements set forth in these Conditions of Approval.

C.5.2 Prior to any form of occupancy, the Developer shall demonstrate satisfactory completion of all required/conditioned improvements. The Developer shall use diligent and good faith efforts in taking all actions necessary to construct all

public facilities required to serve the Project, and the Developer 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.5.3 Prior to any form of occupancy, the Developer shall provide Certified "As-Built" Improvement Plans (or Record Drawings) from the Project's CA-CE. Upon completion of the construction by the Developer, the City, at its sole discretion, temporarily release the original mylars of the Improvement Plans to the Developer so that the Developer will be able to document revisions to show the "As-Built" configuration of all improvements.
- C.5.4 Prior to occupancy, the Developer shall provide both AutoCAD files (including all X-references files), and GIS Shape files (both in formats approved by the City) for the public improvements.
- C.5.5 Prior to occupancy, the Developer shall complete potable domestic and irrigation water service connection(s). The developer shall also complete all fire water lines to fire sprinkler system and on-site fire hydrants. These items are to be installed per City requirements.
- C.5.6 Prior to occupancy, the Developer shall complete all sewer improvements. The developer shall also complete but not limited to reconstructing PCC curb, gutter, and sidewalk, replacing asphalt concrete pavement, restoring pavement marking and striping, and other improvements that are disturbed because of installing the Project's permanent sewer connection.
- C.5.6 Prior to acceptance of public improvements, if determined by the City Engineer that an existing pavement to be in poor condition or damaged by construction activities related to the Project, the Developer shall repair or reconstruct street pavement fronting the project including curb, gutter and sidewalk and other public improvements
- C.5.7 Prior to acceptance of public improvements, the Developer will need to complete the ninety (90) day public landscaping maintenance period.
- C.5.8 Prior to improvement acceptance Per Section 21107.5 of the California Vehicle Code, the Developer shall install signs at all entrance(s) to the Project stating that the streets are privately owned and maintained and are not subject to the public traffic regulations or control. Said signs must be conspicuously placed, plainly visible, and legible during daylight hours from a distance of one hundred (100) feet, if applicable.
- C.5.9 Prior to improvement acceptance, the Developer shall submit warranty bonds to the City for review.
- C.5.10 Prior to acceptance of public improvements, the Developer shall have constructed all public improvements in accordance with City requirements, the

recommendation(s) of the Project's (CA-CE), and to the satisfaction of the City Engineer.

C.5.11 Release of Improvement Security – Release of improvement security shall be in accordance with the requirements of Title 12 of the TMC. The Monumentation Bond will be released to the Developer after the City Council's acceptance of the public improvements and if the Developer meets the terms set in Section 66497(c) of the Subdivision Map Act. All survey monuments shown on the Final Map, if applicable, must be installed. Any altered, damaged, or destroyed survey monuments and/or benchmarks shall be re-established. The Developer shall submit centerline tie sheets or a record of survey for the following: new public streets; re-established survey monuments, and/or benchmarks. If the Developer destroyed, altered, and/or reconstructed any existing curb returns, the Developer shall also submit corner records. Any survey document will be submitted the city and to the San Joaquin County Surveyor to comply with California Business and Professions Code Section 8771(c). Said work shall be executed by a California licensed Land Surveyor at the Developer's sole expense.

Acceptance or Occupancy Special Condition(s)

None.

C.6.0 Special Conditions

C.6.1 When Street cuts are made for the installation of utilities in the paved street, the Developer shall conform to Section 3.14 of the 2008 Design Standards that he is required to install a 2-inch-thick asphalt concrete (AC) overlay with reinforcing fabric at least 25-feet from all sides of each utility trench. A 2-inch-deep grind on the existing AC pavement will be required where the AC overlay will be applied and shall be of uniform thickness to maintain current pavement grades, cross sectional, and longitudinal slopes. This pavement repair is required when cuts/trenches are perpendicular to and parallel to the street's direction.

C.6.2 Nothing contained herein shall be construed to permit any violation of relevant ordinances and regulations of the City of Tracy, or other public agency having jurisdiction. This Condition of Approval does not preclude the City from requiring pertinent revisions and additional requirements to the improvement plans, prior to the City Engineer's signature on the improvement plans, and prior to issuance of Grading Permit, Encroachment Permit, Building Permit, if the City Engineer finds it necessary due to public health and safety reasons, and it is in the best interest of the City. The Developer shall bear all the cost for the inclusion, design, and implementation of such additions and requirements, without reimbursement or any payment from the City.

C.6.3 If water is required for the construction of the project, the Developer shall obtain an account for the water service and register for a temporary water meter with the City Finance Department and Public Works Departments. The Developer shall pay all fees associated with obtaining the account number and temporary water meter for the water service.

- C.6.4 The Developer shall obtain an account for the water service to the Project and register the water meter with the Finance Department and Public Works department prior to the start of construction. The Developer shall prepare and submit a map depicting the location of the water meter on an 8.5-inch X 11-inch sheet to the Finance Department.
- C.6.5 The Developer shall prepare Joint Trench Plans and Composite Utility Plans, prepared on a 24-inch x 36-inch size 4-millimeter thick mylar for the installation of dry utilities such as electric, gas, TV cable, telephone, and others. If required by the power company, this joint trench line shall be located within the ten (10) feet wide P.U.E. be installed to serve the Project. All private utility services to serve Project must be installed underground or relocated to be underground, and to be installed at the location approved by the respective owner(s) of the utilities from the street or an existing or proposed utility easement to each building(s). If necessary, the Developer shall dedicate a (10 feet) wide Public Utility Easements (PUE) behind the proposed sidewalk along the Project frontage prior to building permit.

D. Utilities Department, Water Resources Division Conditions

- D.1. Prior to issuance of a construction or building permit, the applicant shall demonstrate compliance with the 2015 Post-Construction Stormwater Standards (PCSWS) Manual and obtain approval through the following:
 - D.1.1. Develop a Project Stormwater Plan (PSP) that identifies the methods to be employed to reduce or eliminate stormwater pollutant discharges through the construction, operation and maintenance of source control measures, low impact development design, site design measures, stormwater treatment control measures and hydromodification control measures.
 - D.1.1.a. Design and sizing requirements shall comply with PCSWS Manual.
 - D.1.1.b. Demand Management Areas must be clearly designated along with identification of pollutants of concern.
 - D.1.1.c. Calculations of the Stormwater Design Volume and/or Design Flow with results from the Post-Construction Stormwater Runoff Calculator must be submitted in the PSP for approval.
 - D.1.1.d. Per the PCSWS Manual, include a hydromodification management plan ensuring the post-project runoff flow rate shall not exceed estimated pre-project flow rate for the 2-year, 24 hour storm.
 - D.1.1.e. Submit one (1) hard copy of the PSP and an electronic copy to the Utilities Department (WaterResources@cityoftracy.org), include the project name, address and Project # and/or Permit # in the title or subject line.
 - D.1.2. A separate plan sheet(s) designated SW shall be submitted in the plan set that includes the identified methods for pollution prevention outlined in the submitted PSP. You must include all standards, cross sections and design specifications such as landscape requirement in treatment areas including type of irrigation installation and/or height of drain inlet above the flow line, etc. in these SW plan

sheets along with legend.

- D.1.3. Develop and electronically submit to the Utilities Department for approval (WaterResources@cityoftracy.org) a preliminary Operations and Maintenance (O & M) Plan that identifies the operation, maintenance, and inspection requirements for all stormwater treatment and baseline hydromodification control measures identified in the approved PSP.
- D.1.4. No later than two (2) months after approval notification of the submitted PSP, the applicant shall electronically submit the following information to the Utilities Department (WaterResources@cityoftracy.org) for development of a draft stormwater maintenance access agreement, in accordance with the MAPCSWS:
 - i. Property Owner(s) name and title report; or Corporate name(s) and binding documents (resolutions, etc) designating ability to sign agreement
 - ii. Property Address
 - iii. Exhibit A – legal property description
 - iv. Exhibit B – approved O & M Plan
- D.2. Prior to issuance of a grading permit, the applicant shall provide proof of permit coverage under the Construction General Permit and submittal of an electronic Stormwater Pollution Prevention Plan (SWPPP), to be submitted to WaterResources@cityoftracy.org.
- D.3. Prior to Certificate of Occupancy, the applicant shall complete the following to the satisfaction of the Utilities Director:
 - D.3.1. Return to the City Clerk, a legally signed and notarized copy of the final maintenance access agreement including all exhibits and approved O & M plan received from the Utilities Department.
 - D.3.2. Obtain final approval by the Utilities Department of the constructed and installed Stormwater pollution prevention methods outlined in the PSP. Frequent inspections of the Post-Construction treatment measures should occur during the construction phase by calling 209-831-6333.
 - D.3.3. The project shall be in full compliance with Construction General Permit including 70% stabilization of the project with Notice of Termination approval.
- D.4. Before the approval of a construction, grading or building permit, the applicant shall demonstrate compliance with Tracy Municipal Code Chapters 11.28 and 11.34 and Chapter 4 of the California Green Building Standards Code to the satisfaction of the Utilities Director.
- D.5. Prior to issuance of a construction or building permit, applicant shall demonstrate compliance with the 2015 Model Water Efficient Landscape Ordinance and obtain approval by the Utilities Department through the following:

D.5.1. Develop and submit electronically and by hard copy, a Landscape Document Package (LDP) that identifies the methods to be employed to reduce water usage through proper landscape design, installation and maintenance. This LDP shall consist of:

- i. A project information sheet that includes the checklist of all documents in the LDP;
- ii. The Water Efficient Landscape Worksheets that include a hydrozone information table and the water budget calculations – Maximum Applied Water Allowance and Estimate Total Water Use;
- iii. A soil management report, after compaction and from various locations throughout the project;
- iv. A landscape design plan that includes the statement, “I agree to comply with the requirements of the 2015 water efficient landscape ordinance and shall submit for approval a complete Landscape Document Package;
- v. An irrigation design plan with schedule; and
- vi. A grading design plan.

D.5.2. A Certificate of Completion must be completed, signed, and submitted to the Utilities Department prior to Final approval for Occupancy.

E. Building Division Conditions

E.1. Prior to the construction of the project, applicant shall submit construction documents, plans, specifications and/or calculations to the Building Safety Division, which meet all requirements of Title 24 California Code of Regulations and City of Tracy Municipal Codes, as applicable.

F. South San Joaquin County Fire Authority (SSJCFA) Conditions

F.1. Prior to construction, all-weather fire apparatus access roads shall be installed. Fire apparatus access roads during construction shall have a minimum 20' unobstructed width in accordance with CFC §503.

F.2. Prior to construction, an address must be posted at the construction site entrance. Address must be a minimum of 4 inches high by ½ inch numerals. Address must be provided so that emergency service personnel can locate the construction site in the event of an emergency.

F.3. Prior to construction, applicant shall submit construction documents to the South San Joaquin County Fire Authority for review and approval.

- a. Construction documents shall be designed to the current edition of the California Code of Regulations, Title 24, as amended by the City of Tracy Municipal Code.
- b. Deferred submittals shall be listed on the coversheet of each page. Each deferred submittal shall be submitted, reviewed and approved by SSJCFA prior to installation.
- c. Fire protection water supply must be submitted separately from construction permit. All piping and installation shall be in accordance with CFC §507 & NFPA standards. Approval of grading and/or on-site improvements does not grant installation of underground fire service.

d. A request for fire flow shall be submitted to the South San Joaquin County Fire Authority and results shall be approved by the Fire Marshal prior to construction. Fire flow requirements shall be in accordance with CFC Appendix B.

G. The following conditions provide the applicant with options for funding required Citywide services.

G.1. Streets and Streetlights

Before issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the “Infrastructure”), by doing one of the following, subject to the approval of the City’s Finance Director:

- a. Community Facilities District (CFD). Developer shall enter into an agreement with the City, to be signed by the Finance Director, which shall be recorded against the Property, which requires that prior to the final inspection, Developer shall complete the annexation of the Property to City of Tracy Community Facilities District in compliance with the requirements of the Mello – Roos Community Facilities Act of 1982 (Gov. Code § 53311 et seq.) including, without limitation, affirmative votes, and the recordation of a Notice of Special Tax Lien. Developer shall be responsible for all costs associated with the CFD proceedings.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, Developer must do the following:
 - 1) Form a Property Owner’s Association (POA) or other maintenance association, with CC&Rs reasonably acceptable to the City, to assume the obligation for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the “Infrastructure”);
 - 2) Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, setting forth, among other things, the required maintenance obligations, the standards of maintenance, and all other associated obligation(s) of the POA to ensure the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the

streetlights and signals that will serve the Project (collectively, the "Infrastructure");

- 3) Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA fails (as determined by the City in its sole and exclusive discretion) to perform the required level of operation, maintenance and replacement for the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure"). The dormant tax or assessment shall be disclosed to all property owners, even during the dormant period.

Or

- c. Direct funding. Developer shall enter into an agreement with the City, which shall be recorded against the Property, which requires that prior to approval of final inspection, Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure").

If the provisions for adequate funding of the on-going costs of the operation and maintenance of the streets (from curb-to-curb, excluding gutters) to a Pavement Management System standard of PCI 70 (seventy), which could include street reconstruction, as reasonably determined by the City, the electric utility costs of operating the streetlights and signals that will serve the Project (collectively, the "Infrastructure") are met prior to issuance of the building permit for the Property, subject to the Finance Director's review and approval, the terms of this condition shall be considered to have been met and this condition shall become null and void.

G.2. Landscaping Maintenance

Prior to issuance of any building permit for the Property, Developer shall provide for perpetual funding of the on-going costs of operation, maintenance and replacement for public landscaping for the Property at a high-quality service level as determined by the Parks Director by doing one of the following, subject to the approval of the City's Finance Director:

- a. CFD or other funding mechanism. The Developer shall enter into an agreement with the City, which shall be recorded against the Property, which stipulates the following: (1) prior to issuance of a building permit, the Developer shall form or annex into a Community Facilities District (CFD) for funding the on-going costs related to maintenance, operation, repair and replacement of public landscaping,

public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan; (2) the items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems; masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails; (3) formation of the CFD shall include, but not be limited to, affirmative votes and the recordation of a Notice of Special Tax Lien; (4) upon successful formation, the parcels will be subject to the maximum special tax rates as outlined in the Rate and Method of Apportionment; (5) prior to issuance of a building permit, the Developer shall deposit an amount equal to the first year's taxes; and (6) the Developer shall be responsible for all costs associated with formation or annexation of the CFD.

Or

- b. POA and dormant CFD. If the POA is the chosen funding mechanism, the Developer must do the following:
 1. Form a Property Owner's Association (POA) 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 that will serve the Property;
 2. Cause the POA to enter into an agreement with the City, in a form to be approved by the City and to be recorded against the Property prior to the final inspection, 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 POA of all public landscape areas that will serve the Property;
 3. Make and submit to the City, in a form reasonably acceptable to the City, an irrevocable offer of dedication of all public landscape areas that will serve the Property;
 4. Before final inspection, annex into a CFD in a "dormant" capacity, to be triggered if the POA 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 property owners, even during the dormant period.

Or

- c. Direct funding. The Developer 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, the Developer shall deposit with the City an amount necessary, as reasonably determined by the City, to fund in perpetuity the full on-going maintenance costs related to maintenance, operation, repair and replacement of public landscaping, public walls and any public amenities included in the Project, and ongoing public landscaping maintenance costs associated with major program roadways identified in the Citywide Roadway and Transportation Master Plan. The items to be maintained include but are not limited to the following: ground cover, turf, shrubs, trees, irrigation systems, drainage and electrical systems, masonry walls or other fencing, entryway monuments or other ornamental structures, furniture, recreation equipment, hardscape and any associated appurtenances within medians, parkways, dedicated easements, channel-ways, public parks, and public open space areas and trails.

March 04, 2025

Agenda Item 3.C

RECOMMENDATION

Discuss interim solutions for Animal Services to address capacity and kennel space, and upon conclusion of such discussion, by motion, direct staff to proceed with specific solution(s).

EXECUTIVE SUMMARY

On July 2, 2024, in response to public comments regarding stray dogs from April 2, 2024, staff provided a report regarding stray dogs and adding additional kennels at the shelter. Staff was directed to seek a re-evaluation of Phase II of the animal shelter.

As a result, staff opened a competitive request for proposals (RFP) and executed an agreement with Indigo Hammond + Playle Architects, LLP to conduct a re-evaluation of Phase II of the Animal Shelter. The agreement provides for a term of November 15, 2024 to June 14, 2025 to complete their assessment and provide the City with their recommendation. The re-evaluation is currently underway; however, in response to increased public comment and a desire to consider interim solutions, staff was asked to prioritize bringing back a report to discuss potential interim solutions. In an effort to provide the City Council with a wide array of potential interim solutions staff has prepared a report with interim solutions which can be implemented in 30-to-60-day implementation periods, 90 days to 6 months implementation periods, and identified a long term (over 6 months) solutions. All interim solutions require monetary investment by the City in the form of physical equipment, supplies and/or staff. Some interim solutions may be considered a one-time expenditure but others, if implemented, will require long term investment from the general fund and potentially ongoing pension obligations should the Council decide to pursue additional staffing resources. Decision rendered may require changes to the current fiscal year budget and will need to be accounted for in the 25-26 Fiscal Year budget.

This report will discuss the immediate and intermediate solutions and request direction from Council.

BACKGROUND AND LEGISLATIVE HISTORY

On July 2, 2024, in response to public comments regarding stray dogs from April 2, 2024, staff provided a report regarding stray dogs and adding additional kennels at the shelter. Staff was directed to seek a re-evaluation of Phase II of the Animal Shelter.

Staff executed an agreement with Indigo Hammond + Playle Architects, LLP to conduct a re-evaluation of Phase II of the Animal Shelter. The agreement provides for a term of November 15, 2024 to June 14, 2025 to complete their assessment and provide the City with their recommendation.

On July 2, 2024, specific comments and proffered solutions discussed and raised at the meeting included additional prefabricated kennel pod(s) to be placed on the property. Staff was also directed to address concerns and prepare a discussion regarding research and the evaluation of additional options to address stray animals and shelter capacity.

On January 21, 2025, in response to public comments, Council requested that staff prioritize returning with interim solutions as soon as possible. Staff determined that while the Phase II re-evaluation is being completed, it could separate the interim solutions from the Phase II discussion and return with a report back to Council with interim solutions.

In preparation for this report, staff conducted research for various programs that would improve the shelters capabilities with regards to overcrowding, spay and neuter difficulties, long length of stays for shelter pets, increase return to owner numbers, and support Tracy resident pet owners.

Additionally, Tracy Animal Services hosted (3) three Town Hall Meetings on June 19, 2024, July 17, 2024, and December 4, 2024 with Tracy Dog Girls Rescue to have open dialogue, hear their concerns, and seek input on recommended solutions.

When considering any solution, staff always applies the industry's best practices as provided by nationally recognized experts Best Friends, UC Davis, and Team Shelter USA.

ANALYSIS

While there can be a variety of solutions offered, and many have been proffered by the public, not all can be implemented or should be implemented by an Animal Services Division that seeks to implement evidence based, best practices. Based on staff's research, community feedback, and best practices, the following interim solutions have been identified:

Immediate Solutions:

Option A: Increase budget for low cost spay/neuters for all dogs owned within the City limits. Approve on-going funding of \$16,200 annually to the Animal Services operating budget to assist with low cost spay/neuter for 100 dogs per year.

\$162 per dog is the average cost of a spay and neuter and based on Animal Services cost with local veterinarians. A male neuter cost \$130 and a female dog costs \$194.

Dogs that are spay/neutered are less likely to roam, spay/neuter is known to curve negative reactive behavior, and reduces reproduction and accidental litters.

Option B: Free Adoptions for dogs

Approve on-going funding of \$97,200 annually to Animal Services operating budget to provide free adoptions for dogs. This funding would include the spay/neuter of the dog, microchip, vaccinations, deworming, and the City's current adoption fee.

The total request is based on the 400 adoptions of dogs in 2024.

By offering free adoptions, there is potential to reduce the length of stay by removing barriers of adoption and increase open kennels available for incoming strays.

It should be noted that reduced or no adoption fees does not correlate to a pet being treated poorly by the adopted family nor has this shown that the pet is valued as 'less then' to pets that require an adoption fee.

Option C: Foster Incentive Program

Approve on-going funding of \$10,000 annually to Animal Services operating budget to engage and encourage the community to foster dogs with \$100.00 for each month they foster a shelter dog.

Fosters would go through the normal application and assessment process and sign appropriate documentation, as well as agree to the commitment of bringing the pets for any 'meet and greet' adoption appointments.

By offering an incentive, it will allow for more open kennels at the shelter for stray intakes, allows for dogs to remain out of the shelter environment and promotes enrichment and good health while waiting for adoption.

Option D: Kennels and Fence Repair for pet owners

Approve funding for Animal Services to contract with a local general contractor's for on call services for installing fully enclosed dog kennel and/or fence repair in agreement with a habitual stray pet owner.

This option aids pet owners who have repeated instances with their pet roaming but find purchasing a kennel or repairing a fence is cost prohibitive.

The estimated cost for these services ranges to include material and labor ranges from \$200 - \$650 per service.

Funding to provide these services to 50 residents would cost between \$32,500 and \$42,500 annually.

This option keeps pets in their homes while eliminating their ability to roam and become stray, and reduces calls for service, community concern, or safety risks (be it to the pets self or to the community).

It is also appropriate to address that pop-up kennels/crates placed at Animal Services, while may seem like a viable option, is against best practices and is considered inhumane in pet care. The question would be posed "when do we stop adding more pop-up kennels". Additionally, the quality of life for a dog in a pop-up kennel is not the same as it is for the dogs inside a shelter pre-fabricated dog kennel. Factors such as ample space for the dog, structure, and indoor/outdoor availability for the dog, are all considered when housing dogs. Pop-up kennels pose issues for contagious disease control, longer length of stays, mental deterioration of dogs faster, staffing complications, and in general is considered bad practice for Animal Shelters nationwide.

The option of keeping pets in their homes and contained there is less expensive and more humane than adding additional kennels at the shelter due to the cost factors and necessary considerations required for the City which are discussed in the alternative 90 day to 6-month options.

Intermediate solutions – 90 days to 6 months

Option A: Develop a live outcome team

Approve (2) two additional positions for the Animal Shelter to include an Administrative Assistant and an Animal Services Aide to focus on reunification of strays with their owners, off-site adoptions of underserved areas, focus on more rescue networking and engagement, growing the foster program to move more pets into homes versus a kennel while waiting for a potential adopter.

On-going annual funding of \$243,778 for salaries related to the Administrative Assistant and Animal Services Aide positions, \$10,000 one-time equipment and supplies required for the positions, \$85,000 one-time cost of fully outfitted truck, \$5,000 on-going cost for vehicle maintenance would be needed.

This solution and increased staffing would improve the shelter's ability to reduce the length of stay for dogs, increase adoptions, increase open kennels for stray intakes, increase proactivity, and focus efforts.

Option B: Adding 8 Prefabricated dog kennels + (1) one Animal Services Aide Position

Approve adding 8 prefabricated dog kennels and (1) one Animal Services Aide to ensure an appropriate staff to animal ratio for capacity for care.

Necessary animal care includes daily sanitation of each kennel, administering any medication or wound care, providing at least 15 minutes of out of kennel interaction of each pet in the shelter, showing pets to adopters, providing enrichments to mentally support each pet three times daily, and overall shelter maintenance and cleaning.

This solution would require \$100,778 annual salary for an Animal Services Aide, and approximately \$180,000 to construct the additional (8) kennels. More formal quotes would be required for prefabricated kennels, pouring a cement foundation, moving or removing existing fencing for space, adding drainage, electrical, and construction, permitting, and inspections. Dependent on procurement thresholds could include formal RFP process, various agreements with vendors, and additional Council approval.

This solution will allow the shelter to accept 8 more dogs and provide adequate care, cleaning, and maintenance necessary for the dogs and the kennels.

Although the cost of the kennels may seem high in comparison to kennel options available for pet owners, the City must consider all of the factors above which are not typically necessary for an individual pet owner.

Additionally, the cost to the City of Tracy is \$59 a day per dog for the care staff provides. This does not include vaccinations (\$10), a microchip (\$10), or deflea/deworm (\$20), that is provided to each pet for health maintenance and as required by regulations. Adding an additional 8 dogs would equate to a minimum increase of \$472 being spent daily in care for those dogs. This cost does not include treating any ailments the pets can contract while in the shelter setting. The City's most recent fee study identified the cost of personnel time per hour at Animal Services is \$146.

Long Term Solution:

Phase II of the Animal Shelter

As requested, a re-evaluation is currently underway with Indigo Hammond + Playle Architects, LLP. To date, the architects have met with staff and conducted a site visit and facility assessment. Their scope of work anticipated a 16-week turnaround for a formal plan to be delivered to the City.

Staff expects to bring the evaluation and recommendation back to Council as soon as the report is completed, no later than June 2025.

The evaluation will include expansion of the shelter, adding additional kennel space, adding additional common areas, animal greeting areas, staff office and workspace, and conference room area for community meetings.

Once this recommendation is completed, staff can begin to assess any potential staffing that would be needed to support the expansion.

Phase II will allow for further community connections, additional kennels, increased resources offered to the community, bring in more events which leads to more foot traffic and more adoptions, more community programs, more inter-city department partnerships, lower length of strays, healthier cats so less medical expenses and time demand on staff, an on-site walking/enrichment path for the dogs, more storage, more staff support via office space.

Staff has conducted a considerable amount of research and evaluation of potential interim solutions which we believe could help mitigate many of the current concerns expressed by residents. These solutions could offer immediate remedy to some of the challenges that Animal Services faces with getting animals out of the shelter and into a home. These interim solutions could also provide relief to community members who may need assistance with cost associated with spay/neuter, the expense of adopting, and promote community engagement with offering an incentive to those who desire to help. The other alternatives are viable and offer relief, however; they require more implementation time, additional staff, added construction, and more funding. This may be better evaluated after the Phase II Assessment is received. However, all of the solutions come with a monetary impact to the City's general fund, and it is unlikely that any of these solutions would eliminate the human component to the City's shelter capacity issues, such as poor pet care, lack of owner knowledge, abuse, etc. that impact and contribute to many of the reported problems.

Staff is requesting direction as to which option or combination of options, Council desires to pursue. Staff will need to return with appropriate resolutions and budget items to implement any potential solutions as may be directed by Council.

FISCAL IMPACT

This is a discussion item and dependent on City Council's direction. The fiscal impact is dependent on which solutions are desired and may require a request for an additional funding as the Tracy Animal Shelter's current operational budget may not be sufficient. Additionally, staff would return to Council for approval on any agreements, additional staff allocations or purchases that augment the adopted budget.

Required funding could range from \$10,000 to \$250,000 annually, dependent on the desired solution(s), which does not include ongoing pension obligations should Council decide to pursue additional staffing.

PUBLIC OUTREACH/ INTEREST

The community supports the humane care and treatment of pets in need as multiple residents at many Council meetings have spoken regarding the need for more resources from Tracy Animal Services. These interim solutions look to positively impact kennel space, stray pets, sheltering alternative, additional programs and outreach, community support, and Phase II of Tracy Animal Shelter.

Animal Services communicates and meets regularly with Tracy Dog Girls and provides legal (penal code, health and safety codes, food and ag codes, and municipal codes) information on the way in which Animal Services carry out prevention, intervention, and enforcement.

Along with our continual dialog via emails, phone calls/texts, and in person visits, we also have hosted three (3) Town Halls for the Tracy Dog Girl Rescue, bringing in any member wanting to be a part of the broader solution-based conversation in one setting.

COORDINATION

Animal Services actively engages with partners such as UC Davis Koret Shelter Medicine, local rescue non-profits, veterinary practices, and other shelters to ensure that the City of Tracy's Animal Services unit operates and adheres to the industry's best practices, and to provide the most humane care and approach.

CEQA DETERMINATION

The proposed action is not a "project" under the California Environmental Quality Act. Pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this action will have an effect on the physical environment. Interim solutions at the existing animal shelter are exempt from CEQA review per CEQA Guidelines Sections 15301 as operations of the existing facilities.

STRATEGIC PLAN

This agenda item relates to Council's Strategic Priorities for Public Safety.

ACTION REQUESTED OF THE CITY COUNCIL

Discuss interim solutions for Animal Services to address capacity and kennel space, and upon conclusion of such discussion, by motion, direct staff to proceed with specific solution(s).

Prepared by: Brittany Pasquale, Animal Services Manager

Reviewed by: Beth Lyons-McCarthy, Support Operations Manager
Sekou Millington, Chief of Police
Sara Castro, Director of Finance
Arturo Sanchez, Assistant City Manager
Karin Schnaider, Assistant City Manager
Andrew Shen, Interim City Attorney

Approved by: Midori Lichtwardt, City Manager



Animal Services Interim Solutions

March 4, 2025

Immediate Solutions (30-90 day implementation)

Option A: INCREASE BUDGET FOR LOW COST/SPAY NEUTERS FOR DOGS OWNED WITHIN THE CITY LIMITS.

Cost:

- \$162 per dog (based on average cost of male/female cost with local vets)
- On-going annual funding of \$16,200 would allow for 100 dogs a year.

Anticipated outcome:

- Less roaming dogs as unaltered dogs are more likely to roam.
- Less reproduction and accidental litters.
- Alterations have shown to help curve negative behavior.

Timeline:

- Immediately upon council approval and augmentation request submitted to City Finance Department



OPTION B: FREE ADOPTIONS FOR DOGS

Cost?

- \$243 Per Dog
- On-going annual funding of \$97,200 would allow for 400 dogs per year
 - Animal Services adopted out 400 dogs in 2024
 - Cost includes spay/neuter, microchip, vaccinations, deworming, and city's current adoption fee.

Anticipated outcome:

- Lessening the length of stay by removing barriers of adoption, thus opening up kennels.
 - It should be noted that reduced or no adoption fee's does not then equal a pet is treated poorly by the adopted family nor has this shown that the pet is valued as 'less then' to pets that require an adoption fee.

Timeline:

- Immediately upon council approval and augmentation request submitted to City Finance Department



OPTION C: FOSTER PROGRAM INCENTIVE

Cost?

- \$100 Per Dog per month
- On-going annual funding of \$10,000

Anticipated outcome:

- Engage and encouraging the community to foster dogs with \$100.00 for each month they foster a shelter dog.
- Allows for more open kennels at the shelter for stray intake
- Allows for dogs to remain out of the shelter environment and promotes enrichment and good health while waiting for adoption.
 - Fosters would have to go through the normal application and assessment process and sign appropriate documentation, as well as agree to the commitment of bringing the pets for any 'meet and greet' adoption appointments.

Timeline:

- 30-90 days upon council approval and augmentation request submitted to City Finance Department and development of policy.



OPTION D: Kennels and Fence Repair for Pet Owners

Cost?

- Estimated cost for these services ranges to include material and labor ranges from \$200 - \$650 per service.
- On-going funding between \$32,500 - \$42,500 annually to provide services to 50 residents

Anticipated outcome:

- Keeps from roaming and in their own home.
- Reduces calls for service
- Reduces community concern
- Reduces safety risks to the community and the pet
- Aids pet owners who have repeated instances with their pet roaming but find purchasing a kennel or repairing a fence is cost prohibitive.

Pop-up kennels or crates are considered inhumane and go against capacity for care practices established by UC Davis Koret Shelter Program

Timeline:

- 30-90 days upon council approval and augmentation request submitted to City Finance Department
- Executing agreements with local contractors
 - Agreements would be within City Manager's authority for signature



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Intermediate Solutions (90 day to 6 month implementation)

OPTION A: DEVELOP A LIVE OUTCOME TEAM

Cost:

- \$243,778 annual salary cost for two positions
 - Admin Assistant - \$143,000 and Animal Services Aide \$100,778
- \$85,000 on-time vehicle purchase + \$5,000 annual maintenance
- \$10,000 one-time equipment and supplies

Anticipated outcome:

- Reduce length of stay and increase adoptions
- Increase to open kennels for stray intake
- Increased proactivity and focused efforts due to additional staffing

Timeline:

- 6 months
 - Request augmentation to the adopted budget and City position allocations
 - Recruitment and hiring of 2 new positions
 - Develop program deliverables and policy



OPTION B: ADDING 8 PREFABRICATED DOG KENNELS + (1) ONE ANIMAL SERVICES AIDE POSITION

Cost?

- Annual salary for Animal Services Aide \$100,778
- Cost of Prefabricated Kennels - \$180,000 (approximate and would need to require more formal costing)
 - Would include kennels, fencing, cement foundation, drainage, electrical, removal and replace of current fencing to allow for space,

Anticipated outcome:

- Increase number of kennels by (8) eight, allowing for the intake of 8 more dogs.
- Increased staffing of (1) Animal Services Aide to provide adequate care and cleaning.

Timeline:

- 6 months upon council approval and augmentation request submitted to City Finance Department
- Formal quotes or RFP Process dependent on cost
- Necessary agreements
- Additional Council approvals based on procurement thresholds
- Construction, permitting, inspections

Long Term Solution

Phase II of the Animal Shelter – Currently Conducting a Re-Evaluation

Cost:

- Last estimate in 2015 was \$6 million**

Anticipated outcome:

Phase II will allow for further community connections, additional kennels, increased resources offered to the community, bring in more events which leads to more foot traffic and more adoptions, more community programs, more inter-city department partnerships, lower length of strays, healthier cats so less medical expenses and time demand on staff, an on-site walking/enrichment path for the dogs, more storage, more staff support via office space.

Timeline:

- Re-evaluation is due back from Hammond + Playle Architects, LLP by June 15, 2025
- Overall timeline for Phase II is dependent on direction from City Council and funding
- Current plan for Phase II is incorporate in the City of Tracy's Master Facility Plan



Think Inside the Triangle™



Further direction is needed regarding options for solutions for Tracy Animal Services.

Council may consider any combination of the options presented in this discussion. The most immediate solutions are provided in Options A through D.

Option A: Increasing the budget for spay and neuters of dogs within city limits

Option B: Providing free adoptions

Option C: Offering an incentive for fostering

Option D: Kennels and Fence repair for pet owners

Should Council implement any of these solutions would offer immediate remedy to some of the challenges that Animal Services faces with getting animals out of the shelter and into a home. These options also provide relief to community members who may need assistance with cost associated with spay/neuter, the expense of adopting, and promote community engagement with offering an incentive those who desire to help. The commitment would be \$167,500 annually.



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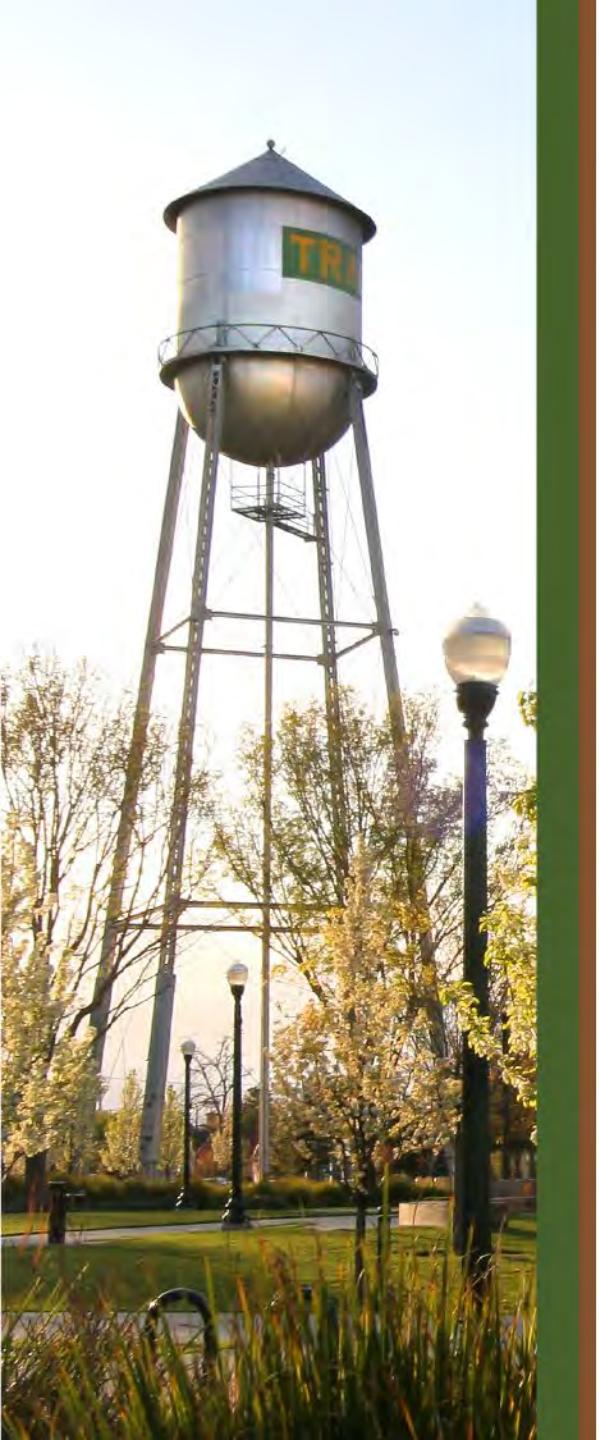
The other alternatives are viable and offer relief, however; they require more implementation time, additional staff, added construction, and more funding. This may be better evaluated after the Phase II Assessment is received.

Staff is requesting direction as to which option or combination of options, council desires to pursue.

This is a discussion item and dependent on City Council's direction. The fiscal impact is dependent on which solutions are desired and may require a request for an additional funding as the police department's current operational budget may not be sufficient. Additionally, staff would return to council for approval on any agreements, additional staff allocations or purchases that augment the adopted budget.

Required funding could range from \$10,000 to \$250,000 annually, dependent on the desired solution(s).





Any Questions?